



California Department of Fish and Wildlife
Central Region
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA 93710

California Endangered Species Act
Incidental Take Permit No. 2081-2013-058-04

METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT

Authority: This California Endangered Species Act (CESA) incidental take permit (ITP) is issued by the California Department of Fish and Wildlife (CDFW) pursuant to Fish and Game Code section 2081, subdivisions (b) and (c), and California Code of Regulations, Title 14, section 783.0 et seq. CESA prohibits the take¹ of any species of wildlife designated by the California Fish and Game Commission as an endangered, threatened, or candidate species.² CDFW may authorize the take of any such species by permit if the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c) are met. (See Cal. Code Regs., tit. 14, § 783.4).

Permittee: City of Bakersfield
Principal Officer: Alan Tandy, City Manager

Permittee: County of Kern
Principal Officer: Lorelei Oviatt, Planning and Community Development Director

Contact Person: Martin Ortiz, Metropolitan Bakersfield Habitat Conservation Plan Implementation Trust Group Administrator
(661) 326-3786; mortiz@bakersfieldcity.us

Mailing Address: 1715 Chester Avenue
Bakersfield, California 93301

Effective Date and Expiration Date of this ITP:

This ITP shall be executed in duplicate original form and shall become effective once a duplicate original is acknowledged by signature of the Permittees on the last page of this ITP and returned to CDFW's Habitat Conservation Planning Branch at the address listed in the Notices section of this ITP. Unless renewed by CDFW, this ITP's authorization to take the Covered Species shall expire on **September 1, 2019**.

¹Pursuant to Fish and Game Code section 86, "Take' means hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." See also *Environmental Protection Information Center v. California Department of Forestry and Fire Protection* (2008) 44 Cal.4th 459, 507 (for purposes of incidental take permitting under Fish and Game Code section 2081, subdivision (b), "take' ... means to catch, capture or kill").

²"The definition of an endangered, threatened, and candidate species for purposes of CESA are found in Fish and Game Code sections 2062, 2067, and 2068, respectively.

Notwithstanding the expiration date on the take authorization provided by this ITP, Permittee's obligations pursuant to this ITP do not end until CDFW accepts as complete the Permittee's Final Mitigation Report required by Condition of Approval 6.5 of this ITP.

Project Location:

The Project Area is the Metropolitan Bakersfield 2010 General Plan Area (GPA), which encompasses approximately 261,120 acres (408 sq. mi.) in central Kern County, centered on the City of Bakersfield. The lands within the Project Area are primarily privately owned and with about 165,120 acres under County jurisdiction and 96,000 acres under the jurisdiction of the City of Bakersfield. The lands within the GPA are broken into three categories:

- Urban: Lands that are already developed with uses that required issuance of grading permit, grading plan approval, building permit, or use permit from either Permittee. .
- Natural: Undeveloped lands which have not been significantly altered by human activity and includes open brushland/woodland, dense brushland/woodland, scrubland, riparian areas, wetlands, ephemeral flooded land, bare ground, sand dunes, rock outcroppings, grasslands, grasslands subject to grazing, and non-crop agricultural land which have retained natural contours or have reverted back to natural vegetation. Natural Lands do not include former agricultural lands which have been leveled or graded to facilitate irrigation or production activities, and land which has been out of production for less than five consecutive years (Natural Lands).
- Open: Includes Natural Lands and land which has been significantly altered by agricultural or industrial uses, but which has not been substantially developed for urban uses. These primarily consist of lands with intensive agriculture (Open Lands).

This ITP does not include the following areas within the GPA:

- The primary flood plain of the Kern River, as mapped in the Metropolitan Bakersfield Habitat Conservation Plan (MBHCP)
- Lands owned by the California Department of Water Resources (DWR) or Kern Water Bank Authority

Project Description:

The Project includes the Urban Development (defined below) of up to 14,200 acres of Natural Lands and 33,400 acres of Open Lands within the 261,120-acre MBHCP area, as defined in Figure 2 of the MBHCP dated April 1994. Because the Project is expected to result in take of a species designated as endangered under the federal Endangered Species Act (ESA), the Permittees prepared the MBHCP in support of an application for an ITP pursuant to section 10(a)(1)(B) of the ESA. On August 24, 1994, the United States (U.S.) Fish and Wildlife Service (Service) issued ITP No. PRT-786634 (federal ITP). The federal ITP requires

Incidental Take Permit
No. 2081-2013-058-04
CITY OF BAKERSFIELD AND COUNTY OF KERN
METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT

full implementation of, and compliance with, all conservation measures listed in the MBHCP for avoidance, minimization, and mitigation for impacts, as well as compliance with the terms and conditions in the associated Implementation/Management Agreement (dated August 15, 1994), all of which are incorporated by reference as conditions of the federal ITP. The 14,200 acres of Natural Lands or 33,400 acres of Open Lands that can be developed includes all MBHCP authorized development since 1994; as a result, only a portion of the development acreage contemplated in the 1994 MBHCP remains; as of December 31, 2012, there were 3,116.67 acres converted from Natural Lands to Urban Development, and 18,405.5 acres converted from Open Land to Urban Development. This ITP specifically authorizes development as contemplated in the MBHCP from the time of issuance of this ITP to its expiration in 2019.

