

IMPLEMENTING AGREEMENT

for

HYUNDAI MOTOR AMERICA AND
THE CITY OF CALIFORNIA CITY

for

HYUNDAI AUTOMOTIVE TEST TRACK FACILITY

JANUARY 9, 2004

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1.0 PARTIES

The parties to this Implementing Agreement are Hyundai Motor America, the City of California City ("Permittees"), the United States Fish and Wildlife Service (Service) and the California Department of Fish and Game (CDFG).

2.0 RECITALS AND PURPOSES

2.1 Recitals. The parties have entered into this agreement in consideration of the following facts:

(a) The Hyundai Automotive Test Track Facility site [Facility site] has been determined to provide, or potentially provide, habitat for the following listed species: desert tortoise (*Gopherus agassizii*); and

(b) Permittees have developed a series of measures, described in the habitat conservation plan (HCP), to minimize and mitigate to the maximum extent practicable the effects of take of covered species incidental to Permittees' covered activities.

2.2 Purposes. The purposes of this agreement are:

(a) To ensure implementation of each of the terms of the HCP;

(b) To describe remedies and recourse should any party fail to perform its obligations as set forth in this agreement; and,

(c) To provide assurances to Permittees that, pursuant to the "No Surprises" regulations, as long as the terms of the HCP, the permit, and this agreement are performed, no additional mitigation will be required of Permittees, with respect to covered species, except as provided for in this agreement or required by law.

3.0 DEFINITIONS

The following terms as used in this agreement will have the meanings set forth below:

3.1 Terms defined in Endangered Species Act. Terms used in this agreement and specifically defined in the Endangered Species Act (ESA) or in regulations adopted by the Service under the ESA have the same meaning as in the ESA and those implementing regulations, unless this agreement expressly provides otherwise.

3.2 "Changed circumstances" means changes in circumstances affecting a species or the geographic area covered by the HCP that can reasonably be anticipated by the parties to the HCP and that can reasonably be planned for in the HCP (e.g. the listing of a new species, or a fire or other natural catastrophic event in areas prone to such event.) Changed circumstances and

the planned responses to those circumstances are described in Chapter 9 of the HCP. Changed circumstances are not Unforeseen Circumstances.

3.3 “Covered activities” means certain activities carried out by Permittee on covered lands that may result in incidental take of covered species. Covered activities means the following activities as described in Chapters 2 and 7 of the HCP: all activities related to development and operation of the proposed Hyundai automotive test track facility on the proposed project site; all activities related to construction and operation of the proposed access road from State Highway 58 to the project site; and all activities related to construction and operation of the proposed water line and expansion of Joshua Tree Boulevard to serve the proposed project.

3.4 “Covered lands” means the lands upon which the permit authorizes incidental take of covered species and the lands to which the HCP's conservation and mitigation measures apply. These lands are described in Chapter 4 of the HCP.

3.5 “Covered species” means the desert tortoise, which the HCP addresses in a manner sufficient to meet all of the criteria for issuing an incidental take permit under ESA Section 10(a)(1)(B).

3.6 “HCP” means the habitat conservation plan prepared by Permittees for the Facility site.

3.7 “Permit” means the incidental take permit issued by the Service to Permittees pursuant to Section 10(a)(1)(B) of the ESA for take incidental to covered activities on the Facility site, as it may be amended from time to time.

3.8 “Permittees” means Hyundai Motor America and the City of California City.

3.9 “Unforeseen circumstances” means changes in circumstances affecting a species or geographic area covered by the HCP that could not reasonably have been anticipated by plan developers and the Service at the time of the HCP's negotiation and development, and that result in a substantial and adverse change in the status of the covered species.

4.0 OBLIGATIONS OF THE PARTIES

4.1 Obligations of Permittees. Permittees will fully and faithfully perform all obligations assigned to them under this agreement, the permit, and the HCP.

4.2 Obligations of the Service. Upon execution of this agreement by all parties, and satisfaction of all other applicable legal requirements, the Service will issue Permittees a permit under Section 10(a)(1)(B) of the ESA, authorizing incidental take by Permittees of each listed covered species resulting from covered activities on covered lands.

4.2.1 Permit coverage. The permit identifies all covered species and will take effect for covered species at the time the permit is issued.

4.2.2 “No Surprises” assurances. Provided that Permittees have complied with their obligations under the HCP, this agreement, and the permit, the Service can require Permittees to provide mitigation beyond that provided for in the HCP only under unforeseen circumstances, in accordance with the “No Surprises” regulations at 50 C.F.R. Sections 17.22(b)(5), 17.32(b)(5), and Section 14.1 herein.

