COUNTY OF Placer

COMMUNITY DEVELOPMENT RESOURCE AGENCY

MEMORANDUM

DATE: November 17, 2015

TO: Honorable Board of Supervisors

FROM: Michael J. Johnson, AICP, Agency Director

E.J. Ivaldi, Deputy Planning Director

BY: Jennifer Byous, Senior Planner

SUBJECT: Amendment to the Planning Agreement for the Placer County Conservation Plan

ACTION REQUESTED

1. Authorize a second amendment to the Planning Agreement between the California Department of Fish and Wildlife, the United States Fish and Wildlife Service, and the National Marine Fisheries Service regarding the Placer County Conservation Plan.

BACKGROUND

PCCP – Planning Agreement with Wildlife Agencies

In 2001, Placer County entered into a Planning Agreement (Attachment 1) with the California Department of Fish and Wildlife (DFW), the United States Fish and Wildlife Service (FWS), and the National Marine Fisheries Service (NMFS) regarding the Placer County Conservation Plan (PCCP). The Planning Agreement defines the goals and obligations for development of the PCCP, which is a joint conservation plan under the California Natural Community Conservation Planning Act and the Federal Endangered Species Act. The duration of the Planning Agreement was ten years, ending in 2011. The County, DFW, FWS and NMFS extended the duration of the Planning Agreement for four additional years, ending in 2015 (Attachment 2). The proposed amendment (Attachment 3) simply extends the existing agreement for an additional two years, ending in December 2018.

FISCAL IMPACT

The proposed four-year extension to the PCCP Planning Agreement will not have a fiscal impact to the County.

Attachment 1: Planning Agreement
Attachment 2: First Amendment to the Planning Agreement
Attachment 3: Proposed Second Amendment to the Planning Agreement

cc: Chris Beale, Resources Law Group

Natural Community Conservation Planning Agreement

by and among

the County of Placer,
the California Department of Fish and Game,
the United States Fish and Wildlife Service, and
the National Marine Fisheries Service

regarding the

Placer Legacy Open Space and Agricultural Conservation Program

October 5, 2001

TABLE OF CONTENTS

Section **Page**

1. BACKGROUND 1

1.1 The Placer Legacy Open Space and Agricultural Conservation Program 1
1.1.1 Program inception 1
1.1.2 The Placer County General Plan 1
1.1.3 Goals and principals 1
1.1.3.1 Specific objectives 2
1.1.3.2 Guiding principles 2
1.1.3.2.1 Placer County General Plan 2
1.1.3.2.2 Zoning 2
1.1.3.2.3 Existing land use regulations 2
1.1.3.2.4 Willing sellers and willing buyers 2
1.1.3.2.5 Land use compatibility 3
1.1.3.2.6 Scope of governmental interest 3
1.2 Placer Legacy Program development 3
1.2.1 Citizens Advisory Committee 3
1.2.2 Interagency Working Group 3
1.2.3 Scientific Working Group 3
1.2.4 Sierra Business Council 4
1.2.5 Placer Legacy Program NCCP/HCP Guidelines 4
1.2.5.1 Best available scientific information 4
1.2.5.2 Open and transparent process 5
1.2.5.3 Essential elements 5
1.3 Compliance with the California Endangered Species Act and the Federal Endangered Species Act 5
1.4 The Framework Agreement 6
1.5 Conservation planning process and compliance with the Natural Community Conservation Planning Act 6

2. PURPOSE 6

3. DEFINITIONS 7

3.1 The Board 7
3.2 CEQA 7
3.3 CESA 7
3.4 The County 7
3.5 Covered Activities 7
3.6 Covered Lands 7
3.7 Covered Species 7

Section **Page**

3.8 Critical habitat 7
3.9 The DFG 7
3.10 Development Activities 7
3.11 FESA 8
3.12 Habitat conservation plan 8
3.13 Interim Projects 8
3.14 NEPA 8
3.15 NMFS 8
3.16 NCCP/HCP 8
3.17 Natural community conservation plan 8
3.18 Natural Community Conservation Planning Act or NCCP 8
3.19 Participating Agencies 8
3.20 Placer County 8
3.21 Planning Region 8
3.22 Planning Area 8
3.23 Target Species 8
3.24 The USFWS 8
3.25 Wildlife 8
3.26 Wildlife Agencies 8

4. PLANNING AREA, COVERED LANDS, AND PARTICIPATING AGENCIES 9

4.1 Planning Areas 9
4.1.1 Western Placer County-Phase 1 9
4.1.2 Sierra Nevada Foothills-East Side Sierra Nevada-Phase 2 9
4.1.3. Sierra Nevada-Phase 3 9
4.2 Participating Agencies 9
4.2.1 Addition of Participating Agencies 9
4.3 Subarea Plans 10

5. REGULATORY GOALS 10

5.1 Consistency with the Placer Legacy Program 10
5.2 Covered activities 10
5.3 Covered species 11
5.4 Programmatic Streambed Alteration Agreement 11
5.5 Section 7 of FESA 11
5.6 Assurances 12
5.7 Critical habitat 12

6. CONSERVATION PLANNING PROCESS AND GUIDELINES 12

6.1 NCCPA planning requirements 12

Section **Page**

6.1.1 Planning agreements 12
6.1.2 Planning process 13
6.1.2.1 Public review prior to adoption....13
6.1.2.2 Availability of public review drafts 13
6.1.2.3 Public hearings....13
6.1.2.4 Outreach....13
6.2 FESA planning requirements....14
6.3 NCCP/HCP preparation 14
6.3.1 County responsibility....14
6.3.2 Public participation 14
6.3.2.1 Stakeholder Working Group 14
6.3.2.1.1 Organization and Structure 15
6.3.2.1.2 Subsequent phases....15
6.3.2.2 Sierra Business Council 15
6.3.2.3 Availability of public review drafts 15
6.3.2.4 Public review prior to adoption....15
6.3.2.5 Public hearings....16
6.3.2.6 Public outreach program 16
6.3.3 Independent scientific review 16
6.3.4 Natural communities 16
6.3.5 Species List 17
6.3.5.1 Target Species 17
6.3.5.2 Subsequent phases....17
6.3.6 Data collection 17
6.3.6.1 General watershed statistics....18
6.3.6.2 Land cover composition and pattern....18
6.3.6.3 Land use in sloped areas 18
6.3.6.4 Land use and disturbance history....18
6.3.6.5 Geomorphological data 18
6.3.6.6 Land cover patch sizes 18
6.3.6.7 Small patches 19
6.3.6.8 Percentage of land in public ownership or private protected status....19
6.3.6.9 Roads and transportation corridors 19
6.3.6.10 Aquatic resources....19
6.3.6.11 Extent and distribution of riparian habitat 20
6.3.6.12 Records of occurrence....20
6.3.6.13 Habitat connectivity and degree of fragmentation....20
6.3.6.14 Species data....20
6.4 GIS analysis 20
6.5 Satisfaction of NCCPA planning requirements 20
6.6 Satisfaction of FESA planning requirements....21
6.7 Protection of habitat land during planning process....21

Section **Page**

7. INTERIM PROJECT

7.1 Permitting by the Wildlife Agencies 21
7.2 Identification of Area with High Long-Term Conservation Value 22
7.3 Discretionary approvals by the County 22
7.4 Informal conference 22
7.4.1 Identification of specific projects and activities for evaluation 23
7.4.1.1 Discretionary projects 23
7.4.1.2 County projects 23
7.4.2 Projects excluded 24
7.4.2.1 Variances (Section 17.60.100 Placer County Code) 24
7.4.2.2 Conditional use permits ("CUPs") (Section 17.58.130 Placer County Code) 24
7.4.2.3 Minor use permits ("MUPs") (Section 17.58.120 Placer County Code) 24
7.4.2.4 Administrative review permits (Section 17.58.100 Placer County Code) 25
7.4.2.5 Minor permits for projects with no direct physical impacts 25
7.4.3 Participating agencies 26
7.4.3.1 Cities 26
7.4.3.2 Other Participating Agencies 26

8. COMMITMENT OF RESOURCES 26

8.1 Funding 26
8.1.1 NCCP funding 26
8.1.2 USFWS and NMFS assistance with funding 26
8.2 Open communication 26
8.3 Expertise of regulatory agencies 27

9. MISCELLANEOUS PROVISIONS 27

9.1 Public officials not to benefit 27
9.2 Availability of appropriated funds 27
9.2.1 Federal agencies 27
9.2.2 State agencies 27
9.3 Statutory authority 27
9.4 Counterparts 27
9.5 Effective date 27
9.6 Duration 27
9.7 Amendments 27
9.8 Execution by Participating Agencies 27
9.9 Termination and withdrawal 28

Placer Legacy Open Space and Agricultural Conservation Program Planning Agreement

This natural community conservation planning agreement ("**Agreement**") is entered into as of the Effective Date by and among the County of Placer ("**County**"), the California Department of Fish and Game ("**DFG**") the United States Fish and Wildlife Service ("**USFWS**"), and the National Marine Fisheries Service ("**NMFS**"). These entities may be referred to collectively as "**Parties**" and each individually as a "**Party**." The DFG, the USFWS and the NMFS may be referred to collectively as "**Wildlife Agencies**."

