

**The Renewable Energy Action Team Mitigation Account
Memorandum of Agreement
between the Renewable Energy Action Team Agencies and the
National Fish and Wildlife Foundation**

PREAMBLE

This Renewable Energy Action Team (“REAT”) Mitigation Account Memorandum of Agreement (this “Agreement”) is entered into by the State and Federal agencies comprising the REAT, namely the California Department of Fish and Game (the “DFG”), the California Energy Commission (the “CEC”), the United States Bureau of Land Management (the “BLM”), and the United States Fish and Wildlife Service (the “USFWS”) (collectively referred to as “REAT” or “REAT Agencies” and individually as a “REAT Agency”), and the National Fish and Wildlife Foundation (the “Foundation”) (together, the “Parties,” and individually, a “Party”), as of the date of the signature of the last Party to sign (such date, the “Effective Date”).

I. PURPOSE

The REAT’s primary mission is to streamline and expedite the permitting processes for renewable energy projects in the Mojave and Colorado Desert regions within the State of California, while enhancing and maximizing environmental protection. To that end, the purpose of this Agreement is to establish a financial account, comprised of Sub-Accounts, to be held, managed, and administered by the Foundation (the “REAT Account”) to receive monies paid in connection with impacts associated with renewable energy projects subject to the jurisdiction of one or more of the REAT Agencies. These monies will be used to accomplish specified conservation, protection, enhancement, restoration, or related purposes as specifically identified in BLM right-of-way grants, associated biological opinions, avian protection plans, raven mitigation plans; the CEC certification; DFG’s permits, consistency determinations, and Lake and Streambed Alteration agreements; and other approval documents (collectively referred to as “Decision Documents”). The Parties contemplate that the types of activities for which the REAT Account will be used include, but are not limited to, studies, monitoring, conservation, land acquisition, enhancement, restoration, preservation, clean-up, data sampling and analysis, and adaptive management designed to mitigate the impacts of renewable energy projects on the health of fish, wildlife, plant, and habitat resources in the Mojave and Colorado Desert regions within the State of California. Use of the REAT Account will be limited by the amount of money available in the REAT Account at any given time, and by the stated purposes as described in the Deposit Document (see Section IV. below). Funds in the REAT Account will be disbursed in accordance with the Deposit Document.

This Agreement does not establish a mitigation strategy or an in-lieu mitigation fee program. The REAT Agencies are cooperatively developing a comprehensive mitigation strategy which will include an in-lieu fee mitigation component for renewable energy projects in the Mojave and Colorado Desert regions within the State of California. The mitigation strategy will guide the REAT Agencies' utilization of the REAT Account.

II. AUTHORITY

A. The REAT is the Renewable Energy Action Team, consisting of the DFG, CEC, BLM, and USFWS, which was identified to include these four agencies in the Memorandum of Understanding between the State of California and the Department of the Interior on Renewable Energy, signed by the Governor of California and the Secretary of the U. S. Department of the Interior in October 2009. Its mission is to streamline and expedite the permitting processes for renewable energy projects, while enhancing and maximizing environmental protection. The State and Federal agencies comprising the REAT are guided by the California Governor's Executive Order S-14-08, the October 2009 Memorandum of Understanding referenced above, and associated Memoranda of Understanding among several State and Federal agencies, with Federal participation in the REAT supported by the Secretary of Interior's Secretarial Order 3285 (March 2009) which directs all Department of the Interior agencies and departments, including BLM and USFWS, to encourage timely and responsible development of renewable energy, while protecting and enhancing the nation's water, wildlife, and other natural resources.

B. The Foundation is a charitable non-profit corporation established in 1984 by the National Fish and Wildlife Foundation Establishment Act, 16 U.S.C. § 3701 *et seq.*, as amended (the "Establishment Act"), and is recognized as a tax exempt organization under Section 501(c)(3) of the Internal Revenue Code. The established purpose of the Foundation is to accept and administer private gifts of property in connection with activities and services of the USFWS in order to further the conservation and management of fish, wildlife, plants and other natural resources. In addition, the established purpose of the Foundation is to undertake and conduct other activities that will further the conservation and management of fish, wildlife, and plant resources of the United States for present and future generations of Americans and is authorized to accept funds from any legal source to further its mission.