4.3 Obligations of CDFG. Upon execution of this agreement by all parties, and satisfaction of all other applicable legal requirements, CDFG will issue Permittees a consistency determination pursuant to Section 2080.1 of the California Endangered Species Act (CESA), authorizing incidental take by Permittees of desert tortoise resulting from covered activities on covered lands. Upon satisfaction of all other applicable legal requirements, CDFG also will issue Permittees an incidental take permit pursuant to Section 2081 of CESA, authorizing incidental take by Permittees of Mohave ground squirrel resulting from covered activities on covered lands.

4.3.1 Conservation and management of compensation habitat. CDFG shall conserve and manage the 3,386.5 acres of compensation habitat for the desert tortoise and Mohave ground squirrel in perpetuity and in accordance with the HCP. On a case-by-case basis, a third party approved by the Service and CDFG may conserve and manage the 3,386.5 acres of compensation habitat for the desert tortoise and Mohave ground squirrel, provided the third party agrees to conserve and manage the compensation habitat in perpetuity and in accordance with the HCP.

4.3.2 Reporting. With respect to any habitat acquired under this Agreement, CDFG will use its best efforts to issue an annual report to the Service by January 31 of each year describing CDFG’s management activities for the compensation habitat, the condition of the compensation habitat, and a financial report concerning the Long Term Management Fund.

4.4 Interim obligations upon a finding of unforeseen circumstances. If the Service makes a finding of unforeseen circumstances, during the period necessary to determine the nature and location of additional or modified mitigation, Permittees will avoid contributing to appreciably reducing the likelihood of the survival and recovery of the affected species.

5.0 INCORPORATION OF HCP

The HCP and each of its provisions and appendices 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 HCP, the terms of this agreement will control. In all other cases, the terms of this agreement and the terms of the HCP will be interpreted to be supplementary to each other.

6.0 ACQUISITION AND MANAGEMENT OF COMPENSATION HABITAT

6.1 Permittee escrow accounts. Permittees shall establish an Escrow Account in order to adequately fund the habitat acquisition, initial enhancement, and long term management activities under the EA/HCP. Prior to the establishment of the Escrow Account, Permittees shall provide the Service and CDFG with the escrow instructions for each agency's review and approval. At the direction of Permittees, CDFG and the Service, monies will be paid out of such Escrow Account or to a Purchase Escrow Account under certain conditions cited below. If CDFG and/or the Service determine that one or both Permittees are in breach of their habitat acquisition, initial enhancement, or long term management obligations under the permit or this agreement, CDFG and/or the Service may, with the concurrence of the other wildlife agency, direct monies to be paid out of the Escrow Account to ensure proper implementation of the HCP.

6.1.1 Direct acquisition costs. Permittees will direct that Escrow Account monies in the amount of \$870/acre be paid from the Escrow Account into a Purchase Escrow Account to pay for the purchase price, outstanding taxes and other liens and encumbrances, escrow fees, title fees, Phase I Environmental Report, and documentary and recording fees (collectively "Direct Acquisition Costs") of compensation habitat identified by and approved by the Permittees, the Service and CDFG. Hyundai shall, prior to requesting a release of funds from the Escrow Account to the Purchase Escrow, submit to the Service and CDFG for approval all documents identified in the Habitat Management Lands Acquisition Checklist (collectively "Escrow Documents") attached as Exhibit "A," including a "Proposed Lands for Acquisition Form" ("PLFAF") as described in Exhibit "A," an Estimated Closing Statement, a Preliminary Title Report, and, if appropriate a Conservation Easement Deed substantially in the form of Exhibit "B." Once the Service and CDFG provide written approval of such Escrow Documents, monies held in the Escrow Account shall be transferred to a Purchase Escrow Account to finalize acquisition of approved compensation habitat.

6.1.2 Excess funds. In the event that excess funds remain in the Escrow Account after the requisite acres of compensation habitat have been acquired, the initial enhancement completed, and the Long-term Management Fund fully endowed ("Surplus Funds"), such Surplus Funds shall remain the property of Permittees.

6.1.3 Additional direct acquisition funding. Notwithstanding anything to the contrary, if the funding budgeted by Permittees for Direct Acquisition Costs is not sufficient to accomplish the acquisition and initial enhancement of 3,386.5 acres of compensation habitat, Permittees shall be responsible for providing additional funding necessary to complete their compensation habitat acquisition and initial enhancement requirements.