“Urban Development” for the purpose of this ITP is defined as: A change in land use from open land to any other land use for which a permit such as a grading permit, grading plan approval, building permit or use permit is required from either Permittee, including but not limited to, the construction of buildings on lots of record and projects undertaken directly by either Permittee; where a Permittee project would require grading plan approval or approval of construction and maintenance activities undertaken by the Permittees.

Urban Development for the purposes of this ITP specifically does not include the following activities:

1. Agricultural uses;
2. Oil production and exploration, except for associated ancillary facilities within the Project Area on which either Permittee exercises discretionary authority of the issuance of permits or approvals pursuant to the California Environmental Quality Act (CEQA);
3. Water recharge and extraction facilities (not including wells developed in an urban setting) within lands owned by DWR, Kern County Water Agency, Kern Water Bank Authority, or other water districts;
4. Any flood control activities requiring notification to CDFW pursuant to Fish and Game Code section 1600 et seq.;
5. Any project undertaken by a State agency (e.g., Reclamation Board, Caltrans, Division of Oil, Gas, and Geothermic Resources (DOGGR), DWR) over which State agencies have CEQA lead agency responsibility; and
6. Other activities not normally considered “urban development.”

Urban Development within the Project Area may include, but is not limited to, the following activities related to urban land development: grubbing, excavation, and mass grading; heavy equipment staging; stockpiling of soils; materials transport, laydown, and storage; trench digging and backfilling; existing road right-of-way paving and improvements; construction of new roads, dwelling units, commercial development, public buildings, medical and other office space, recreational facilities, and trails; construction of water supply distribution system and wastewater collection and treatment facilities; sump operation and maintenance; tree and other vegetation removal and trimming; fencing installation; landscaping and re-vegetation; and other activities related to build out of the Project (collectively referred to as Covered Activities).

Equipment needed to perform the above Covered Activities may include but not be limited to bulldozers, backhoes, motor graders, hovel scrapers, water trucks, front-end loaders, concrete pumpers, pavers, rollers, and haul trucks.

In 1994, the California Department of Fish and Game (now known as CDFW) issued a CESA Management Permit (CESA 9323) for the Project, which expires on August 24, 2014. The Permittees have not yet exceeded the acreage of impact contemplated and analyzed in CESA 9323. However, CESA 9323 cannot be extended or renewed, since CESA was amended in 1999 to include different requirements for authorization of take of State-listed species pursuant to CESA. This ITP therefore analyzes the same Project as CESA 9323 but contains different requirements, since it includes, among other things, measures to minimize and fully mitigate Project-related take.

Covered Species Subject to Take Authorization Provided by this ITP:

This ITP covers the following species:

Name	CESA Status
1. Tipton kangaroo rat (<i>Dipodomys nitratoides nitratoides</i>)	Endangered ³
2. San Joaquin kit fox (<i>Vulpes macrotis mutica</i>)	Threatened ⁴
3. San Joaquin antelope squirrel (<i>Ammospermophilus nelsoni</i>)	Threatened ⁵
4. Bakersfield cactus (<i>Opuntia basilaris</i> var. <i>treleasei</i>)	Endangered ⁶

These species and only these species are the "Covered Species" for the purposes of this ITP.

³See Cal. Code Regs. tit. 14 § 670.5, subd. (a)(6)(D).

⁴See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).

⁵See Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(B).

⁶See Cal. Code Regs. tit. 14 § 670.2, subd. (a)(8)(A).

Impacts of the Taking on Covered Species:

Project activities and their resulting impacts are expected to result in the incidental take of individuals of the Covered Species. The activities described above expected to result in incidental take of individuals of the Covered Species include: tree removal; ground, vegetation, and habitat clearing; grubbing; grading; cut and fill (leveling); excavation and stockpiling of material; ground compaction; compaction from equipment and materials storage; heavy equipment operations; trenching; backfilling; paving; utility installation; construction of roads, wastewater and stormwater collection, treatment, and storage systems; materials and equipment transport and laydown; and other activities related to Urban Development.

Covered Activities may result in incidental take of individuals of the Covered Species in the form of mortality ("kill") from vehicle/equipment strikes during construction site preparation and hauling of materials and spoils; collapse or excavation of occupied dens and burrows that results in crushing or suffocation of underground individuals during vegetation removal, grubbing, cut/fill, grading, compaction, and trenching; entombment of individuals from deposition of stockpiled material or spoils over occupied burrows and during vegetation, top soil, or soil compaction, grading activities, and development of roadbeds, structure building pads, and other surface infrastructure; entrapment and burial within trenches for utilities, open pipelines, or uncovered excavations; crushing by equipment; and vehicle strikes on roads due to increased Project-related traffic. Incidental take of individuals of the Covered Species may also occur from Covered Activities in the form of pursue, catch, capture, or attempt to do so through the capture or entrapment in holes or trenches, by uncovering through the excavation of den or burrow systems, and when individuals are salvaged and relocated out of harm's way as required by this ITP.