C. The agencies comprising the REAT are authorized to enter into this Agreement pursuant to Federal and State laws including, but not limited to, the following authorities:

1. BLM: Section 307(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. §1737(b));

2. USFWS: The Endangered Species Act of 1973 (16 U.S.C. §§ 1531-1544), the Bald and Golden Eagle Protection Act (16 U.S.C. §§ 668-668c), Migratory Bird Treaty Act (16 U.S.C. §§ 703-712), and the Fish and Wildlife Coordination Act (16 U.S.C. §§ 661- 666c);

3. CEC: Public Resources Code §§ 25218(d) and (e), 25219, and 25500 *et seq.*; and

4. DFG: Fish and Game Code §§ 1600, *et seq.*, 1802, and 2050, *et seq.*, (CESA), Fish and Game Code §§ 2800 *et seq.*, Code of California Regulations, Title 14, Fish and Game Commission Policies.

III. DEFINITIONS

- A. “Administrative Costs” shall mean those fees or costs associated with the Foundation’s administration of the REAT Account, or Sub-Accounts, associated with each proposed project. Such costs include standard fees for each project such as Annual Fees, a Per Deposit Fee, and any bank charges; and project-specific fees like an RFP fee or necessary discretionary fees such as land appraisals, title research, or special studies. All Administrative Costs will be determined by the REAT in consultation with the Foundation, and will be based on a project-by-project assessment and described in the Deposit Document. Administrative Costs will be paid by the project proponent.
- B. “Agreement” shall have the meaning assigned to such term in the Preamble to this Agreement.
- C. “Annual Fee” is addressed within Section III.A. and VII.C.
- D. “Decision Document” shall have the meaning assigned to such term in the Purpose section of this Agreement.
- E. “Deposit Document” shall have the meaning assigned to such term in Section IV. of this Agreement.
- F. “Effective Date” shall have the meaning assigned to such term in the Preamble to this Agreement.
- G. “Establishment Act” shall have the meaning assigned to such term in Section II.B. of this Agreement.
- H. “Fiscal Year” shall mean the fiscal year of the Foundation which, as of the date of this Agreement, commences on October 1st of each calendar year and runs through September 30th of the immediately following calendar year.
- I. “Foundation” shall have the meaning assigned to such term in the Preamble to and Section II.B. of this Agreement.
- J. “Foundation Representative” shall mean the designated staff person for the Foundation (or his or her alternate, acting in the place of the primary Foundation Representative) responsible for primary communications and administration related to this Agreement.
- K. “Party” shall have the meaning assigned to such term in the Preamble to this Agreement.

- L. “Per Deposit Fee” is addressed within Section III.A. and VII.B.
- M. “REAT” shall have the meaning assigned to such term in the Preamble to and Section II.A. of this Agreement.
- N. “REAT Account” shall have the meaning assigned to such term in Section I. of this Agreement.
- O. “REAT Agencies” and “REAT Agency” shall have the meanings assigned to such terms in the Preamble to and Section II.A. of this Agreement.
- P. “REAT Representatives” shall mean the designated staff persons for each of the four REAT Agencies (or their respective alternates, acting in the place of the primary REAT Representatives) responsible for primary communications and administration related to this Agreement. If and to the extent a REAT Agency elects to designate a representative other than its REAT Representative for a particular Sub-Account under this Agreement (such person, a “Sub-Account Representative”), the REAT Agency shall so notify the Foundation and the other REAT Representatives in writing of such election and, thereafter, the Sub-Account Representative shall function as the “REAT Representative” for that REAT Agency hereunder for purposes of the relevant Sub-Account.
- Q. “Recipient” shall mean any entity that receives monies from the REAT Account for the performance of a project as set forth in a Recipient Agreement.
- R. “Recipient Agreement” shall mean a contract, grant agreement or other written agreement between the Foundation and a Recipient for the performance of a project to be funded through a Sub-Account within the REAT Account, as approved by the REAT in accordance with the applicable Deposit Document(s).
- S. “RFP” shall have the meaning assigned to such term in Section V.D.3. of this Agreement.
- T. “Sub-Account” shall mean each individual project account within the REAT Account. Each Sub-Account will be tracked and accounted for by the Foundation in a manner that allows the funds on deposit in, and the account activity related to, each Sub-Account to be distinguishable within the overall REAT Account. Within each Sub-Account all monies deposited by the State, a project proponent, or, if applicable, the federal government, and all interest earned on the Sub-Account, will be maintained in a manner that allows all transactions (e.g. deposits, withdrawals, adjustments) to be tracked by each mitigation measure specified in the Deposit Document.