6.1.4 Long Term Management Fund. Permittees will pay \$500/acre to provide capital to establish a non-wasting endowment for use in performing activities for the long term management of 3,386.5 acres of compensation habitat acquired. Monies from the Escrow Account shall be released to CDFG on a pro-rated basis upon acquisition of a percentage of the total required compensation habitat. The amount required for the Long Term Management Fund is subject to change based on an independent analysis agreed to by all the Parties.

6.1.5 Initial enhancement of compensation habitat. Enhancement activities for compensation habitat will be determined and agreed to by all the Parties on a parcel by parcel basis prior to the close of escrow and will be performed by Hyundai and the City within nine (9) months of close of escrow.

6.2 Letter of credit. In the alternative, Permittees may establish letters of credit in favor of CDFG or other entity approved by the Service and CDFG, in the amounts described above, to provide financial assurance for the acquisition, initial enhancement and long-term management of 3,386.5 acres of compensation habitat. The form of the letters of credit will be subject to the approval of Permittees, the Service and CDFG.

6.3 Hyundai land acquisition obligations.

(a) Hyundai shall, within Three Hundred and Sixty-five (365) days from the effective date of this Agreement, acquire fee title to the compensation habitat required pursuant to the HCP.

(b) Upon completion of the initial enhancement activities for each parcel acquired, Hyundai shall convey to the State of California fee title for the compensation habitat acquired in a form acceptable to CDFG. On a case-by-case basis, a third party approved by Hyundai, the City, the Service, and CDFG may hold title to compensation lands. If a third party holds title, a conservation easement substantially in the form of Exhibit "B", and approved by the Department's Office of the General Counsel, will be transferred to CDFG. The documents conveying such interests in lands and the conditions of title are subject to approval by the Department of General Services and the Fish and Game Commission prior to CDFG's acceptance.

(c) Until all of the compensation habitat is acquired, Hyundai shall provide a monthly report to the Service and CDFG that accounts for any expenditures of the funds and any activities taken by Hyundai under this Agreement.

7.0 TERM

7.1 Initial term. This agreement and the HCP will become effective on the date that the Service issues the permit. This agreement, the HCP, and the permit will remain in effect for a period of 30 years from issuance of the original permit, except as provided below.

7.2 Permit suspension or revocation. The Service may suspend or revoke the permit for cause in accordance with the laws and regulations in force at the time of such suspension or revocation. Such suspension or revocation may apply to the entire permit, or only to specified covered lands or covered activities. In the event of suspension or revocation, Permittees' obligations under this agreement and the HCP will continue until the Service determines that all take of covered species that occurred under the permit has been fully mitigated in accordance with the HCP.

7.3 Extension of the permit. Upon agreement of the parties and compliance with all applicable laws, the permit may be extended beyond its initial term under regulations of the Service in force on the date of such extension. If Permittees desire to extend the permit, they will so notify the Service and CDFG at least 180 days before the then-current term is scheduled to expire. If Permittees request an extension of the permit they will also request an extension of their State consistency determination from CDFG. Extension of the permit constitutes extension of the HCP and this agreement for the same amount of time, subject to any modifications that the Service may require at the time of extension.

7.4 Conservation and management in perpetuity. Notwithstanding the stated term as herein set forth, the Parties agree and recognize that once the covered species has been taken and its habitat modified within the Facility site, the take and habitat modification will be permanent. The Parties, therefore, agree that the acquisition and maintenance of the compensation habitat, including funding provisions, shall likewise, to the extent permitted by law, be permanent and extend beyond the terms of this Agreement.

8.0 FUNDING

Permittees shall fund their obligations under the HCP, the permit, and this agreement as described in Chapter 8 of the HCP and this agreement. Permittees warrant that they have, and will expend, such funds as may be necessary to fulfill their obligations under the HCP, including implementation of all mitigation measures and the Translocation Program. Permittees will promptly notify the Service and CDFG of any material change in Permittees' financial ability to fulfill their respective obligations. In addition to providing any such notice, Permittees will provide the Service and CDFG with a copy of their respective annual report(s) each year of the permit, or with such other reasonably available financial information that the parties agree will provide adequate evidence of Permittees' ability to fulfill their respective obligations.

9.0 MONITORING AND REPORTING

9.1 Planned periodic reports. As described in the HCP, Permittees will submit periodic reports describing their activities and results of the monitoring program provided for in the HCP. Those reports required on an annual basis will be submitted by January 31 of each year.

9.2 Other reports. Permittees will provide, within 30 days of being requested by the Service, any additional information in their possession or control related to implementation of the HCP that is requested by the Service for the purpose of assessing whether the terms and conditions of the permit and the HCP, including the HCP's adaptive management plan, are being fully implemented.