This Agreement concerns the development of joint conservation plans under the California Natural Community Conservation Planning Act ("**NCCPA**") and the federal Endangered Species Act ("**FESA**") for the Placer Legacy Open Space and Agricultural Conservation Program ("**Placer Legacy Program**").

1 BACKGROUND

1.1 The Placer Legacy Open Space and Agricultural Conservation Program.

The Placer Legacy Program is an innovative and nationally significant endeavor initiated by the County as a basis to realize it's objective of comprehensive planning for preservation of biological resources, agricultural lands, and open space, and to serve as a model for future endeavors by similar communities in the United States.

1.1.1 Program inception In 1994, the County adopted a new General Plan, which contains policies to preserve open space, agriculture and natural resources. In December 1997, the Placer County Board of Supervisors ("**Board**") directed the County Planning Director to initiate a program that would provide for long-term preservation of open space in Placer County. On April 20, 1998, the Board formed a citizens advisory committee and initiated an open space implementation program in accordance with specified goals, elements, and measures of success. This program became the Placer Legacy Program.

1.1.2 The Placer County General Plan The County has undertaken the Placer Legacy Program as a means to implement the policies of the County's 1994 General Plan. Many of these policies reflect the County's desire to maintain the amenities that contribute to the high quality of life for the citizens of the County and to ensure balance between environmental quality, growth, and economic development. The 1994 General Plan is the foundation of the Placer Legacy Program.

1.1.3 Goals and principles The Goal Statement of the Placer Legacy Program is as follows:

Placer County has been blessed with extensive and diverse natural resources: woodlands, forests, grasslands, riparian areas, lakes, rivers and an assortment of open spaces. It is the goal of [the Placer Legacy Program] to develop specific,

economically viable implementation programs which will enable the residents of Placer County to preserve a sufficient quantity of these resources to maintain a high quality of life and an abundance of diverse natural habitats while supporting the economic viability of the County and enhancing property values. The [Placer Legacy Program] will further the various open space and natural resource goals of the Placer County General Plan and associated General Plans of the six cities in Placer County.

1.1.3.1 **Specific objectives** The specific objectives of the Placer Legacy Program are to:

- **Maintain** a viable agricultural segment of the economy;
- **Conserve** natural features necessary for access to a variety of outdoor recreation opportunities;
- **Retain** important scenic and historic areas;
- **Preserve** the diversity of plant and animal communities;
- **Protect** endangered and other special status plant and animal species;
- **Separate** urban areas into distinct communities; and
- **Ensure** public safety.

1.1.3.2 **Guiding principles** The County has adopted the following principles for implementation of the Placer Legacy Program:

1.1.3.2.1 **Placer County General Plan** Amendment of the County General Plan Land Use Diagram is not part of the Placer Legacy Program unless requested by a landowner and approved by the Board.

1.1.3.2.2 **Zoning** Amendment of the County Zoning Maps is not part of the Placer Legacy Program unless requested by a landowner and approved by the Board.

1.1.3.2.3 **Existing land use regulations** The Placer Legacy Program will be developed within the context of the existing local, State and Federal regulatory environment, relying upon existing statutes and County General Plan policies for implementation. Furthermore, the Program will remain consistent with applicable local, State and Federal regulations as they are amended over time or as new regulations are adopted, independent of the Placer Legacy Program.

1.1.3.2.4 **Willing sellers and willing buyers** The Placer Legacy Program will identify and work with willing sellers and willing buyers. A core interest of the program is to enable the County to make itself a willing buyer to persons wishing to sell interests in lands having value for conservation purposes. No property owner will be coerced or forced to sell any rights to their property,

nor will condemnation proceedings be used to implement the program, unless requested by the landowner.

1.1.3.2.5 **Land use compatibility** For all acquisitions associated with the Placer Legacy Program, any subsequent changes in land use resulting from the acquisition activity will be compatible with adjoining land uses, as determined by the decision-making body.

1.1.3.2.6 **Scope of governmental interest** In its implementation of the program objectives, the Placer Legacy Program will strive to minimize the level of governmental intervention in private land management decisions.

1.2 **Placer Legacy Program development** The process used to develop the Placer Legacy Program has incorporated independent scientific input and analysis and included extensive public participation, with many opportunities for comment from the general public, as well as solicited advice from key groups of stakeholders. To assist in the development of the Placer Legacy Program, the County formed three working groups: 1) a Citizens Advisory Committee; 2) an Interagency Working Group; and 3) a Scientific Working Group. The County also collaborated with a non-profit business association, the Sierra Business Council.

1.2.1 **Citizens Advisory Committee** The Citizens Advisory Committee was composed of stakeholders from environmental, building, business, ranching and farming interests, as well as a number of unaffiliated concerned citizens. The Citizens Advisory Committee served several purposes. It provided a public forum for discussion of the Placer Legacy Program and public outreach through members' contacts with key constituencies, and it advised the Board regarding Placer Legacy Program matters. The full Citizens Advisory Committee met monthly for approximately eighteen months. It also convened various subcommittees to address specific issues that arose during the development of the program.

1.2.2 **Interagency Working Group** The Interagency Working Group included, among other public agencies, the County, DFG, USFWS, NMFS, the United States Forest Service, the Bureau of Land Management, the Placer County Water Agency, and the incorporated cities in Placer County. The Interagency Working Group met approximately every three to four months during the development of the Placer Legacy Program. The Interagency Working Group's primary role was to advise the County regarding the requirements of State and Federal laws so the County could take those requirements into account in development of the Placer Legacy Program. Agency staff also participated in subcommittee meetings of the Citizens Advisory Committee, helping to explain State and Federal law and to assist in establishing objectives for protecting natural communities in Placer County.

1.2.3 **Scientific Working Group** The Scientific Working Group was composed of independent scientists representing a range of disciplines, including geography, conservation biology, aquatic resources and terrestrial ecology. Its role was to

guide the collection and analysis of biological and other data, and to ensure that the Placer Legacy Program is founded on sound conservation biology principles. The Scientific Working Group met five times and consulted informally with the County throughout the development of the program.

1.2.4 **Sierra Business Council** The Sierra Business Council is a non-profit business association based in Truckee, California, whose goal is to secure the long term economic and environmental health of the twelve-county Sierra Nevada region. It provided, and continues to provide, assistance in Placer Legacy Program development, coordination, fundraising and public participation. During development of the program, the Sierra Business Council arranged public workshops with the Board and the Citizens Advisory Committee, prepared and distributed a Placer Legacy newsletter and, with the County, compiled a distribution list of 8,000 interested Placer County residents for documents pertaining to the Placer Legacy Program. The County and the Sierra Business Council also sponsored public forums to discuss open space protection and land use issues.

1.2.5 **Placer Legacy Program natural community conservation plan/habitat conservation plan Guidelines** Based on input and analysis from the Scientific Working Group the Citizens Advisory Committee and the public, the County identified the following guidelines for preparation of joint natural community conservation plans/habitat conservation plans. These guidelines have been incorporated into the Placer Legacy Program's implementation documents, the Placer Legacy Program Summary Report, dated June 2000, and the Placer Legacy Program Implementation Report, dated June 2000. And the County has used these documents and the guidelines therein to guide its implementation of the Placer Legacy Program. The Parties recognize that the Guidelines may be modified during the development of the NCCP/HCPs to fulfill the requirements of State and Federal law.

1.2.5.1 **Best available scientific information** The NCCP/HCPs will be based on the best available scientific information. The NCCP/HCPs will:

- be based on principles of conservation biology, community ecology, landscape ecology, individual species' ecology, and other scientific knowledge and thought;
- be based on thorough surveys of all species of Federal, State and local concern on lands dedicated to conservation or mitigation and other lands where covered activities will occur;
- be reviewed by well-qualified, independent scientists;
- identify and designate biologically sensitive habitat areas for preservation;
- determine the extent of impacts to species from incidental take caused by development and other covered activities;

- require monitoring of target species on developed, mitigation and other preserved lands for the duration of each NCCP/HCP; and

- seek to contribute to the recovery, not just the maintenance, of Covered Species.

1.2.5.2 **Open and transparent process** The NCCP/HCPs will be prepared in an open and transparent process, with input from all concerned citizens. The process used to prepare the NCCP/HCPs will:

- provide for thorough public review and comment;

- include a citizen working group that will review the plan at every stage of development; and

- require that negotiations with applicable agencies be conducted in an open manner.