IV. DEPOSIT DOCUMENT

A. The Deposit Document shall be a standard form created by REAT Agencies that contains, at a minimum, the following information:

1. project name;
2. project location;
3. land ownership of the project site;
4. project proponent and parent company;
5. for each specific mitigation and minimization measure contained in a Decision Document and other measures agreed to by the project proponent in the project description (for the purposes of this agreement only, collectively referred to herein as “mitigation measures”) that are to be funded from the monies deposited into the Sub-Account for the project:

- a. a citation (e.g., page, section, condition number) to the applicable Decision Document(s);
- b. an implementation schedule;
- c. which of the REAT Agencies has the authority over implementation of each specific mitigation measure, and will serve as the point of contact for such measure;
- d. the amount of money being deposited into the Sub-Account to cover specified measures and any other applicable Administrative Costs; and the amount of money being deposited into the Sub-Account designated for the costs of long-term management of land acquired as a mitigation measure, which amount shall be managed as a long-term investment intended to (1) exist indefinitely and (2) fund necessary land management activities, to the extent practicable, from investment earnings on the amount rather than from the initial amount itself.

B. A copy of each agency Decision Document containing the specified mitigation measures for the project will be submitted to the Foundation with the Deposit Document.

V. REAT RESPONSIBILITIES

A. Each REAT Agency shall appoint its respective REAT Representative and an alternate, who shall represent the REAT Agency on the REAT in carrying out the REAT’s obligations under this Agreement. The four REAT Representatives and alternates shall be the only persons authorized to approve deposits into or disbursements from the REAT Account. The REAT Agencies agree that their primary objective under this Agreement will be to insure that the mitigation measures identified in the Deposit Document are fully completed using the monies deposited with submission of the Deposit Document. Actions of the REAT in carrying out the REAT’s obligations under this Agreement shall require unanimity among the REAT Representatives, unless the Deposit Document provides otherwise. All directions from the REAT or a REAT Representative and all actions undertaken by the REAT or a REAT Representative with respect to funds from a Sub-Account shall be in accordance with the applicable Deposit Document.

B. The appropriate REAT Agency will transmit to the Foundation the completed

Deposit Document and supporting documents. The funds to complete the mitigation measures identified in the Deposit Document will be sent directly from the project proponent, the State, or if applicable, the Federal government, to the Foundation by electronic funds transfer or such other means as is agreed upon.

C. The REAT Representatives shall direct the Foundation by way of the Deposit Document to enter into Recipient Agreements for the performance of mitigation measures to be funded, in whole or in part, with monies in Sub-Accounts within the REAT Account in accordance with the applicable Deposit Document(s). The REAT Representatives may review and approve (1) Recipient Agreements, including any amendments thereto, prior to their execution and (2) requests from Recipients for disbursements of funds from the REAT Account, prior to such disbursements being made.

D. Prior to directing the Foundation to enter into Recipient Agreements, the REAT Agency(ies) may determine the need for a call for proposals and may choose to utilize one or more of the following processes:

1. The REAT or a REAT Agency, as appropriate, may issue a call for proposals and select from the submissions.

2. The REAT or a REAT Agency, as appropriate, may select projects submitted in response to one of the Foundation's regularly scheduled general calls for proposals.

3. The REAT or a REAT Agency, as appropriate, may retain the Foundation to conduct one or more specific requests or calls for proposals (each, an "RFP") for projects to be funded by the relevant Sub-Account(s), and select one or more projects submitted in response to any such RFP. The REAT or a REAT Agency, as appropriate, and the Foundation shall enter into separate agreements governing the performance of any such RFPs. After consultation with the Foundation, the REAT shall identify in the Deposit Document the RFP fee ranging generally between \$15,000 and \$30,000, to be determined based on RFP-specific factors.