9.3 Certification of reports. All reports will include the following certification from a responsible company official who supervised or directed preparation of the report:

I certify that, to the best of my knowledge, after appropriate inquiries of all relevant persons involved in the preparation of this report, the information submitted is true, accurate, and complete.

9.4 Monitoring by Service. The Service may conduct inspections and monitoring in connection with the permit in accordance with its regulations. (*See* 50 C.F.R. Section 13.47)

10.0 CHANGED CIRCUMSTANCES

10.1 Permittee-initiated response to changed circumstances. Permittees will give notice to the Service within seven days after learning that any of the changed circumstances listed in Chapter 9 of the HCP has occurred. As soon as practicable thereafter, but no later than 30 days after learning of the changed circumstances, Permittees will modify their activities in the manner described in Chapter 9 of the HCP, to the extent necessary to mitigate the effects of the changed circumstances on covered species, and will report to the Service on their actions. Permittees will make such modifications without awaiting notice from the Service.

10.2 Service-initiated response to changed circumstances. If the Service determines that changed circumstances have occurred and that Permittees have not responded in accordance with Chapter 9 of the HCP, the Service will so notify Permittees and will direct Permittees to make the required changes. Within 30 days after receiving such notice, Permittees will make the required changes and report to the Service on their actions. Such changes are provided for in the HCP, and hence do not constitute unforeseen circumstances or require amendment of the permit or HCP.

10.3 Responses to changed circumstances on compensation habitatIf any of the changed circumstances identified in Chapter 9 of the HCP occurs on the compensation habitat, CDFG, or other land manager approved by the Service and CDFG, will respond as provided in Section 9.3 of the HCP and the specific management plan approved by the Service and CDFG for the compensation habitat.

10.4 Listing of species that are not covered species. In the event that a non-covered species that may be affected by covered activities becomes listed under the ESA, Permittees will implement the “no take/no jeopardy/no adverse modification” measures identified by the Service until the permit is amended to include such species, or until the Service notifies Permittees that such measures are no longer needed to avoid jeopardy to, take of, or adverse modification of the critical habitat of, the non-covered species. In the event that a non-covered species that may be affected by covered activities becomes listed under the CESA, Permittees shall consult with CDFG to determine the appropriate action.

11.0 LAND TRANSACTIONS

Nothing in this agreement, the HCP, or the permit limits Permittees’ rights to acquire additional lands. Any additional lands that may be acquired will not be covered by the permit

except upon amendment of the permit as provided in Section 12.2 of this agreement.

12.0 MODIFICATIONS AND AMENDMENTS

12.1 Minor modifications.

(a) Any party may propose minor modifications to the HCP or this agreement by providing notice to all other parties. Such notice shall include a statement of the reason for the proposed modification and an analysis of its environmental effects, including its effects on operations under the HCP and on covered species. The parties will use reasonable efforts to respond to proposed modifications within 60 days of receipt of such notice. Proposed modifications will become effective upon all other parties' written approval. If, for any reason, a receiving party objects to a proposed modification, it must be processed as an amendment of the permit in accordance with subsection 12.2 of this section. The Service will not propose or approve minor modifications to the HCP or this agreement if the Service determines that such modifications would result in operations under the HCP that are significantly different from those analyzed in connection with the original HCP, adverse effects on the environment that are new or significantly different from those analyzed in connection with the original HCP, or additional take not analyzed in connection with the original HCP.

(b) Minor modifications to the HCP and IA processed pursuant to this subsection may include but are not limited to the following:

- (1) corrections of typographic, grammatical, and similar editing errors that do not change the intended meaning;
- (2) correction of any maps or exhibits to correct minor errors in mapping or to reflect previously approved changes in the permit or HCP; and
- (3) minor changes to survey, monitoring or reporting protocols.

(c) Any other modifications to the HCP or IA will be processed as amendments of the permit in accordance with subsection 12.2 of this section.

12.2 Amendment of the Permit. The permit may be amended in accordance with all applicable legal requirements, including but not limited to the ESA, the National Environmental Policy Act, and the Service's permit regulations. The party proposing the amendment shall provide a statement of the reasons for the amendment and an analysis of its environmental effects, including its effects on operations under the HCP and on covered species. If a permit amendment is requested, Permittees shall consult with CDFG to determine if the State

consistency determination will also need to be amended.