1.2.5.3 **Essential elements** The NCCP/HCPs will include the following elements:

- monitoring and review of plan objectives and milestones at defined intervals to assure that they are being met, including the identification of a process to suspend, modify, or revoke permits if there is not sufficient compliance with the agreed upon objectives;

- adequate funding sources identified up front for habitat preservation and species recovery goals, based on realistic estimates of future land value for the life of the permits;

- adequate funding for monitoring to determine that plan goals are actually being met;

- adaptive management and periodic review, with sufficient funding to support changes in take activity and mitigation required to meet the plan's goals;

- acquisition of required mitigation lands before development proceeds; and

- performance standards for contributing to species recovery.

1.3 **Compliance with the California Endangered Species Act and the Federal Endangered Species Act** Placer County contains valuable biological resources, including native species of wildlife and their habitat. Among the species in the County are certain species that are protected, or may be protected in the future, under the California Endangered Species Act ("**CESA**"), FESA, the California Native Plant Protection Act ("**NPPA**"), or other State or Federal laws protecting wildlife, such as Fish and Game Code sections 3511, 4700, 5050 and 5515. Future

development and other activities within Placer County will likely require compliance with one or more of these laws.

1.4 **The Framework Agreement** The Parties and other public agencies have entered into the "Framework Agreement regarding the Planning, Development and Implementation of the Placer Legacy Program" (**"Framework Agreement"**), which established a framework for cooperation and collaboration among Federal and State agencies and local governments in the development and implementation of the Placer Legacy Program relevant to their respective regulatory authorities and responsibilities. The Framework Agreement did not establish a new process for the Placer Legacy Program. Rather, it describes opportunities for partnership and collaboration among the County, cities in Placer County, the Placer County Water Agency and State and Federal regulatory and land management agencies in the development of the Placer Legacy Program as it relates to each agency's own mandate.

1.5 **Conservation planning process and compliance with the Natural Community Conservation Planning Act** The Parties now wish to memorialize their commitment to prepare, or assist in the preparation of, one or more conservation plans for Placer County that fulfill the requirements of FESA, CESA, the NPPA, and the NCCPA, and to initiate a process for that purpose. The County intends that the conservation plans and the process used to prepare them will be consistent with the County's 1994 General Plan and the goals, objectives and principles of the Placer Legacy Program, as described above, to the greatest extent consistent with these State and Federal laws.

2 PURPOSE

The purpose of this Agreement, consistent with Section 2810 of the Fish and Game Code, is to define the Parties' goals and obligations with regard to the development of one or more conservation plans for Placer County. The Parties intend that each conservation plan will fulfill jointly the requirements for a natural community conservation plan under the NCCPA and a habitat conservation plan under FESA. The Parties further intend that the joint natural community conservation plans/habitat conservation plans (**"NCCP/HCPs"**) will be developed sequentially, in three phases, beginning with the western portion of Placer County. And the Parties intend that each NCCP/HCP:

- will be independently viable and will not depend on the development or implementation of any other NCCP/HCP;
- will be developed in a manner that assures scientific integrity with the other NCCP/HCPs;
- will be developed with full consideration of individual species needs that may extend beyond the NCCP/HCP's geographic scope; and

- will be developed to complement the Placer Legacy Program to the greatest extent consistent with FESA, CESA, the NPPA and the NCCPA.

3 DEFINITIONS

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

3.1 **The Board** means the Placer County Board of Supervisors.

3.2 **CEQA** means the California Environmental Quality Act, Public Resources Code section 21000, et seq.

3.3 **CESA** means the California Endangered Species Act, Fish and Game Code section 2050, et seq.

3.4 **The County** means the government of the County of Placer.

3.5 **Covered Activities** means the activities that will be identified and addressed in one or more NCCP/HCPs and for which the County or a Participating Agency will seek an NCCPA authorization as contemplated in Fish and Game Code section 2835 and an incidental take permit pursuant to Section 10 of FESA. Covered Activities may include Development Activities, farming, ranching or other agricultural activities, actions undertaken to restore or enhance wildlife habitat, and fire prevention activities.

3.6 **Covered Lands** means the lands within each Planning Subarea upon which the FESA incidental take permit or NCCPA take authorization authorizes the incidental take of the Covered Species and the lands to which the NCCP/HCP's conservation and mitigation measures apply.

3.7 **Covered Species** means the species that will be addressed in one or more NCCP/HCPs in a manner sufficient to meet all the criteria for issuing an incidental take permit under Section 10 of FESA and an NCCPA take authorization under Fish and Game Code section 2835.

3.8 **Critical Habitat** means those areas that USFWS or NMFS designated or will designate as critical habitat for a threatened or endangered species in a final rule adopted pursuant to Section 4 of FESA.

3.9 **The DFG** means the California Department of Fish and Game.

3.10 **Development Activities** means ground-disturbing activities authorized or carried out by the County or Participating Agencies. Development Activities include all activities associated with the development or improvement of land, but do not include farming, ranching or other agricultural activities, or actions undertaken to restore or enhance wildlife habitat. Development Activities constitute the largest class of activities included within the Covered Activities. The scope and range of Development Activities included within the Covered Activities will be specified in the NCCP/HCPs.

3.11 **FESA** means the Federal Endangered Species Act, title 16, U.S.C.A. section 1530, et seq.

3.12 **Habitat Conservation Plan** means a plan prepared pursuant to Section 10 of FESA.

3.13 **Interim Projects** means projects, actions, and activities proposed or implemented within a Planning Area during preparation of the corresponding NCCP/HCP.

3.14 **NEPA** means the National Environmental Policy Act, title 42 U.S.C.A., section 4321, et seq.

3.15 **NMFS** means the National Marine Fisheries Service.

3.16 **NCCP/HCP** means a joint natural community conservation plan and habitat conservation plan prepared under this Agreement.

3.17 **Natural community conservation plan** means a plan prepared pursuant to the Natural Community Conservation Planning Act.

3.18 **Natural Community Conservation Planning Act or NCCPA** means California Fish and Game Code section 2805, et seq.

3.19 **Participating Agencies** means the cities, State agencies, and other public agencies, other than the County, that agree to participate in the development and implementation of one or more NCCP/HCPs, as provided in Section 4.2.

3.20 **Placer County** means the area within the geographic boundaries of the County of Placer.

3.21 **Planning Region** means the area comprised collectively by the three phased NCCP/HCPs.

3.22 **Planning Area** means an area comprised by one of the phased NCCP/HCPs.

3.23 **Target Species** means species that collectively will serve as indicators of the health of the natural communities that are the focus of each NCCP/HCP. Target Species may include species listed under CESA or FESA.

3.24 **The USFWS** means the United States Fish and Wildlife Service.

3.25 **Wildlife** means wild animals and plants.

3.26 **Wildlife Agencies** means, collectively, the DFG, USFWS and NMFS.

4 PLANNING REGION, PLANNING AREAS, COVERED LANDS, AND PARTICIPATING AGENCIES

The region to be comprised by the NCCP/HCPs (**"Planning Region"**) is Placer County. Within the Planning Region, the Parties anticipate that three independently viable and ecologically linked NCCP/HCPs will be completed in three phases. The areas comprised by each of the three phased NCCP/HCPs are referred to herein as **"Planning Areas."** The Planning Areas are depicted in **Exhibit 1**. Each NCCP/HCP will delineate the lands within its Planning Area that will be covered by the NCCP/HCP (**"Covered Lands"**). The County may extend the Covered Lands within one or more Planning Areas to include specific incorporated portions of Placer County or lands owned by public agencies, as provided in Section 4.2.

4.1 Planning Areas The Planning Areas are derived from the Placer Legacy Program development process and reflect administrative boundaries, as well as ecological considerations.

4.1.1 Western Placer County-Phase 1 An NCCP/HCP for the western Placer County Planning Area, as depicted in **Exhibit 1**, will be prepared in Phase 1. This NCCP/HCP will focus primarily on vernal pools, grasslands, valley foothill riparian habitat, oak woodland, salmonid habitat in the streams and in the Bear River, and species associated with these habitat types.

4.1.2 Sierra Nevada Foothills-East Side Sierra Nevada-Phase 2 An NCCP/HCP for the Sierra Nevada Foothills-East Side Sierra Nevada Planning Area, as depicted in **Exhibit 1**, will be prepared in Phase 2. This NCCP/HCP will focus primarily on foothill oak woodlands, foothill riparian habitat, montane meadows, coniferous forests, stream habitat, hardwood habitat, and species associated with these habitat types.

4.1.3 Sierra Nevada-Phase 3 An NCCP/HCP for the Sierra Nevada Planning Area, as depicted in **Exhibit 1**, will be prepared in Phase 3. This NCCP/HCP will focus primarily on rivers, wet meadows, montane riparian habitat, coniferous forests, hardwood habitat, and species associated with these habitat types.

4.2 Participating Agencies Some or all of the cities in Placer County, and certain State and local agencies with land in Placer County, may wish to be included in one or more NCCP/HCPs. The Parties agree that the inclusion of cities and other public agencies is desirable and will result in better, more comprehensive NCCP/HCPs. Each Participating Agency may submit its own applications for FESA incidental take permits and an NCCPA take authorization based on the NCCP/HCP, once it is approved.