Tipton Kangaroo Rat

Within the Project Area, Tipton kangaroo rat (TKR) has been documented in low numbers in the Ten Section Oil Field, Kern Water Bank and in remnant habitat north of Panama Lane. A review of the habitat change map for the MBHCP dated September 30, 2012 indicates two parcels converted from Natural Lands to urban land use. One location near Cottonwood Road does not appear to have been altered to date, and the area near Nord Road and Stockdale Highway has been converted to residential land use. It is not known whether these sites were recently occupied by TKR. Direct Project-related impacts to TKR could occur from destruction of burrow systems, entombment, being crushed in shallow burrow systems, and from loss of native habitat or fallowed agricultural fields occupied by the species. Potential indirect effects include disturbance of native habitats from Off-Highway Vehicle (OHV) cross-country riding, trash dumping, wildfires, predation from dogs, cats, and other urban wildlife, and recreational activities that result in disturbance to soil and vegetation. The Project Area contains approximately 6,000 acres of potentially suitable TKR habitat.

San Joaquin Kit Fox

There are many California Natural Diversity Database (CNDDDB) records of San Joaquin kit fox (SJKF) occurrences within the Project Area, but these records are incomplete and do not contain the thousands of SJKF observations recorded during recent studies within the City of Bakersfield and elsewhere within the Project Area. The Permittees' MBHCP implementation staff also maintain a database of known and potential kit fox dens to help implement avoidance and take minimization measures in the Project Area, as required by the MBHCP.

The Project Area is contained within a portion of the Western Kern County San Joaquin kit fox core area (approximately 10,500 acres) and the Metropolitan Bakersfield and Northeast Bakersfield Satellite areas. Three core areas and from 9 to 12 satellite areas were identified in the 1998 U. S. Fish and Wildlife Service Recovery Plan for Upland Species of the San Joaquin Valley, California (hereafter, Recovery Plan) to meet recovery goals for SJKF. The recovery strategy hinges on the enhanced protection and management of the Western Kern County, Carrizo Plain and Ciervo-Panoche core populations and the management of several of the 12 smaller satellite populations. Satellite areas, such as the Metropolitan Bakersfield and Northeast Bakersfield areas, will be fostered in remaining fragmented landscapes through habitat management on public land and conservation agreements with private land owners. Specific habitat evaluations and population estimates have not been conducted for the core and satellite areas. Urban and non-urban habitats are contained within the Project Area. In the non-urban habitats surrounding the metropolitan Bakersfield area, SJKF have been recorded in a variety of open undeveloped habitats. These include the larger grassland habitats on the eastern edge of the Project Area, small remnants of native habitat in the agricultural landscape, (e.g., alkali sink, saltbush scrub, non-native grassland), fallowed crop lands, low density oil fields, low density industrial and commercial facilities, landfills, and parks. Intensive agricultural row crops, orchards, and vineyards are generally not used due to a scarcity of small mammal and rodent prey items (B. Cypher pers. com). The small remnants of natural lands and the rangelands within the eastern portion of the Project Area with low topographic ruggedness are considered suitable SJKF habitat. A SJKF habitat suitability model has been developed by the Endangered Species Recovery Program (ESRP), which utilizes ratings factors of topography-ruggedness, land use, vegetation type, and vegetation biomass. Within the urban landscape of the Project Area, research conducted by ESRP since 1997 indicates that SJKF living within the urban landscape of the City of Bakersfield are faring well both demographically and ecologically. The current population appears robust, wide-spread, and persistent, and is estimated to be as large as 200 to 400 individuals within the City (Cypher and Van Horn Job, in press). Observations of SJKF are scattered across the urban landscape and include undeveloped lands (e.g., vacant lots, fallow crop fields), storm water sumps, industrial areas (e.g., manufacturing facilities, shipping yards with restricted access), commercial areas (e.g., office buildings, hotels, medical facilities, retail facilities and their parking areas), manicured open space (e.g., parks, school campuses, golf courses), linear rights of way (e.g., canals, railroads, roads, highway, and

power line corridors) and residential areas. Favorable attributes of urban environments include low abundance of natural kit fox predators, diverse food sources that along with water are consistently abundant, and plenty of potential denning sites (Cypher 2010).

Based on 27 radio-collared SJKF tracked by ESRP within the City of Bakersfield, urban SJKF within the City use undeveloped lots and sumps disproportionately more, relative to the availability of these habitats and use residential areas disproportionately less. Use of linear corridors, commercial, manicured open, industrial, and areas in transition (areas in which residential, commercial, or industrial construction is in progress or has recently been completed) are in proportion to their availability (Frost 2005). Undeveloped areas and sumps experience fewer human activities and disturbances while residential areas have high levels of disturbance as well as the presence of dogs, fences, and walls that discourage kit fox use (Cypher, 2010). Sumps are widely distributed throughout the urban landscape and represent important habitat features for denning. This pattern of SJKF use was also documented with additional radio-collared SJKF during a study of urban roads within the City of Bakersfield (Bjurlin et al., 2005). The pattern of SJKF habitat use described above is somewhat stable within the established urban landscape. However, as urban and industrial development expands within the Project Area, the open and transition areas are changing with the permitted development. Active agricultural croplands, orchards, and vineyards are often fallowed for some months to years prior to development-related surface disturbing activities. During this time, ground squirrels, small rodents, and other kit fox prey items can become established, there is a lack of human activities, and new den opportunities attract SJKF to occupy these suitable habitats. These open areas receive high SJKF use for denning and become "preferred" parts of their home ranges (used in a proportion greater than their availability) (Frost 2005). However, the long-term use of these open areas by SJKF depends on the suitability of the ultimate land use.