E. The REAT may elect to use money from the REAT Account for projects to be carried out by a REAT Agency rather than by a third-party Recipient. The applicable REAT Agency would enter into a written agreement with the Foundation to utilize this process. In such instances, the REAT Representatives will transmit to the Foundation Representative a project budget and associated payment procedures for transfer of money from the REAT Account to the applicable REAT Agency as payment for performance of the relevant project. However, as set forth in Section VII.I. below, in no event shall the REAT direct the payment of money from the REAT Account, including any Sub-Account, for any purpose other than the implementation of the project to be funded in accordance with the applicable Deposit Document.

F. The REAT shall participate with the Foundation in annual technical reviews to

evaluate the progress and results of projects funded by the REAT Account. If the REAT determines that termination or cancellation of a particular project is warranted, the REAT Representatives will so inform the Foundation Representative in writing.

G. The REAT agencies agree that the Foundation may join funds in multiple Sub-Accounts to complete mitigation measures that result in a cost savings or increased conservation benefit provided that each specific mitigation measure is completed, and the mitigation measures and the funds can be independently accounted for. In certain circumstances the REAT may direct the Foundation, in writing, to apply this approach.

H. If any funds remain in a project Sub-Account after the REAT Agencies have determined that all project-specific mitigation measures associated with such Sub-Account are completed, the REAT Agencies may direct the Foundation to transfer the remaining funds to the project's long-term management purposes. In the event there is no long-term management purpose established for the applicable project, the REAT Agencies may direct the Foundation to transfer the remaining funds to a separate Sub-Account which will be expended at the direction of the REAT Agencies for the purpose of enhancing and maximizing environmental protection in the Mohave and Colorado desert regions.

I. Upon notification by the Foundation that additional funds are needed to fully complete the mitigation measures identified in the Deposit Document, the REAT Agencies may require a project proponent to ensure that additional funds are deposited into the project Sub-Account to cover the short-fall, in accordance with applicable law.

VI. FOUNDATION RESPONSIBILITIES

A. The Foundation shall appoint the Foundation Representative and an alternate, who shall represent the Foundation in carrying out its obligations under this Agreement. Such appointments shall require the concurrence of the REAT Agencies.

B. The Foundation understands and agrees that all monies deposited in the REAT Account, including all Sub-Accounts, shall be maintained in an interest bearing or investment account at one or more financial institution(s) that is a member of the Federal Deposit Insurance Corporation. In consultation with third parties and/or the Foundation, the REAT will determine the appropriate investment strategy to apply to each Sub-Account within the REAT Account. For accounting purposes, the REAT Account shall be distinguishable from all other accounts maintained by the Foundation. The Foundation shall also ensure that all Sub-Accounts within the REAT Account are distinguishable from each other, and finally, that funds deposited in each Sub-Account are tracked by each mitigation measure specified in the Deposit Document.

C. The Foundation shall invest and reinvest the principal and income of the REAT Account consistent with Section VI.B. of the Agreement and applicable State and Federal laws and in accordance with investment guidance determined by the REAT Representatives and communicated to the Foundation in writing for implementation by

one or more financial institutions retained by the Foundation. In addition, if requested by the REAT, the Foundation shall invest the principal and income of any Sub-Account within the REAT Account in a distinct investment pool to reflect a specified purpose and tenure of the relevant funds as identified by the REAT in the applicable Deposit Document. Day-to-day investment decisions, consistent with the REAT's investment guidance, will be made by the professional investment advisor or bank with which the Foundation has established or will establish an investment advisory relationship. The Foundation may rely on the advice of any such adviser, and may delegate investment decision-making authority, consistent with applicable State and Federal law and REAT guidance, to such adviser with respect to management of the REAT Account or any Sub-Account. Investment income accruing to the REAT Account shall be apportioned *pro rata* to each Sub-Account (and credited thereto) based on the respective balances on deposit in each Sub-Account, and shall be used to carry out the purposes of the various Sub-Accounts as set forth in the Deposit Document.