4.2.1 Addition of Participating Agencies Any incorporated city within Placer County may include some or all of the land within its jurisdiction in an NCCP/HCP by submitting a written request to the County and committing to participate in the interim project review process described in Section 7. Upon reaching agreement

with the County regarding terms and details of participation (e.g., cost-sharing, data-sharing, coordination with existing planning efforts, staff participation), consistent with this Agreement, the County will include the city within the NCCP/HCP's proposed Covered Lands and the city will thereby become a Participating Agency. Any State or local agency within Placer County may become a Participating Agency in the same manner.

4.3 **Subarea Plans** The County, or one or more Participating Agencies in collaboration with the County, may elect to develop discrete NCCP/HCP components for discrete areas within a Planning Area (**"Planning Subareas"**). A Planning Subarea may be defined by administrative boundaries, such as the incorporated area within a city, or by ownership, such as the land owned by a local agency. A discrete NCCP/HCP component that addresses a Planning Subarea (**"Subarea Plan"**) may contain conservation measures tailored to the individual characteristics of the Planning Subarea and the Covered Activities that may occur there. However, all Subarea Plans must be prepared in accordance with this Agreement and must conform with and complement the NCCP/HCP of which they are a component to be regarded as part of the NCCP/HCP for purposes of meeting applicable State and Federal legal requirements.

5 REGULATORY GOALS

The County intends that the NCCP/HCPs will allow for development and growth compatible with the Placer Legacy Program's fundamental goals and consistent with State and Federal regulatory requirements. By agreeing to assume responsibility for development of the NCCP/HCPs, and committing staff and financial resources for that purpose, the County intends for the NCCP/HCPs to yield numerous benefits in addition to natural resource conservation, including greater regulatory efficiency, streamlining and certainty.

5.1 **Consistency with the Placer Legacy Program** The Parties recognize that the County intends the Placer Legacy Program to provide the framework for compliance with FESA, CESA and the NCCPA and agree that the NCCP/HCPs will, as much as possible, be based on the program, consistent with applicable State and Federal laws and regulations. The Parties recognize also that the Placer Legacy Program as developed so far is not itself sufficient to fulfill all State and Federal regulatory requirements that may apply to Covered Activities. The Parties therefore expect the NCCP/HCPs to contain additional measures, standards or requirements that complement and in some cases may vary from existing Placer Legacy Program documents. Specifically, this Agreement does not reflect a determination by the Wildlife Agencies that the Placer Legacy Program goals, principles and objectives described in Section 1 fully define or fulfill State and Federal legal requirements that may apply to Covered Activities.

5.2 **Covered activities** The Parties intend that the NCCP/HCPs will meet the requirements of Section 10 of the FESA and Section 2835 of the NCCPA and will result in the USFWS', NMFS' issuance of incidental take permits and DFG's issuance of a take authorization to the County and Participating Agencies, which

together will allow Covered Activities, including Development Activities, in Placer County to be carried out in compliance with CESA, the NCCPA and FESA.

5.3 **Covered species** The NCCP/HCPs, at a minimum, will address the impacts of taking endangered species, threatened species and candidate species under FESA or CESA likely to result from Covered Activities in Placer County. All currently listed species that occur in Placer County are intended to be species covered by the NCCP/HCPs, or "**Covered Species.**" The County may also elect to address additional species in the NCCP/HCP and to seek their inclusion as Covered Species. The purpose of addressing any additional species will be to help ensure that such species do not become listed as threatened or endangered species under FESA or CESA and, if listed, to avoid the need to develop new and different measures or restrictions to fulfill the requirements of FESA, CESA and the NCCPA. The Parties agree that the goal of addressing any additional species in the NCCP/HCPs will be to include, at a minimum, conservation measures sufficient, in the event the species is listed, to enable the USFWS and the NMFS to issue incidental take permits, and the DFG to permit the take of the species, as contemplated by the NCCPA, for Covered Activities that are likely to take the species.

5.4 **Programmatic Streambed Alteration Agreement** The County and the DFG intend that each NCCP/HCP will provide the basis for comprehensive compliance with Sections 1601 and 1603 of the Fish and Game Code. Specifically, each NCCP/HCP will serve as a programmatic streambed alteration agreement for Covered Activities.

5.5 **Section 7 of FESA** To the extent appropriate and allowed under law, the Parties intend that the mitigation and minimization measures included in the NCCP/HCPs, once approved by the USFWS or NMFS and included as a condition of incidental take permits to the County and Participating Agencies, will be incorporated into future Section 7 consultations between the USFWS or NMFS and the United States Army Corps of Engineers, the United States Bureau of Reclamation, or other applicable Federal agencies regarding Covered Activities that may adversely affect species or habitat covered by the NCCP/HCPs.

5.6 **Assurances** The Parties intend that the USFWS and NMFS will provide regulatory assurances pursuant to each agency's statutory authority upon issuance of incidental take permits to the County and Participating Agencies. Specifically, the Parties intend that if the NCCP/HCPs meet the criteria for issuance of an incidental take permit under Section 10 of FESA, the County and Participating Agencies will receive the assurances under the "no surprises" regulations of the United States Department of the Interior at 50 C.F.R. 17.22(b)(5) and 17.32(b)(5) and the United States Department of Commerce at 50 C.F.R. 222.102 and 222.307 for all species adequately covered under the NCCP/HCPs, upon approval of each NCCP/HCP and issuance of incidental take permits to the County and Participating Agencies, and for so long as the NCCP/HCP is being properly implemented. Pursuant to such regulation, the USFWS and NMFS will not require the commitment of additional

land, water or other natural resources beyond the level agreed to in an approved NCCP/HCP and incidental take permit, with respect to Covered Activities under the NCCP/HCP, without the consent of the permittee. In addition, the Parties intend that if the NCCP/HCPs meet criteria sufficient for the DFG to authorize incidental take by the County and Participating Agencies as contemplated by the NCCPA, the DFG will provide regulatory assurances consistent with its statutory authority upon approval of the NCCP/HCPs and authorization of incidental take consistent with the NCCP/HCPs.

5.7 **Critical habitat** The Parties intend that each NCCP/HCP will provide adequately for the management and protection of the habitat of the Covered Species. Specifically, the Parties intend that each NCCP/HCP will provide for the "special management considerations or protection," within the meaning of Section 3(5)(A) of FESA, for the essential habitat of the Covered Species within each Planning Subarea.

6 CONSERVATION PLANNING PROCESS AND GUIDELINES

The Parties intend that this Agreement will fulfill NCCPA requirements pertaining to planning agreements and will establish a mutually agreeable process for the County's preparation of the NCCP/HCPs that fulfills the requirements of the NCCPA and FESA. The Parties recognize, however, that the County intends the NCCP/HCPs to be a part of the Placer Legacy Program and that the process to prepare the NCCP/HCPs will be an extension of the process used to develop the program.

6.1 **NCCPA planning requirements** The NCCPA includes requirements and recommendations pertaining specifically to planning agreements and the process used to develop natural community conservation plans.

6.1.1 **Planning agreements** The NCCPA generally requires that planning agreements for natural community conservation plans establish a process for the collection of data, information and independent scientific input, independent scientific analysis, and the designation of independent scientists to propose conservation criteria or guidelines. (Fish & G. Code, §2811(a).) In addition, the DFG's 1998 *Natural Community Conservation Planning General Process Guidelines* ("**NCCP Guidelines**") identify certain specific requirements. The NCCP Guidelines state that planning agreements for natural community conservation plans:

- must identify those natural communities, and the endangered, threatened, proposed, candidate, or other species known, or reasonably expected to be found in those communities, which will be the focus of the plan;

- should establish a process for the identification of target species, which may include listed species, and which will collectively serve as indicators of the natural communities which are the focus of the plan;

- must establish a process for the collection of data, information, and independent input necessary to meet scientifically sound principles for the conservation of species covered in the plan;

- must establish a process for public participation throughout plan development and review;

- must establish an interim process (during plan development) for project review, wherein projects which potentially conflict with goals of the plan are discussed with the DFG prior to formal processing by the jurisdiction; and

- must provide that draft documents associated with a natural community conservation plan will be available for public review and comment for at least 45 days prior to adoption. This review period may run concurrent with the review period provided for the [California Environmental Quality Act] document associated with the natural community conservation plan. This requirement is not intended to limit the discretion of a city or county to revise any draft documents at a public hearing.

6.1.2 **Planning process** The NCCPA requires the DFG to establish a process for public participation throughout plan development and review to ensure that interested persons have an adequate opportunity to provide input regarding the preparation of natural community conservation plans. The NCCPA's specific requirements regarding the public participation process are described below. The NCCPA public participation objectives may be achieved through public working groups, advisory committees or public workshops. (Fish & G. Code, §2815(a).)

6.1.2.1 **Public review prior to adoption** Draft natural community conservation planning documents proposed for adoption must be made available for public review and comment for a minimum of 45 days, and must be made available at least ten working days before any public hearing regarding the documents. (Fish & G. Code, §2815(a)(1).)