The Kern River corridor has variable utility as SJKF habitat. The undeveloped upland habitats adjacent to the river channel are classified as open habitats commonly used by SJKF. However, the more dense riparian habitats along the river channel are rarely used by SJKF, and when used they are subject to predation by bobcats and coyotes in this area (Bjurlin et al., 2005). The Kern River may serve as a SJKF movement corridor where there are open uplands and parks adjacent to the river channel. Where urban development restricts the river corridor to a narrow riparian channel, movements through this area are likely restricted and predation may become a factor (B. Cypher, pers. com). The recent and ongoing construction of an expressway along the Kern River will eliminate some open land habitat and will likely alter SJKF movement patterns.

SJKF home ranges within the urban setting are markedly smaller than those in non-urban natural lands. Frost (2005) estimated kit fox home ranges to be about 1.2 km² to 1.72 km² (296 acres to 425 acres) and a core use area of 0.16 km² (40 acres). These small home

ranges may be due to more abundant and concentrated food items, potential movement barriers, and reduced space use (Cypher, 2010).

Dens are a critical habitat element for SJKF habitat use. In the Bakersfield urban landscape, earthen and "atypical" man-made structures are used. Man-made structures include culverts, pipes, cargo containers, portable buildings, junkyard debris, and dumpsters. Although dens are found in all urban habitats, dens are more common in sumps and undeveloped areas compared with the availability of these habitats, and disproportionately less in residential and commercial areas (Cypher, 2010; Frost, 2005).

SJKF within the City of Bakersfield consume ground squirrels, pocket gophers, rabbits, birds, beetles, grasshoppers, cockroaches, and anthropogenic food items. Ground squirrels and gophers are the primary rodents consumed. Anthropogenic foods are widely available and can become a substantial part of the diet of urban SJKF. Such foods include trash, discarded food, and pet foods. SJKF will routinely visit locations where foods are consistently available (e.g., dumpsters, feral cat feeding stations). However, natural prey items are contained in nearly all scat samples. SJKF are not likely to depend on anthropogenic food items (Cypher, 2010). The combination of natural and anthropogenic foods likely results in less variation of prey availability found in non-urban environments and may contribute to a more stable population of kit foxes in the urban environment (Cypher and Van Horn Job, in press).

There may be some competition with non-native red foxes, striped skunks, feral cats, and raccoons which commonly occur in urban environments inhabited by SJKF. Red foxes, striped skunks, feral cats, and SJKF have been observed in close proximity at dens and feeding sites. These interactions may constitute a potential to transmit diseases, especially rabies, which is highly lethal and could significantly impact urban kit fox populations (Cypher and Van Horn Job, in press).

Direct impacts from Covered Activities include foraging habitat loss, loss of natural prey items, destruction of earthen and man-made dens, and entombment in dens. The direct impacts of greatest concern are those resulting from maintenance and operation of sumps and canals as a result of heavy equipment used to remove vegetation and to re-contour banks and slopes. Other activities such as landscaping or weed control can close or collapse dens. Several instances have occurred where kit fox dens have been covered over or destroyed by these activities (B. Cypher personal communication). The loss of a den in itself may not be a significant impact because SJKF typically have multiple dens within their home ranges. However, significant impacts can occur if a SJKF den is destroyed while occupied by one or more kit foxes, particularly if it is a natal den harboring young that are not able to escape entombment. (Cypher and Van Horn Job, in press).

Indirect impacts to SJKF may occur from Covered Activities from: vehicle strikes on roads and expressways; toxin exposure and the potential for primary and secondary consumption

resulting in mortality or reduced health; predation from dogs; disturbance from OHV and recreational activities on vacant land adjacent to residential development; mortality from entanglement in soccer and baseball nets; and creation of barriers to SJKF movements from roads, canals, fences and walls (Cypher and Van Horn Job, in press). There have been instances where SJKF have selected den sites within close proximity to ongoing human activities. Such dens have been constructed under school buildings, office and commercial buildings, and in landscaped or open spaces at shopping centers. In these situations, the SJKF are habituated to the human activities that occur in a regular pattern, but may be subject to harm, harassment, or direct mortality. During a study of 229 radio-collared SJKF in the Bakersfield area between 1997 and 2004, vehicle strikes proved to be the single largest source of mortality (48.1% of all reported, 26.9% of radio-collared foxes) of SJKF in the urban environment (Bjurlin et al., 2005). A high proportion of vehicle strikes occurred in arterial roads that have multiple lanes, greater posted speed limits, and higher traffic volumes. Most vehicle mortalities occurred at the intersections of major roads and other linear rights-of-way such as other roads, canals, railroads, utility corridors, golf course crossings, and riparian areas.