D. For investment purposes only, the Foundation is authorized to commingle any or all of the assets existing in the REAT Account with other funds held or managed by the Foundation that are subject to identical investment restrictions. The intent of this authorization is to allow the Foundation to pool funds subject to identical investment restrictions for collective management, such that all participating funds may benefit from efficiencies of scale. Any funds from the REAT Account commingled in this manner shall at all times remain subject to the investment guidance specified by the REAT for such funds. In addition, notwithstanding this authorization, and in accordance with Section VI.B. above, funds in the REAT Account and the Sub-Accounts shall at all times be distinguishable and uniquely identifiable within the Foundation's internal account system from all other funds maintained or managed by the Foundation.

E. The Foundation shall administer the REAT Account consistent with Section VII., below.

F. If requested by the REAT, under separate agreements with the REAT and in accordance with Section V.D.3. above, the Foundation shall prepare one or more RFPs for projects to be selected by the REAT and funded, in whole or in part, with monies in the REAT Account. This process may also be utilized if after full implementation of the Deposit Document, the Sub-Account has remaining funds.

G. The Foundation shall pay Recipients' requests for disbursements as approved by the REAT or a REAT Agency, as appropriate, in writing and in accordance with the procedures set forth in the respective Recipient Agreements.

H. The Foundation shall participate with the REAT in annual technical reviews to evaluate the progress and results of projects funded by the REAT Account. The Foundation will take appropriate steps to terminate or cancel a project if directed to do so by the REAT.

I. If requested by the REAT, the Foundation shall retain one or more land acquisition consultants for selected projects and programs at the direction of the REAT Representatives. Services to be procured by the Foundation in this respect may include review of acquisition plans, appraisal reviews, site visits, land negotiations, and other related services as the REAT shall deem necessary.

VII. ACCOUNT ADMINISTRATION

A. Within forty five (45) days after the Effective Date, the Foundation shall establish the REAT Account. Sub-Account(s) shall be created and funded within the REAT Account as and when Sub-Account funds are received by the Foundation. In connection with their creation and funding, each Sub-Account shall be given unique identifying information by the Foundation. If and to the extent that, prior to the Foundation's establishment of the REAT Account, the Foundation has received funds for deposit into any Sub-Account, the Foundation shall deposit such funds into a Foundation general account (account "NA5000") as an interim measure. If funds are so deposited, then promptly after establishment of the REAT Account the Foundation shall transfer from account NA5000 into the REAT Account the relevant funds for crediting to the appropriate Sub-Account(s).

B. Upon receipt of each new deposit of funds into the REAT Account or any Sub-Account, the Foundation shall assess and collect the Per Deposit Fee against the appropriate Sub-Account as provided within the Deposit Document as described within Section III.L.

C. As described in Section III.C., the Foundation shall assess and collect the Annual Fee either quarterly or annually (based on the Foundation's Fiscal Year), at the Foundation's election, during each Fiscal Year in which the REAT Account is in existence. The annual fee will be assessed and collected against the appropriate Sub-Account as provided within the Deposit Document.

D. Bank charges assessed by any financial institution will be assessed and collected against the appropriate Sub-Account as provided within the Deposit Document.

E. Unless directed otherwise by the REAT in writing, the Foundation shall submit REAT Account activity reports to the REAT Representatives semi-annually by June 15 and December 15 of each year the REAT Account is in existence. The Foundation shall report on deposits, disbursements, fees, and investment income during each semi-annual period, with a reconciliation of the remaining unobligated balance in each Sub-Account. The reports will also include the current status of all active Recipient Agreements. At the REAT's written request, the Foundation shall provide to the REAT Representative copies of its audited financial statements.

F. If requested by the REAT, the Foundation shall participate in an annual audit of its management of the REAT Account, all Sub-Accounts and any other accounts holding REAT monies. The audit will be conducted by an auditor selected by the REAT. The

Foundation will fully cooperate with such audit process. The cost for the annual audit shall be collected as an administrative fee assessed against each project proponent.