13.0 REMEDIES, ENFORCEMENT, AND DISPUTE RESOLUTION

13.1 In general. Except as set forth below, each party shall have all remedies otherwise available to enforce the terms of this agreement, the permit, and the HCP.

13.2 No monetary damages. No party shall be liable in damages to any other party or 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.

13.3 Injunctive and temporary relief. The parties acknowledge that the covered species is unique and its loss as a species would result in irreparable damage to the environment, and that therefore injunctive and temporary relief may be appropriate to ensure compliance with the terms of this agreement.

13.4 Enforcement authority of the United States. Nothing contained in this agreement is intended to limit the authority of the United States government to seek civil or criminal penalties or otherwise fulfill its enforcement responsibilities under the ESA or other applicable law.

13.5 Dispute resolution. The parties recognize that disputes concerning implementation of, compliance with, or termination of this agreement, the HCP, and the permit may arise from time to time. The parties agree to work together in good faith to resolve such disputes, 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 any party determines that circumstances so warrant, it may seek any available remedy without waiting to complete informal dispute resolution.

13.5.1 Informal dispute resolution process. Unless the parties agree upon another dispute resolution process, or unless an aggrieved party has initiated administrative proceedings or suit in federal court as provided in this section, the parties may use the following process to attempt to resolve disputes:

(a) The aggrieved party will notify the other parties of the provision that may have been violated, the basis for contending that a violation has occurred, and the remedies it proposes to correct the alleged violation.

(b) The party alleged to be in violation will have 30 days, or such other time as may be agreed, to respond. During this time it may seek clarification of the information provided in the initial notice. The aggrieved party will use reasonable efforts to provide any information then available to it that may be responsive to such inquiries.

(c) Within 30 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 solution satisfactory to all parties, or will establish a specific process and timetable to seek such a solution.

(d) If any issues cannot be resolved through such negotiations, the parties will consider non-binding mediation and other alternative dispute resolution processes and, if a dispute resolution process is agreed upon, will make good faith efforts to resolve all remaining issues through that process.

13.6 CDFG as owner of compensation habitat. Prior to transferring the compensation habitat to CDFG, Hyundai shall provide CDFG all documents identified in the Habitat Management Lands Acquisition Checklist as stated in Section 6.1.1 above. CDFG shall perform an independent assessment for hazardous materials and other hazards affecting the property, based upon information provided by Hyundai. The Parties to this Agreement reserve the right to enjoin or otherwise involve CDFG as a party in any actions arising out of CDFG's ownership and control of the compensation habitat.

14.0 MISCELLANEOUS PROVISIONS

14.1 No Surprises rule. In the event that any judicial decision or determination, including without limitation the decision from the District Court for the District of Columbia in *Spirit of the Sage, et al. v. Norton, et al.*, 98 CV-1873 (D.D.C. 2003), may hold that the Department of Interior's "No Surprises" assurances rule (or similar successive rule) is vacated, unenforceable or enjoined for any reason or to any extent, Paragraph 4.2.2 shall be enforceable only to the degree allowed by any such decision or determination provided that the remainder of this agreement shall remain in full force and effect to the maximum extent permitted by law. In the event that the "No Surprises" assurances rule may be vacated, unenforceable or enjoined by such decision or determination but is later reinstated, Paragraph 4.2.2 shall likewise be automatically reinstated and apply to the entire term of this agreement. If, in response to any such judicial decision or determination, the "No Surprises" assurances rule is revised, Paragraph 4.2.2 shall be automatically amended in a manner consistent with the revised rule so as to afford the maximum protection to the Permittees consistent with the revised rule.

14.2 No partnership. Neither this agreement nor the HCP shall make or be deemed to make any party to this agreement the agent for or the partner of any other party.

14.3 Notices. Any notice permitted or required by this agreement shall be in writing, delivered personally, or by overnight mail, to the persons listed below, or shall be deemed given five (5) days after deposit in the United States mail, certified and postage prepaid, return receipt requested 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.

Deputy Manager
United States Fish and Wildlife Service
California/Nevada Operations Office
2800 Cottage Way, Room W-2606
Sacramento, California 95825

Telephone: (916) 414 6464
Field Supervisor
United States Fish and Wildlife Service
Ventura Fish and Wildlife Office
2493 Portola Rd., Suite B
Ventura, CA 93003
Telephone: (916) 644 1766

Hyundai Motor America
President and Chief Executive Officer
10550 Talbert Ave.
Fountain Valley, California 92708
Telephone: (714) 965 3000

City of California City
City Manager
21000 Hacienda Blvd.
California City, CA 93505
Telephone: (760) 373 7170

California Department of Fish and Game
Director
1416 Ninth St., 12th Floor
Sacramento, CA 95814
Telephone: (916) 653 7664

California Department of Fish and Game
Attn: Regional Manager
1234 East Shaw Ave.
Fresno, CA 93710
Telephone: (559) 243 4005

14.4 Entire agreement. This agreement, together with the HCP and the permit, constitutes the entire agreement among the parties. It 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 or 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.