As of December 31, 2012, during the implementation of the existing MBHCP, there have been 3,116.67 acres converted from natural habitats to urban land use, and 18,405.5 acres converted from open to urban land use. The suitability and use of these areas by SJKF will depend on the density and configuration of the development. Approximately 45,000 acres of potentially suitable SJKF habitat is present in the Project Area, which includes agricultural lands.

San Joaquin Antelope Squirrel

The only CNDDDB record of San Joaquin antelope squirrel (SJAS) occurring within the Project Area is dated from 1911, located at the western edge of the Project Area. SJAS has been recorded near the western edge of the Project Area, specifically in the vicinity of Kern Water Bank, and west of Interstate 5 and Highways 43 and 119. There is a potential for the SJAS to expand/recolonize into the Project Area from existing populations present in the Coles Levee Ecosystem Preserve and adjacent areas. The most likely areas to support SJAS within the Project Area include the 10 Section Oil Field and natural lands and long-term fallowed fields adjacent to the Kern Water Bank. There are no known direct or indirect impacts to SJAS from implementation of the MBHCP to date. However, loss of suitable SJAS habitat within the Project Area has occurred from MBHCP build-out and these losses will continue with implementation of the Covered Activities. Habitat Management (HM) land acquisition, specifically the continued protection of natural lands occupied by SJAS in the Semitropic and Lokern areas will contribute to the long-term conservation of the species. Protection of these landscapes was identified as important recovery actions in the Recovery Plan.

SJAS may be subject to direct and indirect adverse impacts associated with urban development. There are approximately 2,000 acres of potentially suitable SJAS habitat within the Project Area. Direct take could occur as a result of urban development on lands occupied by SJAS, and urban development could also result in additional indirect take from increased human-related activities (dogs, cats, off-road vehicle use, etc.) on land within the Project Area not subject to urban development.

Bakersfield Cactus

Bakersfield cactus population surveys conducted by Cypher et al. (2011) documented 17 occurrences of Bakersfield cactus within the Project Area. Several of these 2011 occurrences consolidated previously recorded CNDDDB element occurrences. Four occurrences included populations that are now entirely extirpated. At eight locations, populations were not detected, but the area remains undeveloped open lands or natural land habitat. All Bakersfield cactus populations within the Project Area are located within the northeastern portion of the Project Area. Project implementation will result in impacts to Bakersfield cactus populations and habitat. However, Bakersfield cactus is a perennial and easily transplants successfully, as documented by studies and previous projects, provided that certain parameters are followed. This ITP requires salvage and transplantation to an appropriate recipient location of any Bakersfield cactus present within the footprint of any impending Urban Development. Salvage and transplantation of Bakersfield cactus as required by this ITP will limit Project-related losses of Bakersfield cactus individuals.

Incidental Take Authorization of Covered Species:

This ITP authorizes incidental take of the Covered Species and only the Covered Species. With respect to incidental take of the Covered Species, CDFW authorizes the Permittees, their employees, contractors, and agents to take Covered Species incidentally in carrying out the Covered Activities, subject to the limitations described in this section and the Conditions of Approval identified below. This ITP does not authorize take of Covered Species from activities outside the scope of the Covered Activities, take of Covered Species outside of the Project Area, take of Covered Species resulting from violation of this ITP, or intentional take of Covered Species, except for capture and relocation of Covered Species as authorized by this ITP.

Conditions of Approval:

Unless specified otherwise, the following measures apply to all Covered Activities within the Project Area. CDFW's issuance of this ITP and Permittees' authorization to take the Covered Species are subject to Permittees' compliance with and implementation of the following Conditions of Approval:

- 1. Legal Compliance:** Permittees shall comply with all applicable federal, state, and local laws in existence on the effective date of this ITP or adopted thereafter.

Incidental Take Permit
No. 2081-2013-058-04
CITY OF BAKERSFIELD AND COUNTY OF KERN
METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT

2. CEQA Compliance: Permittees shall implement and adhere to the mitigation measures related to the Covered Species in the Biological Resources section of the Final Environmental Impact Report (SCH No. 1989020264) certified by the City of Bakersfield on August 17, 1993, as lead agency for the Project pursuant to CEQA (Pub. Resources Code, § 21000 et seq.).

3. ESA Compliance: Permittees shall implement and adhere to the terms and conditions related to the Covered Species in the MBHCP dated April 1994, and as conditioned by the associated Implementation/Management Agreement, and federal ITP issued by the Service on August 24, 1994 for the Project pursuant to ESA. For purposes of this ITP, where the terms and conditions for the Covered Species in the federal authorization(s) are less protective of the Covered Species or otherwise conflict with this ITP, the conditions of approval set forth in this ITP shall control.