G. The Parties agree and acknowledge that, at their mutual election, they may enter into further agreements regarding the establishment, maintenance, and/or operation of additional Sub-Accounts created within the REAT Account. If and to the extent that any such further agreements contain terms or conditions different from those set forth in this Agreement, the terms of such further agreements shall be deemed to supersede the provisions of this Agreement.

H. No funds disbursed from the REAT Account may be used by any Recipient to pay for lobbying activities, litigation, or any illegal activities.

I. No funds disbursed from the REAT Account may be used by any Recipient (including but not limited to the REAT Agencies) to unlawfully augment any REAT Agency's federal appropriations, whether in violation of the United States Constitution, Title 31, U.S.C. § 1301(a) (the "Purpose Statute"), Title 31, U.S.C. § 1341 (the "Anti-Deficiency Act"), Title 31, U.S.C. § 3302(b) (the "Miscellaneous Receipts Act"), or other applicable law.

VIII. TERMINATION OF AGREEMENT

A. This Agreement shall terminate when all monies in the REAT Account have been disbursed and/or the Parties agree to termination of this Agreement in writing. If this Agreement is terminated pursuant to this Section, the REAT may request a full and complete accounting of all REAT Account activity, including deposits, disbursements, fees, and investment income, with a reconciliation of the remaining balance, if any, in the REAT Account, and the Foundation shall provide such accounting within ninety (90) days after receipt of such request. In conjunction with such accounting, the Foundation shall submit to the REAT for approval any final payment requests from Recipients.

B. In the event of termination of this Agreement prior to all monies in the REAT Account having been expended, the Foundation shall immediately (unless otherwise directed by the REAT in writing) undertake all reasonable steps to wind down the REAT Account cooperatively with the REAT, which steps shall include but not be limited to the following:

1. Direct Recipients to stop any unfunded work;
2. Direct Recipients to place no further work orders or enter into any further contracts for materials, services, or facilities, except as necessary to complete work as specified in the REAT's notice;
3. Enter into no further contracts with Recipients and terminate all pending contracts (to the extent such contracts allow) for project work that has not yet commenced;

4. Promptly take all other reasonable steps to minimize the additional obligation of REAT Account funds;

5. Deliver or make available to the REAT all data, drawings, specifications, reports, summaries, and such other information and material as may have been developed under this Agreement or any project documents, whether completed or in progress; and

6. Disburse remaining funds in the REAT Account according to the REAT's written direction and in accordance with applicable law, withholding an amount sufficient to pay outstanding obligations that remain after steps (1) through (5) above have been completed.

IX. CONTACT INFORMATION/COMMUNICATIONS

A. No obligations may be incurred, and no funds disbursed, except in accordance with the applicable Deposit Document(s). All approvals, notices and reports required or permitted under this Agreement shall be in writing and delivered by first-class mail, overnight mail, facsimile or electronic pdf format. Each Party agrees to notify the other promptly after any change in named representative, address, telephone, or other contact information.

B. All deposits made to the REAT Account by check shall be delivered to the Foundation's headquarters office at 1133 15th Street, NW, Suite 1100, Washington, D.C. 20005, to the attention of the Chief Financial Officer. All deposits made to the REAT Account by electronic funds transfer shall be made in accordance with wire instructions provided by Foundation in writing to the depositor.

C. The individuals named below shall be the REAT Representatives and the Foundation Representative for purposes of this Agreement. Contact information for the REAT Representatives and Foundation Representative, respectively, is as follows (it being agreed and acknowledged that contact information for deposits to the REAT Account shall be as set forth in Section IX.B. above):

If to the REAT:

DFG:
Scott Flint
Renewable Energy Program Manager
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814
Phone: 916-653-9719
Facsimile: 916-653-2588
Email: sflint@dfg.ca.gov

If to the Foundation:

Liz Epstein
Senior Manager, IDEA
National Fish and Wildlife Foundation
90 New Montgomery Street
Suite 720
San Francisco, CA 94105
Phone: 415-243-3102
Facsimile: 415-778-0998
Email: liz.epstein@nfwf.org

DFG Alternate:

Bronwyn Hogan
Renewable Energy Science Coordinator
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814
Phone: 916-445-0726
Facsimile: 916-445-1768
Email: bhogan@dfg.ca.gov