14.5 Elected officials not to benefit. No member of or delegate to Congress shall be entitled to any share or part of this agreement, or to any benefit that may arise from it.

14.6 Availability of funds.

14.6.1 Federal. Implementation of this agreement and the HCP by the Service 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 U.S. Treasury. The parties acknowledge that the Service 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.

14.6.2 State. Implementation of this agreement and the HCP 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 agency's appropriated funds unless and until an authorized official of that agency affirmatively acts to commit such expenditure as evidenced in writing.

14.7 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.

14.8 No third-party beneficiaries. Without limiting the applicability of rights granted to the public pursuant to the ESA or other federal 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 damages pursuant to the provisions of this agreement. The duties, obligations, and responsibilities of the parties to this agreement with respect to third parties shall remain as imposed under existing law.

14.9 Relationship to the ESA and other authorities. The terms of this agreement shall be governed by and construed in accordance with the ESA and applicable federal law. In particular, nothing in this agreement is intended to limit the authority of the Service to seek penalties or otherwise fulfill their responsibilities under the ESA. Moreover, nothing in this agreement is intended to limit or diminish the legal obligations and responsibilities of the Service as an agency of the federal government. Nothing in this agreement will limit the right or obligation of any federal agency to engage in consultation required under Section 7 of the ESA or other federal law; however, it is intended that the rights and obligations of Permittees under the HCP and this agreement will be considered in any consultation affecting Permittees' use of

the covered lands.

14.10 References to regulations. Any reference in this agreement, the HCP, or the permit to any regulation or rule of the Service shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

14.11 Applicable laws. All activities undertaken pursuant to this agreement, the HCP, or the permit must be in compliance with all applicable state and federal laws and regulations.

14.12 Successors and assigns. This agreement and each of its covenants and conditions shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns. Assignment or other transfer of the permit shall be governed by the Service's regulations in force at the time.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Implementing Agreement to be in effect as of the date that the Service issues the permit.

BY Mill B. Fin

Date 1/21/04

ACTING
Deputy Manager
United States Fish and Wildlife Service
California/Nevada Operations Office

BY James Choi
Chief Financial Officer

Date 1/12/04

BY M. Keith Duckworth
M. Keith Duckworth
Executive Vice President, Administrative Services
Hyundai Motor America

Date 01-09-04

BY Jack Stewart

Date 1/12/04

Mr. Jack Stewart
City of California City

BY Ronald Rempel

Date 1/20/04

Mr. Ronald D. Rempel
Deputy Director
California Department of Fish and Game

HABITAT MANAGEMENT LANDS ACQUISITION CHECKLIST

The following checklist is provided for your convenience and to expedite Department processing of your Habitat Management Lands acquisition proposal. This list indicates the appropriate real estate documents which must be provided to the Department of Fish and Game so that review and formal acceptance can be accomplished. Any land acquisition processing requests which are incomplete when received, will be returned.

- * **Proposed Lands for Acquisition Form (PLFAF)**
(Forward to Region for approval, Region will send to Real Estate Services Coordinator.)

- * **Hazardous Materials Site Assessment Report**
(An existing report may be used, but it must be less than two years old.)

- * **Preliminary Title Report(s) for subject property**
(An existing title policy is not acceptable). For some transactions, additional documents may be required, such as, documents to support title exceptions, or to explain title encumbrances. These additional documents may be requested by the Real Estate Services Coordinator during his review.

- * **Grant Deed or Easement Deed**
(Deed must be an original, signed and acknowledge, or a certified copy thereof.)

- * **County Assessor Parcel Map(s) for subject property**

- * **Site Location Map**
(Site location with property boundaries outlined on a USGS 1:24, 000 scale Topographic Quadrangle Map.)

The Region will forward the PLFAF to the Lands and Facilities Branch (LFB) Real Estate Services Coordinator and request that LFB process the land acquisition for formal acceptance. With the exception of the PLFAF, all documents listed above should be submitted directly to the Real Estate Services Coordinator at the following address:

Mr. Richard Jackson
Department of Fish and Game
Lands and Facilities Branch
1416 - 9th Street
Sacramento, CA 95814

○ Please note that the Project Applicant is responsible for all land acquisition costs including: title document costs, escrow fees, recording fees, title insurance premiums and any other escrow-related fees or costs.