4. ITP Time Frame Compliance: Permittee shall fully implement and adhere to the conditions of this ITP within the time frames set forth below and as set forth in the Mitigation Monitoring and Reporting Program (MMRP), which is included as Attachment 1 to this ITP.

5. General Provisions:

5.1. Joint and Several Liability. All terms and conditions of this ITP, including those set forth in the attached MMRP, shall be binding upon both Permittees.

Notwithstanding California Civil Code section 1431 or any other provision of law, both Permittees are jointly and severally liable for performance of all terms, conditions, and obligations of this ITP, including, but not limited to, those set forth in the attached MMRP. Any failure by either or both Permittees to comply with any term, condition, or obligation set forth in this ITP shall be deemed a failure to comply by both Permittees.

5.2. Permittee Authorization. Both Permittees shall require that all proposed Covered Activities within the Project Area requiring issuance of a grading permit, building permit, urban development permit, or similar authorization (collectively, Permittee Authorizations) by either Permittee complies with the terms of this ITP.

Permittees shall not issue or grant such Permittee Authorizations until the project proponent seeking a Permittee Authorization (Developer) demonstrates compliance with Conditions of Approval of this ITP.

5.3. Developer Compliance. If sufficient evidence is presented to either Permittee to demonstrate that a Developer violated the provisions of the MBHCP or this ITP, the appropriate Permittee (e.g., the Permittee with jurisdiction over the specific Developer) shall notify the Developer of said violation within 48 hours and shall

issue an order in accordance with procedures in the applicable City or County Building Code that prohibits development activities which may result in ground disturbance (e.g., Stop Work Order) until the alleged violation is corrected or resolved. The Permittee with jurisdiction shall also notify the Service and CDFW in writing (email will suffice) of said violation at or before the time the Developer is notified. Upon the Developer providing the appropriate Permittee with written notice from the Service and CDFW that the violation has been corrected, the appropriate Permittee may lift the Stop Work Order and the Developer may then resume construction.

- 5.4. Permittee Projects. All City of Bakersfield and the County of Kern projects that do not require issuance of a Permittee Authorization shall follow all Conditions of Approval of this ITP, including but not limited to payment of the Habitat Mitigation Fee described in Condition of Approval 5.6, below, as well as Conditions of Approvals 6.1, and 7.1 through 7.16.
- 5.5. MBHCP Implementation Trust Group (MBHCPITG). The MBHCPITG is a body established pursuant to a Joint Powers Agreement (City of Bakersfield Agreement No. 93-168, Kern County Agreement No. 387-93, August 1993) between the Permittees for the purpose of carrying out the MBHCP and the associated Implementation/Management Agreement, federal ITP, and this ITP. The MBHCPITG is comprised of representatives from each Permittee as trustees, as well as CDFW and the Service as mandatory advisory members. In addition, a member of the public serves a two-year term and is alternately appointed by each Permittee. Other MBHCPITG members may be added as deemed appropriate by all MBHCPITG representatives. The MBHCPITG shall assist in the administration of measures necessary for compliance with the requirements of this ITP.
- 5.6. Habitat Mitigation Fee (HMF). During the ITP term, both Permittees shall collect a Habitat Mitigation Fee (HMF), as described in Condition of Approval 8 prior to the issuance or approval of any Permittee Authorization in the Project Area. If no Permittee Authorization is required for a Covered Activity (such as for Permittees' projects), the HMF shall be paid prior to initiation of vegetation- or ground-disturbing activities for said project. The current HMF is \$2,145 per acre (\$1,198.25 per acre for HM land acquisition costs, \$159.99 per acre for HM land fencing and improvement, \$477.72 per acre for HM land endowment, and \$309.81 per acre for Permittee MBHCP implementation costs).
- 5.7. HMF Annual Update. The MBHCPITG shall establish and update the HMF, on a gross acre basis, required to implement the mitigation program. The HMF shall, at a minimum, be adjusted annually for inflation. On an annual basis, no later than December 31, of each year, CDFW will update the MBHCPITG on funding

requirements and a gross acre basis for Enhancement and Endowment funds for properties approved during the subsequent calendar year. The Enhancement and Endowment fees, on a gross acre basis, shall be set by the date of the MBHCPITG meeting at which the MBHCPITG approves the purchase of the specific Habitat Management lands (HM lands).