6.1.2.2 **Availability of public review drafts** Public review draft plans, memoranda of understanding, maps, conservation guidelines, species coverage lists and other planning documents must be made available for public review in a reasonable and timely manner. (Fish & G. Code, §2815(a)(2).)

6.1.2.3 **Public hearings** Public hearings regarding natural community conservation plan development must complement or be integrated with other public hearings required by law. (Fish & G. Code, §2815(a)(3).)

6.1.2.4 **Outreach** The public participation process must include an outreach program to provide access to information for persons interested in the plan, with an emphasis on obtaining input from a balanced variety of public and private interests including State and local governments, landowners, conservation organizations and the general public. (Fish & G. Code, §2815(a)(4).)

6.2 **FESA planning requirements** FESA requires a minimum 30-day public comment period for all draft habitat conservation plans. (16 U.S.C.A., §1539(c); 50 C.F.R. Part 17 and Part 222.) However, the USFWS and the NMFS customarily allow for public comment periods of 60 days, 90 days, or even longer, depending on the scale and complexity of individual habitat conservation plans. Further, the issuance of incidental take permits by the USFWS and NMFS are Federal actions subject to the requirements of NEPA, which similarly requires a minimum 45 to 60 day public review period for all major Federal actions significantly affecting the quality of the human environment. For large-scale, regional, or exceptionally complex habitat conservation plans, the USFWS and the NMFS encourage plan preparers to use informational meetings and external review teams. And it is the policy of the USFWS and NMFS to allow a minimum 90-day public comment period for such habitat conservation plans, unless there is significant public participation during their development.

6.3 **NCCP/HCP preparation** The Parties agree that the process used to develop the Placer Legacy Program has included significant public participation and independent scientific input and analysis, and that the Placer Legacy Program NCCP/HCP Guidelines, as described in Section 1.2.5 provide a strong basis to develop the NCCP/HCPs. To provide further opportunities consistent with the requirements of the NCCPA for public participation and independent scientific input and analysis, to assist in implementing the Placer Legacy Program NCCP/HCP Guidelines, and to fulfill the requirements of the NCCPA and FESA, the Parties agree that the following principles will govern preparation of the NCCP/HCPs.

6.3.1 **County responsibility** The County will have primary responsibility for preparing the NCCP/HCPs as the plan lead agency and will coordinate participation from each Party. The Parties will confer and collaborate with the County to ensure that the NCCP/HCPs are biologically sound and in compliance with state and Federal law. The Parties agree to an ongoing exchange of information and expertise as necessary to achieve the goals of the NCCP/HCPs and to comply with State and Federal laws and regulations.

6.3.2 **Public participation** The Parties intend that the final NCCP/HCPs will be informed and shaped by public input, specifically including input from residents and landowners in Placer County. The County agrees to provide for public participation in the process of preparing the NCCP/HCPs in the following ways.

6.3.2.1 **Stakeholder Working Group** The County will convene a Stakeholder Working Group to represent a broad range of stakeholder interests during the preparation of the NCCP/HCPs. The County, in consultation with the other Parties, will appoint the group, which will include representation from appropriate stakeholder interests, such as environmental organizations, developers, landowners, agriculturalists, timber interests, educators, and representatives from the Scientific Advisory Team, as described below in Section 6.3.3. Members of the Stakeholder Working Group need not be trained

biologists or experts in conservation planning. The group will serve as a sounding board for the County, providing public outreach through members' contacts with key constituencies, and will provide input to the County regarding preparation of the NCCP/HCPs. The Wildlife Agencies agree, subject to funding and staffing constraints, to provide technical assistance on an on-going basis to the Stakeholder Working Group.

6.3.2.1.1 **Organization and structure** The Stakeholder Working Group will have a Chair and a Vice Chair, appointed by the County's planning director. The Chair will preside. Upon request from the Chair, such as during the Chair's absence, the Vice Chair may temporarily perform the Chair's duties. County staff, or a designee of the County's staff, will serve as Secretary. As appropriate, the Stakeholder Working Group will convey its thoughts to the County staff, Wildlife Agencies, or the Board on specific aspects of the NCCP/HCPs, as well as on the NCCP/HCPs as a whole.

6.3.2.1.2 **Subsequent phases** The County may change the composition of the Stakeholder Working Group or convene a separate Stakeholder Working Group for each NCCP/HCP. The County will attempt to ensure the Stakeholder Working Group accurately reflects the range of stakeholders affected by each NCCP/HCP.

6.3.2.2 **Sierra Business Council** The County will continue to collaborate with the Sierra Business Council regarding preparation of the NCCP/HCPs, coordination of stakeholder involvement, fundraising and general public participation.

6.3.2.3 **Availability of public review drafts** The County will make draft plans, memoranda of understanding, maps, conservation guidelines, species coverage lists and other planning documents and supporting material available for public review in a reasonable and timely manner. This obligation will not apply to all documents drafted during preparation of the NCCP/HCPs. However, the County will from time to time designate as "public review drafts" various pertinent documents drafted during preparation of the NCCP/HCPs and will make these documents available to the public. In addition, all reports and formal memoranda prepared by the Stakeholder Working Group and the Scientific Advisory Team will be regarded as "public review drafts" for purposes of this section. The Parties agree that the County may use the Placer Legacy Program internet website as one of the principal means of making documents pertaining to the Placer Legacy Program available for public review, as well as more traditional means such as distribution and display of hard copies of such documents.

6.3.2.4 **Public review prior to adoption** All draft NCCP/HCPs and implementing agreements proposed for adoption will be made available for public review and comment for a minimum of 60 days, and will be made available by the County at least ten working days before any public hearing regarding the documents. The Parties expect to fulfill this obligation by distributing for public review the

draft NCCP/HCPs and implementing agreements with the draft environmental impact reports prepared for the NCCP/HCPs pursuant to the California Environmental Quality Act (**"CEQA"**) and/or the draft environmental impact statements prepared for the NCCP/HCPs pursuant to the National Environmental Policy Act (**"NEPA"**).

6.3.2.5 **Public hearings** Public hearings regarding NCCP/HCP development will be planned and conducted to complement or integrate the requirements of CEQA, NEPA, and any other applicable State or Federal laws.

6.3.2.6 **Public outreach program** The County, in concert with the Stakeholder Working Group and the Sierra Business Council, will provide access to information for persons interested in the plan, with an emphasis on obtaining input from a balanced variety of public and private interests including State and local governments, landowners, conservation organizations and the general public. This public outreach program regarding preparation of the NCCP/HCPs will be conducted largely by and through the Stakeholder Working Group and the Sierra Business Council. In addition, the County will continue to hold public meetings before the Board to present key decisions regarding the preparation of the NCCP/HCPs in order to afford the public the opportunity to comment on and inquire about the decisions.

6.3.3 **Independent scientific review** The Placer Legacy Program was developed with substantial independent scientific input and analysis. Based on the recommendations of the independent Scientific Working Group, the County approved the Placer Legacy Program NCCP/HCP Guidelines. The Scientific Working Group also provided other input and advice during the preparation of the Placer Legacy Program, helping to define the program's general biological context and the scientific premises for preparation of the NCCP/HCPs. The input and analysis of the Scientific Working Group was based in part upon review and consideration of extensive resource data compiled and presented by the County in a geographic information system format. Preparation of the NCCP/HCPs will continue to be guided by independent scientific input and analysis. For that purpose, the County will convene a Placer Legacy Scientific Advisory Team composed of independent scientists representing a range of disciplines, including geography, conservation biology, aquatic resources and terrestrial ecology, and chaired by a noted conservation biologist. The Scientific Advisory Team will help inform and guide habitat preserve design, species conservation, monitoring and adaptive management provisions of the NCCP/HCPs. The Scientific Advisory Team may review and provide written comments on key draft documents during preparation of the NCCP/HCPs and may also prepare reports regarding specific scientific issues, as deemed necessary by the County, in consultation with the Wildlife Agencies.

6.3.4 **Natural communities** The dominant vegetation communities in Placer County's three major ecoregions are annual grassland in the Great Valley, oak woodland in the Sierra Nevada Foothills, and conifer forest in the Sierra Nevada proper.

Within these major vegetation types is a diversity of small-patch ecosystems and hydrologically-connected aquatic communities, including riparian woodlands, vernal pools, freshwater emergent wetlands, freshwater creeks and montane wet meadows. Aquatic communities, which provide habitat for a large number of species (including many with special protection status), have been greatly reduced and degraded, particularly in the valley and foothill portions of Placer County. Other natural communities that are relatively rare in Placer County, though widespread elsewhere, include chamise chaparral, primarily in the American River Canyon, and sagebrush, on the east slope of the Sierra Nevada. Placer County also contains a small amount of alpine shrub and subalpine conifers in its high elevation zones. The Parties intend that the NCCP/HCPs will address natural communities in Placer County, focusing more intently on those that are most degraded or threatened.