PROPOSED LANDS FOR ACQUISITION FORM ("PLAF")

Date:

TO: California Department of Fish and Game
U.S. Fish and Wildlife Service

FR: "Applicant"

"Acquisition Agent"

Applicant proposes that the following parcel of land be considered for approval as suitable for purposes of mitigation of the adverse environmental impacts of the Project:

Desert tortoise and Mohave ground squirrel habitat identified in the Land Acquisition Implementation Plan as submitted by _____.

Current Legal Owner:

_____ currently is in negotiations to acquire fee simple title with willing-sellers of habitat located within the areas identified by its Land Acquisition Implementation Plan.

Please Check One:

- This parcel is located within the Desert Tortoise Research & Natural Area
- This parcel is NOT located within the Desert Tortoise Natural Area

Explanation:

The Proposed Replacement Habitat is located within the areas more particularly described in the Land Acquisition Plan.

Prior to closing of each Purchase Escrow, _____ shall submit to CDFG a Proposed Lands for Acquisition Form, a Preliminary Title Report, and site survey data for a parcel-by-parcel approval.

FOR CDFG & USFWS USE ONLY

EXHIBIT A-2

APPROVED: [] By: _____ Date: _____

REJECTED: [] By: _____ Date: _____

Explanation:

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

_____)
Only) Space Above Line for Recorder's Use

CONSERVATION EASEMENT DEED

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

RECITALS

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

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

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

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

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

and other federal laws; and

F. This Conservation Easement provides mitigation for certain impacts of [*describe project*] located in the City of [], County of [], State of California, pursuant to [*California Endangered Species Act Incidental Take Permit No. [] by and between [] and the Department of Fish and Game, dated []/the Agreement Regarding Proposed Stream or Lake Alteration [Notification No. [] ("Section 1603 Agreement") executed by [] and the Department of Fish and Game dated []/ the [document prepared pursuant to CEQA] certified by the [] for [project] [SCH No. [] dated [], and the Mitigation Plan created thereunder]*], Permit # _____ dated [], issued by USFWS pursuant to Section 10(a) of the FESA ("Section 10(a) Permit"), the corresponding Implementing Agreement dated [], and the [*name of HCP*] dated [].

COVENANTS, TERMS, CONDITIONS AND RESTRICTIONS

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

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

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

- (a) To preserve and protect the conservation values of the Property;
- (b) To enter upon the Property at reasonable times in order to monitor Grantor's compliance with and to otherwise enforce the terms of this Conservation Easement, and for scientific research and interpretive purposes by Grantee or its designees, provided that Grantee shall not unreasonably interfere with Grantor's authorized use and quiet enjoyment of the Property;
- (c) To prevent any activity on or use of the Property that is inconsistent with the purposes of this Conservation Easement and to require the restoration of such areas or features of the Property that may be damaged by any act, failure to act, or any use that is inconsistent with the purposes of this Conservation Easement;
- (d) All mineral, air and water rights necessary to protect and to sustain the biological resources of the Property; and

- (e) All present and future development rights.

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

- (a) Unseasonal watering; use of fertilizers, pesticides, biocides, herbicides or other agricultural chemicals; weed abatement activities; incompatible fire protection activities; and any and all other activities and uses which may adversely affect the purposes of this Conservation Easement;
- (b) Use of off-road vehicles and use of any other motorized vehicles except on existing roadways;
- (c) Grazing or other agricultural activity of any kind;
- (d) Recreational activities including, but not limited to, horseback riding, biking, hunting or fishing, except as may be specifically permitted under this Conservation Easement;
- (e) Commercial or industrial uses;
- (f) Any legal or de facto division, subdivision or partitioning of the Property;
- (g) Construction, reconstruction or placement of any building, billboard or sign, or any other structure or improvement of any kind;
- (h) Depositing or accumulation of soil, trash, ashes, refuse, waste, biosolids or any other materials;
- (i) Planting, introduction or dispersal of non-native or exotic plant or animal species;
- (j) Filling, dumping, excavating, draining, dredging, mining, drilling, removing or exploring for or extraction of minerals, loam, soil, sands, gravel, rocks or other material on or below the surface of the Property;
- (k) Altering the surface or general topography of the Property, including building of roads;
- (l) Removing, destroying, or cutting of trees, shrubs or other vegetation, except as required by law for: fire breaks; maintenance of existing foot trails or roads; prevention or treatment of disease; or control of non-native or exotic plants; and