- 5.8. HMF Disposition. The Permittees shall hold all HMFs collected, and any fines collected, in a separate trust for payment of HM land acquisition costs as well as the associated enhancement and endowment costs, in addition to the associated administration costs, as identified in the MBHCP Implementation/Management Agreement (hereafter, Implementation Agreement), which include, but are not limited to, the cost of HM land acquisition, long-term HM land management funds (endowment), HM land improvement, public facilities and administration of the MBHCP program by the Permittees. Funds shall be transferred to the MBHCPITG for use in implementation of the MBHCP on a quarterly basis by the Permittees.
- 5.9. Designated Representative. Permittees shall both designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with this ITP. At the time of ITP issuance, both Permittees' Designated Representatives are their respective administrators for the MBHCPITG. At any time during the term of this ITP, in the event that either Permittee proposes to change their Designated Representative, the Permittee proposing to change its Designated Representative shall notify CDFW in writing within five business days of the new Designated Representative's name, business address, and contact information.
- 5.10. Qualified Wildlife Biologist. Permittees shall submit to CDFW in writing the names, qualifications, business addresses, and contact information of proposed Qualified Wildlife Biologists before starting Covered Activities. Permittee shall ensure that the proposed Qualified Wildlife Biologists are knowledgeable and experienced in the biology and natural history of the Covered Species. Permittees shall obtain CDFW advance written approval of each proposed Qualified Wildlife Biologist before accepting biological surveys conducted by these individuals to satisfy terms of this ITP. Permittees may at any time propose to add or remove names from the list of CDFW-approved Qualified Wildlife Biologists. CDFW may remove individuals from the list of CDFW-approved Qualified Wildlife Biologists in the event of apparent non-compliance with the Fish and Game Code or this ITP.
- 5.11. TKR Qualified Biologist. Permittees shall submit to CDFW in writing the names, qualifications, business addresses, and contact information of proposed TKR Qualified Biologist(s) at least 30 calendar days before initiation of any TKR Trapping and Salvage required by Condition of Approval 7.9. Permittee shall

ensure that the proposed TKR Qualified Biologist(s) is experienced with the live trapping and handling of *Dipodomys nitratoides* ssp., and that such previous experience is demonstrated to be from one or more of the following scenarios: (1) working under his/her own CDFW 2081(a) permit for TKR or a conspecific kangaroo rat; (2) working under another individual's 2081(a) for TKR or a conspecific kangaroo rat permit; the contact information for the lead individual must be provided and the lead individual must vouch for the proposed TKR Qualified Biologist's experience and qualifications; and/or (3) the proposed TKR Qualified Biologist has conducted live trapping and salvage of TKR or a conspecific as a CDFW-approved Qualified Wildlife Biologist under a 2081(b) (e.g., ITP) permit where *Dipodomys* sp. is a Covered Species. In this last instance, the ITP number and project name shall also be furnished. Permittees shall obtain CDFW advance written approval of each proposed TKR Qualified Biologist before accepting any TKR Trapping and Salvage documentation prepared by these biologists to satisfy Condition of Approval 7.9. Permittees may at any time propose to add or remove names from the list of CDFW-approved TKR Qualified Biologists. CDFW may remove individuals from the list of TKR Qualified Biologist in the event of apparent non-compliance with the Fish and Game Code or this ITP, or any apparent failure to practice and apply widely practiced means by which to minimize trap related mortality and injury.

- 5.12. Bakersfield Cactus Qualified Botanist. Permittees shall submit to CDFW in writing the names, qualifications, business addresses, and contact information of proposed Bakersfield Cactus Qualified Botanist(s) at least 30 calendar days before initiation of any Bakersfield cactus translocation required by Condition of Approval 7.13. Permittees shall ensure that the proposed Bakersfield Cactus Qualified Botanist(s) is experienced with the identification, collection, and transplantation of Bakersfield cactus or other beavertail cacti, and that such previous experience is demonstrated to be from one or more of the following scenarios: (1) working under his/her own CDFW 2081(a) permit for Bakersfield cactus; (2) working under another individual's 2081(a) for Bakersfield cactus; the contact information for the lead individual is provided and the lead individual must vouch for the proposed Bakersfield Cactus Qualified Botanist(s) experience and qualifications; and/or (3) the proposed Bakersfield Cactus Qualified Botanist(s) has conducted Bakersfield cactus salvage and translocation as a CDFW-approved Qualified Wildlife Biologist under a 2081(b) (e.g., ITP) permit where Bakersfield cactus is a Covered Species. In this last instance, the ITP number and project name shall also be furnished. Permittees shall obtain CDFW advance written approval of each proposed Bakersfield Cactus Qualified Botanist(s) before accepting any Bakersfield cactus transplantation documentation prepared by these biologists to satisfy Condition of Approval 7.13. Permittees may at any time propose to add or remove names from the list of

CDFW-approved Bakersfield Cactus Qualified Botanist(s). CDFW may remove individuals from the list of Bakersfield Cactus Qualified Botanist(s) in the event of apparent non-compliance with the Fish and Game Code or this ITP, or any apparent failure to practice and apply widely accepted means by which to minimize cactus mortality during salvage and relocation efforts.

- 5.13. Permittee Authority. To ensure compliance with the Conditions of Approval of this ITP, either Permittee shall have authority to immediately stop any activity that does not comply with this ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.
- 5.14. CDFW Access. Permittees shall provide CDFW staff with reasonable access to the development projects authorized by either Permittee, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in this ITP.