6.3.5 **Species List** The Parties intend to address the species listed in **Exhibit 2** in the NCCP/HCP prepared in Phase 1. The Parties do not intend this list of species to be exclusive or inclusive. The County may include or exclude certain species to reflect new information and analyses. However, **Exhibit 2** reflects the likely list of species that will be addressed in Phase 1 NCCP/HCPs, based on the best information currently available. The Parties acknowledge that inclusion of a particular species as a Covered Species in an NCCP/HCP will require a determination by the Wildlife Agencies that the NCCP/HCP adequately covers the species in accordance with State and Federal permit issuance requirements.

6.3.5.1 **Target Species** In consultation with the Scientific Advisory Team and the Wildlife Agencies, the County will identify certain "Target Species" from the species in **Exhibit 2** that collectively will serve as indicators of the health of the natural communities that are the focus of the Phase 1 NCCP/HCP.

6.3.5.2 **Subsequent phases** The County will revise the species list in **Exhibit 2** to identify the species that will be addressed in the NCCP/HCP for each subsequent phase. **Exhibit 2** will include a separate list of species for each NCCP/HCP, though some species may be included on more than one list. For each NCCP/HCP, the County will identify Target Species in accordance with Section 6.3.5.1 early in the development of the NCCP/HCP. Notwithstanding Section 9.7, the County may amend **Exhibit 2** without the written agreement of other Parties; provided, however, that the County must provide each Party with written notice of any such amendments.

6.3.6 **Data collection** The Parties agree that information regarding the following subjects is important for preparation of the NCCP/HCPs. The Parties therefore agree that data collection for preparation of the NCCP/HCPs should be prioritized to develop more complete information on these subjects. Preference for data collection should be given to those data essential to address habitat conservation requirements of Target Species and proposed Covered Species. Analysis may reveal data gaps currently not known that are necessary for the full and accurate

development of a conservation plan. Data needed for preparation of the NCCP/HCPs may include subjects not known at this time or not identified herein.

6.3.6.1 **General watershed statistics** To provide necessary background information, general statistics for the watersheds in each Planning Subarea should be obtained, including:

- area;
- elevational range;
- ecological subregion, section, and subsection;
- average annual precipitation; and
- means and variances of precipitation and temperature over the past fifty years.

6.3.6.2 **Land cover composition and pattern** To understand land use pressures and the potential for erosion and water quality deterioration, information regarding the native and cultural vegetation types in each Planning Subarea should be obtained. Maps and data analyses that should be developed are:

- vegetation cover;
- acreage and percentages of urban, agricultural and natural vegetation;
- acreage and percentages of different types of natural vegetation; and
- areas with oak woodlands and coniferous forests.

6.3.6.3 **Land use in sloped areas.** To understand potential soil loss and runoff, the percentage of residential, commercial, industrial, and agricultural lands on slopes of greater than 5% in each Planning Subarea should be identified.

6.3.6.4 **Land use and disturbance history** To develop an understanding of ecosystem composition, structure, and functional organization, land use and disturbance history should be reviewed. This should entail a review of the land use history, logging history, agricultural history, mining history and fire history within each Planning Subarea.

6.3.6.5 **Geomorphological data** To develop a better understanding of abiotic factors influencing natural communities in Placer County, geomorphological data at an appropriate scale and level of detail should be identified.

6.3.6.6 **Land cover patch sizes** To determine the habitat value of each watershed to particular species or groups of species, the size and location of habitat patches

should be identified in each Planning Subarea by identifying cover types and obtaining or developing frequency histograms of cover type patch sizes.

6.3.6.7 **Small patches** The location of small habitat patches should be identified. For this purpose, soils and geology within each Planning Subarea should be identified, and maps of vernal pool areas, areas with serpentine/gabbro substrate, and caves, cliffs and rock outcrops should be prepared.

6.3.6.8 **Percentage of land in public ownership or private protected status** To assess the feasibility of aggregating large blocks of land into conservation areas, lands in public ownership and protected private lands in each Planning Subarea should be identified. Maps and data that should be developed include:

- location and extent of public lands and private conservation easements;
- location and extent of The Nature Conservancy portfolio sites; and
- parcel sizes of private land not in conservation easements.

6.3.6.9 **Roads and transportation corridors** Roads can fragment habitat and cause erosion. To help determine conservation priorities, the extent of roads and roadless areas within each Planning Subarea should be identified, including:

- map of road network;
- linear miles of roads by road type per square mile of watershed area;
- linear miles of major transportation corridors;
- linear miles of utility corridors;
- areas without roads;
- erosion potential of major soil types and slopes from roads; and
- road stream crossings.

6.3.6.10 **Aquatic resources** To help determine conservation priorities, aquatic habitat types in each Planning Subarea should be classified. Maps and data that should be developed include:

- miles of permanent and intermittent streams;
- extent of lakes or other lentic waters;
- number and location of dams and diversions;
- miles of free-flowing streams;

- miles of impounded streams;
- location and miles of ditches, canals, reservoirs, and other artificial modifications to the natural flow regime;
- isolated springs, wet meadows, fens, bogs and seeps.

6.3.6.11 **Extent and distribution of riparian habitat** To assess habitat quality within each watershed, the extent and distribution of riparian habitat within each Planning Subarea should be identified. This may be done by reviewing existing data, obtaining aerial photographs, or obtaining field measurements of local habitat conditions. Maps depicting riparian habitat and roads in riparian zones should be developed or obtained for each Planning Subarea.

6.3.6.12 **Records of occurrence** To help determine conservation priorities, occurrence records of sensitive species in each Planning Subarea should be analyzed to assist in assessing known vertebrate species richness by habitat type. For this purpose, the California Natural Diversity Database (**"CNDDB"**) should be reviewed, as well as other locality data for sensitive species, and total vertebrate species richness by habitat type should be estimated. Occurrence data, including the CNDDB, is based on areas surveyed and on information provided to DFG. These data do not always reflect species richness or distribution. Data gaps must be identified and filled as needed for preparation and analysis of the plan.

6.3.6.13 **Habitat connectivity and degree of fragmentation** To help determine the potential spread and magnitude of disturbance factors such as fire, disease, and flooding, the sustainability of plant and animal populations, and the overall diversity of plants and animals, an analysis should be conducted within each Planning Subarea of habitat connectivity and degree of fragmentation. Habitat connectivity and degree of fragmentation are species specific and information developed in species profiles will be incorporated into this analysis.

6.3.6.14 **Species data** Because the conservation strategy will be based principally on GIS analyses, species profiles should be thoroughly developed to assure that the ecological needs of each species identified in **Exhibit 2** are met. Species profiles should include, at a minimum, regulatory status, basic life history information pertinent to conservation needs, habitat requirements, rangewide distribution and distribution within the plan area, threats rangewide and in the plan area, and references to relevant scientific literature.

6.4 **GIS analysis** To assist in the understanding of GIS analyses used in the development of the conservation strategy, an explicit list and discussion of criteria used and weighting factors employed in the construction of any GIS analysis used will be provided to the Wildlife Agencies. The County will also provide the metadata used for GIS analyses.

6.5 **Satisfaction of NCCPA planning requirements** The DFG agrees that this Agreement satisfies the NCCPA requirements applicable to planning agreements

set forth in Fish and Game Code section 2811. And the DFG agrees that the process described in Section 1.2 for the development of the Placer Legacy Program and Section 6.3 for the development of the Placer Legacy Program NCCP/HCPs, if followed, will satisfy the NCCPA's public participation requirements set forth in Fish and Game Code section 2815. The DFG agrees specifically that the process described in Section 1.2, in which the County established a Scientific Working Group to inform development of the Placer Legacy Program, and in Section 6.3.3, in which the role and responsibility of the Scientific Working Group in the development of the NCCP/HCPs is detailed, satisfies the requirement in Fish and Game Code section 2811, subdivision (a)(3) for a process for the "designation of independent scientists to propose conservation criteria or guidelines early in the planning process for consideration by the department and plan participants to assist in providing a general biological context and the scientific premises for conservation planning and for use and application in the subregional or subarea plan level."

6.6 **Satisfaction of FESA planning requirements** The USFWS and the NMFS agree that the process described in Section 6.3 for NCCP/HCP preparation, if followed, will satisfy applicable public participation requirements in FESA and FESA regulations, and will adhere to applicable USFWS and NMFS policies concerning public participation. .

6.7 **Protection of habitat during planning process** The County and Participating Agencies may elect to preserve or restore, either by acquisition or other means, lands that contain native species of wildlife or their habitat prior to the completion or approval of the NCCP/HCP encompassing the lands. Upon approval of the NCCP/HCP, the Wildlife Agencies agree to credit such lands toward the land acquisition or habitat preservation requirements of the NCCP/HCP if, and to the extent, the lands contribute to the NCCP/HCP's conservation strategy. The Wildlife Agencies will not refuse to credit toward an NCCP/HCP mitigation obligation any lands determined to by the Wildlife Agencies to be biologically suitable for the NCCP/HCP solely on the basis that the lands were acquired or preserved prior to completion of the NCCP/HCP. This provision will not apply to lands, or portions of lands, acquired or preserved to mitigate the impacts of specific projects or activities approved prior to or during plan preparation.