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

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

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

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

If Grantee, in its sole discretion, determines that circumstances require immediate action to prevent or mitigate damage to the conservation values of the Property, Grantee may pursue its remedies under this Section 6 without prior notice to Grantor or without waiting for the period provided for cure to expire. Grantee's rights under this section apply equally to actual or threatened violations of the terms of this Conservation Easement. Grantor agrees that Grantee's remedies at law for any violation of the terms of this Conservation Easement are inadequate and that Grantee shall be entitled to the injunctive relief described in this section, both prohibitive and mandatory, in addition to such other relief to which Grantee may be entitled, including specific performance of the terms of this Conservation Easement, without the necessity of proving either actual damages or the inadequacy of otherwise available legal

remedies. Grantee's remedies described in this section shall be cumulative and shall be in addition to all remedies now or hereafter existing at law or in equity, including but not limited to, the remedies set forth in Civil Code sections 815, et seq., inclusive. The failure of Grantee to discover a violation or to take immediate legal action shall not bar Grantee from taking such action at a later time.

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

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

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

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

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

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

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

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

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

9.2. Hold Harmless. Grantor shall hold harmless, protect and indemnify Grantee and its directors, officers, employees, agents, contractors, and representatives and the heirs, personal representatives, successors and assigns of each of them (each an "Indemnified Party" and, collectively, "Indemnified Parties") from and against any and all liabilities, penalties, costs, losses, damages, expenses (including, without limitation, reasonable attorneys' fees and experts' fees), causes of action, claims, demands, orders, liens or judgments (each a "Claim" and, collectively, "Claims"), arising from or in any way connected with: (1) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Property, regardless of cause, unless due solely to the negligence of Grantee or any of its employees; (2) the obligations specified in Sections 4, 9, and 9.1; and (3) the existence or administration of this Conservation Easement. If any action or proceeding is brought against any of the Indemnified Parties by reason of any such Claim, Grantor shall, at the election of and upon written notice from Grantee, defend such action or proceeding by counsel reasonably acceptable to the Indemnified Party or reimburse Grantee for all charges incurred for services of the Attorney General in defending the action or proceeding.

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

10. Assignment. This Conservation Easement is transferable, but Grantee or any successor in interest shall give Grantor, USFWS, and DFG, if applicable, at least thirty (30) days

prior written notice of the transfer. Grantee or any successor in interest may assign its rights and obligations under this Conservation Easement only in a form reasonably approved in writing by both DFG and USFWS in favor of an entity or organization authorized to acquire and hold conservation easements pursuant to Civil Code section 815.3. Grantee or any successor in interest shall require the assignee to agree in writing that the conservation purposes that this grant is intended to advance shall continue to be fulfilled by such assignee in accordance with the [*insert title of permits/Agreement described in Recital F, above*] and shall require the assignee to record the assignment in the county where the Property is located.

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

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

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

To Grantor: Hyundai Motor America
10550 Talbert Ave.
Fountain Valley, California 92708
Attn: Vice President-Administrative Services

To Grantee: Department of Fish and Game
1234 East Shaw Avenue
Fresno, California 93710
Attn: Regional Manager

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

To USFWS: U.S. Fish and Wildlife Office

Attn: Field Supervisor
2493 Portola Rd., Suite B
Ventura, California 93003

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

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

15. General Provisions.

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

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

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

(d) Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the Conservation Easement and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Easement. No alteration or variation of this instrument shall be valid or binding unless contained in an amendment in accordance with Section 14.

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

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

constitute a servitude running in perpetuity with the Property.

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

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

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

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

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

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

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

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

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

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

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

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

(k) Additional Easements. Grantor shall not grant any additional easements, rights of way or other interests in the Property (other than a security interest that is subordinate to this Conservation Easement Deed), or grant or otherwise abandon or relinquish any water agreement relating to the Property, without first obtaining the written consent of Grantee. Grantee may withhold such consent if it determines that the proposed interest or transfer is inconsistent with the purposes of this Conservation Easement or will impair or interfere with the conservation values of the Property. This Section 14(k) shall not prohibit transfer of a fee or leasehold interest in the Property that is subject to this Conservation Easement Deed and complies with Section 11.

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

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

GRANTOR:

Approved as to form:

BY: _____

General Counsel
State of California
Department of Fish and Game

NAME: _____

TITLE: _____ BY: _____

DATE: _____

CERTIFICATE OF ACCEPTANCE

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

GRANTEE:

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

By: _____

Title: _____
Authorized Representative

Date: _____