Foundation Alternate:

Jay Wright
Manager, IDEA
National Fish and Wildlife Foundation
1133 15th Street, NW
Suite 1100
Washington, DC 20005
Phone: 202-595-2468
Facsimile: 202-857-0162
Email: jay.wright@nfwf.org

CEC:

Terry O'Brien
Deputy Director
1516 Ninth Street
Sacramento, CA 95814
Phone: 916-654-4421
Facsimile: 916-654-4421
Email: Tobrien@energy.state.ca.us

CEC Alternate:

Roger Johnson
Program Manager
1516 Ninth Street
Sacramento, CA 95814
Phone: 916-654-5100
Facsimile: 916-654-4421
Email: Rjohnson@energy.state.ca.us

BLM:

Tom Pogacnik
Deputy State Director
2800 Cottage Way, Room W-1623
Sacramento, CA 95825
Phone: 916-978-4637
Facsimile: 916-978-4657
Email: Tom_Pogacnik@blm.gov

BLM Alternate:

Vicki L. Campbell
Wildlife Biologist
2800 Cottage Way, Room W-1623
Sacramento, CA 95825
Phone: 916-978-4320
Facsimile: 916-978-4657
Email: Vicki_L_Campbell@blm.gov

USFWS:

Mike Fris

Assistant Regional Director-Endangered Species

2800 Cottage Way, Room W-2606

Sacramento, CA 95825

Phone: 916-414-6475

Facsimile: 916-414-6462

Email: Michael_Fris@fws.gov

USFWS Alternate:

Darrin Thome

Deputy Assistant Regional Director-Endangered Species

2800 Cottage Way, Room W-2606

Sacramento, CA 95825

Phone: 916-414-6533

Facsimile: 916-414-6462

Email: Darrin_Thome@fws.gov

X. MISCELLANEOUS PROVISIONS

A. **No Assignment.** No Party may assign this Agreement, in whole or in part, to any individual or other legal entity without the prior written approval of the other Parties.

B. **Amendments.** This Agreement may be amended only in writing agreed to and signed by all Parties.

C. **No Additional Support.** In establishing the REAT Account, the REAT assumes no obligation to provide further funding or support to the Foundation beyond the terms stated in this Agreement.

D. **Compliance with Laws; Insurance.**

1. The Foundation agrees to contractually require that all Recipients comply with all applicable Federal, State, and local laws, regulations, and ordinances and secure all appropriate and necessary public or private permits and consents in carrying out projects financed by the REAT Account.

2. The Foundation agrees to contractually require Recipients to obtain and maintain all appropriate insurance, with the Foundation and the REAT named as additional insureds to the extent practicable, against liability for injury to persons or property from any and all activities undertaken by such Recipients in carrying out projects financed by the REAT Account.

E. **Publicity.** At the REAT's request, the Foundation agrees to require Recipients to include the REAT or REAT Agency's names or logos in all press releases, publications,

annual reports, video credits, dedications, and other public communications regarding any of the projects financed with funds from the REAT Account.

F. **Severability.** If any provision of this Agreement is held to be unlawful or invalid by any court of law with duly established jurisdiction over this Agreement, the Parties intend that the remainder of this Agreement shall remain in full force and effect notwithstanding the severance of the unlawful or invalid provision(s).

G. **Responsibility for Conduct.** Each Party shall be responsible for the consequences of its own actions or inaction, willful misconduct, gross negligence, and/or breach of obligations in connection with this Agreement, and in connection with any work undertaken in accordance with this Agreement.

H. **Dispute Resolution.** The Parties will cooperate in good faith to achieve the objectives of this Agreement and to avoid disputes. The Parties will use good faith efforts to resolve disputes at the lowest organizational level and, if a dispute cannot be so resolved, the Parties will then elevate the dispute to the appropriate officials within their respective organizations.

I. **Disclaimers.** Unless otherwise directed by the REAT, the Foundation shall ensure that all information submitted for publication or other public releases of information regarding this Agreement or any project funded by the REAT Account shall carry the following disclaimer:

The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the official policies or opinions of the State of California or U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the State of California or U.S. Government.