7 INTERIM PROJECTS

The Parties agree that projects, actions, and activities proposed or implemented within a Planning Subarea during preparation of the corresponding NCCP/HCP ("**Interim Projects**") should not compromise its successful development or implementation. The Parties agree further that Interim Projects should not be delayed solely due to preparation of the NCCP/HCP. The Parties therefore agree to observe the following interim project review guidelines.

7.1 **Permitting by the Wildlife Agencies** The Wildlife Agencies will issue or deny permits or approvals for and complete regulatory reviews of Interim Projects in accordance with CESA and FESA and other applicable State or Federal law.

Consistent with their respective legal authorities, the Wildlife Agencies may request or require project design features or mitigation measures that complement a proposed NCCP/HCP. But the Wildlife Agencies will not delay or suspend issuance of a permit or approval for an interim project due solely to the preparation of the NCCP/HCP.

7.2 **Identification of areas with high, long-term conservation value** The Wildlife Agencies may provide maps, as data and time allow, that identify areas with high long-term conservation value that are potentially crucial elements of a regional preserve system designed to adequately conserve habitat for Target Species and proposed Covered Species. The purpose of the maps would be to assist the County in making land use decisions that do not compromise the successful development or implementation of the NCCP/HCPs. The County will specifically identify for the Wildlife Agencies the Interim Projects within the areas identified as having high long-term conservation value on the Wildlife Agencies' maps, as provided in Section 7.4.1.

7.3 **Discretionary approvals by the County** The County will approve or disapprove Interim Projects in accordance with the County's established standards and processes. However, to ensure that Interim Projects will not compromise the successful development or implementation of the NCCP/HCP, and to facilitate CESA and FESA compliance for Interim Projects that require it, the County agrees to confer with the Wildlife Agencies about certain projects that will require a discretionary approval from the County or will be carried out by the County, as provided in Section 7.4.

7.4 **Informal conference** The Parties agree to meet and confer at the request of any Party to discuss any Interim Project that has been identified by the County in accordance with this Section 7.4. The Parties will meet and confer at least once a month for this purpose, unless otherwise agreed by the Wildlife Agencies and the County. The purpose of the conference will be to evaluate whether an Interim Project identified by the County, together with any proposed mitigation measures, would compromise the successful development or implementation of the NCCP/HCP being prepared for the Planning Subarea in which the project would occur and, if so, what feasible actions would make the project compatible with the successful development and implementation of the NCCP/HCP. This Section 7.4 does not restrict the County's discretionary authority with regard to Interim Projects; nor does it give the Wildlife Agencies the authority to approve or disapprove Interim Projects. The Parties recognize that the Wildlife Agencies will retain their authority and responsibility for implementation and enforcement of CESA, FESA and other State and Federal wildlife protection laws. However, by agreeing to confer about Interim Projects when they are initially proposed, the Parties intend to create an opportunity to address the projects' potential impacts to species listed in **Exhibit 2** or natural communities identified in Section 6.3.4 expeditiously and in coordination with the County's project review process.

7.4.1 **Identification of specific projects and activities for evaluation** Pending the Wildlife Agencies' approval of an NCCP/HCP, the County will provide the Wildlife Agencies with monthly lists of Interim Projects within the NCCP/HCP's Planning Subarea as described in this Section 7.4.1. On the monthly lists, the County will specifically identify or highlight the Interim Projects that are located within areas identified as having high long-term conservation value on any map provided to the County under Section 7.2. For all listed projects, the County will include a brief project description, general property location, name of property owner and applicant, parcel size, assessor's parcel number, hearing date (if applicable), and project file name. The use of the term "project" herein is not intended to express the view of any Party as to whether any particular activity constitutes a "project" for CEQA purposes.

7.4.1.1 **Discretionary projects** The following discretionary projects will be included in the County's monthly lists:

- all projects for which a determination has been made to prepare an initial study pursuant to CEQA and the County's Environmental Review Ordinance (Placer County Code, Chapter 18);
- all residential, commercial, industrial and professional office parcel maps (excluding condominium subdivision of existing structures) on a parcel or aggregation of parcels five (5) acres in area or larger;
- variances to structural setbacks from streams and ponds; and
- all other discretionary projects not listed in Section 7.4.2.

7.4.1.2 **County projects** The following projects carried out by the County will be included in the County's monthly lists:

- construction of new roads or the construction of additional travel lanes;
- construction of new bridges or replacement of existing bridges;
- construction of new or expanded wastewater treatment plants;
- construction of new sanitary landfills or expansion of existing sanitary landfills and related facilities;
- construction of new County administrative facilities outside of current operations areas at Dewitt (North Auburn), Fulweiler Avenue (City of Auburn) Burton Creek/Cabin Creek (Tahoe);
- installation of sewer lines;
- construction of new County park facilities;

- flood control and storm water detention facilities;
- floodway maintenance activities; and
- construction of equipment, material and vehicle storage yards.

7.4.2 **Projects excluded** The County's monthly lists will not include the projects described in this Section 7.4.2. Exclusion of an interim project from the County's monthly list does not preclude the County and Wildlife Agencies from otherwise agreeing to confer about the project, where appropriate.

7.4.2.1 Variances (Section 17.60.100 Placer County Code)

- building or fence height variance for structures and fences
- structural setbacks from property lines
- sign area, property line setback or height
- parking space requirements by land use
- off-street parking design standards
- landscape standards for commercial and industrial development
- minimum parcel size
- lot configuration (e.g., 4:1 length:width ratio, lot width, or flag lot standards)
- modifications to previously approved variances
- extensions of time to previously approved variances.

7.4.2.2 Conditional use permits ("CUPs") (Section 17.58.130 Placer County Code)

- modifications to planned development standards in existing subdivisions
- CUP revocation hearings
- extensions of time on previously approved CUP entitlements.

7.4.2.3 Minor use permits ("MUPs") (Section 17.58.120 Placer County Code)

- secondary dwellings
- bed and breakfast lodging
- cellular telephone and paging antennae

- caretaker or temporary employee housing
- temporary dwellings
- sales from vehicles
- commercial vehicle storage (residential and agricultural zones – 1 commercial vehicle)
- reconstruction of non-conforming building damaged by fire or calamity
- residential care homes, 7 or more clients
- kennels and animal boarding
- keeping of zoo animals or carnivorous animals (other than dogs or cats)
- offices, temporary
- structural setbacks from canals
- modifications to previously approved MUP entitlements included on the list above
- extensions of time on previously approved MUP entitlements included on the list above
- MUP revocation hearings.

7.4.2.4 Administrative review permits (Section 17.58.100 Placer County Code)

- private kennel/cattery
- setback review for residential structures adjacent to sanitary landfills, airports, wastewater treatment plants and mining operations

7.4.2.5 Minor permits for projects with no direct physical impacts

- easement abandonment
- phasing of approved projects into separate units
- residential, commercial or industrial condominium subdivision of existing structures
- minor lot line adjustments
- certificates of compliance.

7.4.3 **Participating agencies** Each Participating Agency must substantially adhere to Section 7.3 and Section 7.4 for Interim Projects proposed on lands owned by or under the jurisdiction of the Participating Agency. Each Participating Agency must provide monthly lists of Interim Projects and meet and confer with the Wildlife Agencies in accordance with Section 7.4. The County may, at its discretion, remove from an NCCP/HCP's proposed Covered Lands any lands within the jurisdiction of any Participating Agency that does not participate in the interim project review process as described in this Section 7.4.3.

7.4.3.1 **Cities** Any city that is a Participating Agency may use project classifications derived from the city's own ordinances that are substantially similar to those derived from the Placer County Code in Section 7.4.1 and Section 7.4.2 to prepare their monthly lists of Interim Projects. Cities may also use alternative project classifications with the concurrence of the Wildlife Agencies.

7.4.3.2 **Other Participating Agencies** Participating Agencies other than cities must include in their monthly lists only projects that the agencies' themselves will carry out.

8 COMMITMENT OF RESOURCES

8.1 **County funding** The County recognizes that, as a prospective applicant for State and Federal permits, it has the primary responsibility for developing a plan that meets applicable legal requirements and that, as a result, the development and implementation of the NCCP/HCPs must be funded primarily from locally derived sources.

8.1.1 **NCCP funding** The DFG agrees to cooperate with the County in identifying and securing, where appropriate, Federal and State funds earmarked for natural community conservation planning.

8.1.2 **USFWS and NMFS assistance with funding** The USFWS and the NMFS agree to cooperate with the County in identifying and securing, where appropriate, Federal and State funds earmarked for habitat conservation planning purposes. Potential Federal funding sources may include: the USFWS' Cooperative Endangered Species Conservation Fund and Land and Water Conservation Fund, and land acquisition grants or loans through other Federal agencies such as the Environmental Protection Agency, the Army Corps of Engineers, or the Departments of Agriculture or Transportation.

8.2 **Open communication** In addition to the meetings specified in Section 6 and Section 7 of this Agreement, subject to funding and staffing constraints, the Parties agree to periodic meetings among staff level representatives and among policy level representatives of each Party as appropriate during development of the NCCP/HCPs. The Parties intend that informal discussions will occur on a regular and frequent basis to ensure that progress is made toward completion of the NCCP/HCPs.

8.3 **Expertise of regulatory agencies** Subject to funding and staffing constraints, the Wildlife Agencies agree to provide technical and scientific information, analyses and advice to assist the County with the timely and efficient development of the NCCP/HCPs.

9 MISCELLANEOUS PROVISIONS

9.1 **Public officials not to benefit** No member of or delegate to Congress will be entitled to any share or part of this Agreement, or to any benefit that may arise therefrom.

9.2 **Availability of appropriated funds**

9.2.1 **Federal agencies** The commitments and obligations of the USFWS and NMFS under this Agreement are subject to the availability of appropriated funds pursuant to the Federal Anti-Deficiency Act (31 U.S.C. Section 1341). The Parties acknowledge that this Agreement does not require any Federal agency to expend its appropriated funds unless and until an authorized officer of that agency affirmatively acts to commit to such expenditures as evidenced in writing.

9.2.2 **State agencies** The DFG's commitments and obligations under this Agreement are subject to the availability of appropriated funds. The Parties acknowledge that this Agreement does not require the DFG to expend its appropriated funds unless and until an authorized officer of the DFG affirmatively acts to commit to such expenditures as evidenced in writing.

9.3 **Statutory authority** The Parties will not construe this Agreement to require any Party to act beyond, or inconsistent with, its statutory authority.

9.4 **Counterparts** This Agreement may be executed by the Parties in several counterparts, each of which will be deemed to be an original copy.

9.5 **Effective date** The Effective Date of this Agreement will be the date on which it is fully executed.

9.6 **Duration** This Agreement will be in effect for ten years following the Effective Date, unless extended by amendment or terminated.

9.7 **Amendments** This Agreement can be amended only by written agreement of all Parties.

9.8 **Execution by Participating Agencies** Any Participating Agency may become a Party to this Agreement by executing it. However, Participating Agencies are not required to be Parties to this Agreement.

9.9 Termination and withdrawal Any Party may withdraw from this Agreement upon 30 days' written notice. This Agreement can be terminated only by written agreement of all Parties.

DATE: October 11, 2001.

COUNTY OF PLACER

By: Bill Santucci

Bill Santucci
Title: Chairman, Board of Supervisors

DATE: _____, 2001.

CALIFORNIA DEPARTMENT OF FISH AND GAME

By: _____

Ron Rempel
Title: Deputy Director,
Habitat Conservation Division

DATE: 12/10, 2001.

UNITED STATES FISH AND WILDLIFE SERVICE

By: _____

Wayne S. White
Title: Field Supervisor,
Sacramento Field Office

DATE: December 7, 2001.

NATIONAL MARINE FISHERIES SERVICE

By: Rodney R McInnis

Rodney R. McInnis, Acting
Title: Regional Administrator,
Southwest Region

9.9 Termination and withdrawal Any Party may withdraw from this Agreement upon 30 days' written notice. This Agreement can be terminated only by written agreement of all Parties.

DATE: October 11, 2001.

COUNTY OF PLACER

By: Bill Santucci

Bill Santucci
Title: Chairman, Board of Supervisors

DATE: October 16, 2001.

CALIFORNIA DEPARTMENT OF FISH AND GAME

By: Ron Rempel

Ron Rempel
Title: Deputy Director,
Habitat Conservation Division

DATE: _____, 2001.

UNITED STATES FISH AND WILDLIFE SERVICE

By: _____

Wayne S. White
Title: Field Supervisor,
Sacramento Field Office

DATE: _____, 2001.

NATIONAL MARINE FISHERIES SERVICE

By: _____

Rebecca Lent, Ph.D.
Title: Regional Administrator,
Southwest Region

FIRST AMENDMENT TO THE PLANNING AGREEMENT
Between the County of Placer,
the California Department of Fish and Game,
the United States Fish and Wildlife Service, and
the National Marine Fisheries Service
regarding
the Placer Legacy Open Space and Agricultural Conservation Program

RECITALS

The Planning Agreement between the County of Placer ("County"), the California Department of Fish and Game ("DFG"), the United States Fish and Wildlife Service ("USFWS"), and the National Marine Fisheries Service ("NMFS") regarding the Placer Legacy Open Space and Agricultural Conservation Program, dated October 5, 2001, was entered into December 10, 2001, (the "Planning Agreement").

The County, DFG, USFWS and NMFS wish to extend the duration of the Planning Agreement by way of this First Amendment.

AMENDMENT

The County, DFG, USFWS and NMFS agree to amend the Planning Agreement effective December 1, 2011, as follows:

1. Section 9.6 of the Agreement is amended to read: "This Agreement will remain in effect until December 1, 2015, unless extended by amendment or terminated."

2. This First Amendment may be executed in counterparts.

3. All other terms and conditions of the Planning Agreement shall remain as originally agreed.

IN WITNESS WHEREOF, the County, DFG, USFWS and NMFS hereto execute this First Amendment.

THE COUNTY OF PLACER

Dated:_____

By:_____
Jennifer Montgomery
Chairman, Board of Supervisors

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//
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THE CALIFORNIA DEPARTMENT OF FISH AND GAME

Dated: 4/11/12

By: Sandra Morey

Sandra Morey
Deputy Director
Ecosystem Conservation Division

UNITED STATES FISH AND WILDLIFE SERVICE

Dated:_____

By:_____

Name:
Title:
Sacramento Field Office

NATIONAL MARINE FISHERIES SERVICE

Dated:_____

By:_____

Rodney R. McInnis
Regional Administrator,
Southwest Region

THE CALIFORNIA DEPARTMENT OF FISH AND GAME

Dated: _____

By: _____
Sandra Morey
Deputy Director
Ecosystem Conservation Division

UNITED STATES FISH AND WILDLIFE SERVICE

Dated: 5/2/12

By: Susan K Moore
Name: Susan K. Moore
Title: Field Supervisor
Sacramento Field Office

NATIONAL MARINE FISHERIES SERVICE

Dated: _____

By: _____
Rodney R. McInnis
Regional Administrator,
Southwest Region

THE CALIFORNIA DEPARTMENT OF FISH AND GAME

Dated: _____

By: _____
Sandra Morey
Deputy Director
Ecosystem Conservation Division

UNITED STATES FISH AND WILDLIFE SERVICE

Dated: _____

By: _____
Name:
Title:
Sacramento Field Office

NATIONAL MARINE FISHERIES SERVICE

Dated: 7-27-12

By: Rodney R McInnis
Rodney R. McInnis
Regional Administrator,
Southwest Region

SECOND AMENDMENT TO THE PLANNING AGREEMENT
Between the County of Placer,
the California Department of Fish and Game,
the United States Fish and Wildlife Service, and
the National Marine Fisheries Service
regarding
the Placer Legacy Open Space and Agricultural Conservation Program

RECITALS

The Planning Agreement between the County of Placer ("County"), the California Department of Fish and Game ("DFG"), the United States Fish and Wildlife Service ("USFWS"), and the National Marine Fisheries Service ("NMFS") regarding the Placer Legacy Open Space and Agricultural Conservation Program, dated October 5, 2001, was entered into December 10, 2001, (the "Planning Agreement").

Effective December 1, 2011, in the First Amendment to the Planning Agreement, County, DFG, USFWS, and NMFS extended the duration of the Agreement to December 1, 2015.

Now, the County, DFG, USFWS and NMFS wish to extend further the duration of the Planning Agreement by way of this Second Amendment.

AMENDMENT

The County, DFG, USFWS and NMFS agree to amend the Planning Agreement effective December 1, 2015, as follows:

1. Section 9.6 of the Agreement is amended to read: "This Agreement will remain in effect until December 1, 2018, unless extended by amendment or terminated."

2. This Second Amendment may be executed in counterparts.

3. All other terms and conditions of the Planning Agreement shall remain in effect as written.

IN WITNESS WHEREOF, the County, DFG, USFWS and NMFS hereto execute this First Amendment.

THE COUNTY OF PLACER

Dated:_____ By:_____
Chair, Board of Supervisors

THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

Dated: _____

By:_____
Sandra Morey
Deputy Director
Ecosystem Conservation Division

UNITED STATES FISH AND WILDLIFE SERVICE

Dated:_____

By:_____
Jennifer Norris
Field Supervisor
Sacramento Field Office

NATIONAL MARINE FISHERIES SERVICE

Dated:_____

By:_____
William Stelle
Regional Administrator,
West Coast Region