J. **Appropriations Not Obligated.** Nothing in this Agreement may be construed to obligate the United States or any REAT Agency to any current or future expenditure of money in advance of the availability of appropriations for such purposes from the U.S. Congress or other appropriating authority.

K. **No Limitation on REAT Responsibilities.** Nothing contained in this Agreement is intended to limit the authority of the REAT or any REAT Agency to fulfill its statutory or regulatory responsibilities or to otherwise limit the powers afforded to the REAT and each REAT Agency by applicable law.

L. **No Third-Party Rights.** This Agreement shall not be the basis of any claims, rights, causes of action, challenges or appeals by any person or entity not a Party to this Agreement. Nothing in this Agreement shall be construed to create privity of contract between the REAT and any third parties, including Recipients whose projects are financed by the REAT Account.

M. **Withdrawal from Agreement.** Any Party may withdraw from the Agreement upon sixty (60) days written notice to the other Parties without terminating the Agreement.

N. **Members of Congress Not to Benefit.** No member of Congress shall benefit from the provisions of this Agreement.

O. **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.

The Parties have executed this Agreement as of the last date signed below.

RENEWABLE ENERGY ACTION TEAM

By: 

John McCamman, Director, DFG

Date: 4/12/10

By: _____
Karen Douglas, Chairman, CEC

Date: _____

By: _____
Jim Wesley Abbott, State Director, Acting, BLM

Date: _____

By: _____
Ren Lohofener, Regional Director
Pacific Southwest Region, USFWS

Date: _____

NATIONAL FISH AND WILDLIFE FOUNDATION


By: _____
Jeff Trandahl, Executive Director

Date: _____

The Parties have executed this Agreement as of the last date signed below.

RENEWABLE ENERGY ACTION TEAM

By: _____ Date: _____
Kevin Hunting, Chief Deputy Director, DFG

By:  _____ Date: 4/19/10
Karen Douglas, Chairman, CEC

By: _____ Date: _____
Jim Wesley Abbott, State Director, Acting, BLM

By: _____ Date: _____
Ren Lohofener, Regional Director
Pacific Southwest Region, USFWS

NATIONAL FISH AND WILDLIFE FOUNDATION

By: _____ Date: _____
Jeff Trandahl, Executive Director

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RENEWABLE ENERGY ACTION TEAM

By: _____ Date: _____
Kevin Hunting, Chief Deputy Director, DFG

By: _____ Date: _____
Karen Douglas, Chairman, CEC

By: JAMES WESLEY ABBOTT Date: 4/2/10
Jim Wesley Abbott, State Director, Acting, BLM

By: _____ Date: _____
Ren Lohofener, Regional Director
Pacific Southwest Region, USFWS

NATIONAL FISH AND WILDLIFE FOUNDATION

By: _____ Date: _____
Jeff Trandahl, Executive Director

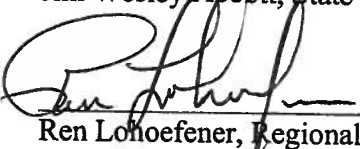
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RENEWABLE ENERGY ACTION TEAM

By: _____ Date: _____
Kevin Hunting, Chief Deputy Director, DFG

By: _____ Date: _____
Karen Douglas, Chairman, CEC

By: _____ Date: _____
Jim Wesley Abbott, State Director, Acting, BLM

By:  _____ Date: 4/12/2010
Ren Lohofener, Regional Director
Pacific Southwest Region, USFWS

NATIONAL FISH AND WILDLIFE FOUNDATION

By: _____ Date: _____
Jeff Trandahl, Executive Director

The Parties have executed this Agreement as of the last date signed below.

RENEWABLE ENERGY ACTION TEAM

By: _____ Date: _____
Kevin Hunting, Chief Deputy Director, DFG

By: _____ Date: _____
Karen Douglas, Chairman, CEC

By: _____ Date: _____
Jim Wesley Abbott, State Director, Acting, BLM

By: _____ Date: _____
Ren Lohofener, Regional Director
Pacific Southwest Region, USFWS

NATIONAL FISH AND WILDLIFE FOUNDATION

By: Jeff Trandahl Date: 4.6.10
Jeff Trandahl, Executive Director