6. Monitoring, Notification and Reporting Provisions:

- 6.1. Notification Before Commencement. If a Covered Species is identified in the Biological Clearance Survey required by Condition of Approval 7.1, the Permittees shall require the Developer to notify CDFW, the Service and the applicable Permittee via a "Notice of Grading Start" at least five (5) business days prior to ground disturbance in accordance with Condition of Approval 7.3.
- 6.2. Notification of Non-compliance. The Designated Representative(s) shall immediately notify CDFW in writing if it determines that either Permittee, or any Developer utilizing the MBHCP, as authorized by a Permittee Authorization, is not in compliance with the MBHCP or any Condition of Approval of this ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in this ITP and/or the MMRP. The Designated Representative(s) shall report any non-compliance with this ITP to CDFW within 24 hours.
- 6.3. Quarterly Compliance Report. The Permittees each and separately shall maintain and provide the MBHCPITG, with a record of the following on a quarterly basis: (1) the cumulative amount of Urban Development (in acres) requiring HM land acquisition per Condition of Approval 8 for the reporting period and since the start of the MBHCP; (2) the cumulative amount of Natural Land approved for Urban Development for the reporting period and since the start of the MBHCP; (3) the cumulative amount of Open Land approved for Urban Development for the reporting period and since the start of the MBHCP; (4) the amount in acres of Mitigation Credits (as defined in Condition of Approval 8.1) outstanding and

unused, and the holder of record of such credits; (5) the cumulative amount in acres of HM lands which have not been committed as mitigation for the cumulative amount of Urban Development authorized by Permittee Authorizations; (6) the ratio of cumulative (since the start of the MBHCP) Urban Development acreage to HM land acreage for: a) Natural Land to Urban Development; b) Open Land to Urban Development; and c) existing Urban land to Urban Development; and (7) an update to the baseline map showing Natural Land, Open Land and Urban land based on the above information. Permittees shall also submit this Quarterly Compliance Report directly to CDFW's Regional Office at the office listed in the Notices section of this ITP and via e-mail to CDFW's Regional Representative. At the time of this ITP's approval, the CDFW Regional Representative is Craig Bailey (craig.bailey@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify both Permittees in writing of the new reporting schedule. Quarterly Compliance reports shall also be provided to the public at the MBHCPITG quarterly meetings.

- 6.4. Annual Status Report. Permittees shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.3; (2) the amount of habitat authorized via Permittee Authorizations to be converted to Urban Development over the past year, showing the amount of Natural Land and the amount of Open Land so affected; (3) an estimate of the amount of taking of any Covered Species which has taken place within the Project Area, which can be based on suitable acreage lost; (4) the cumulative amount (in acres) of HM lands acquired and placed into permanent conservation status as required by Condition of Approval 8; (5) management activities conducted during the past year and those management activities proposed for the following year on lands accepted by the Permittees and CDFW but pending transfer to CDFW or other CDFW-approved HM land holder; (6) enhancement activities conducted in the past year and those planned for the coming year on lands accepted by the Permittees and CDFW but pending transfer to CDFW or other CDFW-approved HM land holder; and 7) a description of any scientific research authorized or conducted by the MBHCPITG on lands accepted by the Permittees and CDFW but pending transfer to CDFW or other CDFW-approved HM land holder, as well as proposed research on such lands for the upcoming year.

- 6.5. Final Mitigation Report. No later than 45 days after ITP expiration, Permittees shall provide CDFW with a Final Mitigation Report. Permittees shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of the table in the MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) an assessment of the effectiveness of this ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (6) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (7) any other pertinent information.
- 6.6. Notification of Take or Injury. Permittees shall immediately notify CDFW if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of a Permittee-authorized project. The Designated Representative(s) shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittees shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.
- 6.7. San Joaquin Kit Fox Den and Corridor Map. The MBHCPITG shall maintain a map (San Joaquin Kit Fox Den and Corridor Map) showing identified SJKF dens and potential SJKF den corridors (above ground canals and railroad track easements). This map shall be continually updated as new observations are submitted to either Permittee, and an updated San Joaquin Kit Fox Den and Corridor Map shall be submitted to CDFW no later than January 31, of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified in Condition of Approval 6.5.
- 6.8. TKR Relocation Plan. Permittees shall submit a TKR Relocation Plan to CDFW prior to any TKR relocation in accordance with Condition of Approval 7.8. TKR relocation activities shall not proceed until the TKR Relocation Plan has been approved in writing by CDFW's Regional Representative. Once the TKR Relocation Plan is approved by CDFW, it may be used for all TKR relocation activities for the duration of this ITP. Permittees shall require Developers to follow the latest version of the CDFW-approved TKR Relocation Plan; any Developer projects on which TKR relocation is required as per Condition of Approval 7.8

shall either: (1) not be granted a Permittee Authorization by either Permittee until implementation of the CDFW-approved TKR Relocation Plan is demonstrated in writing to the Permittees; or (2) any issued Permittee Authorization shall require that implementation of the CDFW-approved TKR Relocation Plan be demonstrated in writing to the Permittees prior to the start of construction activities specifically contemplated in said Permittee Authorization. Any Permittee proposed modifications to the TKR Relocation Plan shall be submitted to CDFW as a new proposed draft of the TKR Relocation Plan. Any new proposed TKR Relocation Plan shall be approved by CDFW in writing prior to its implementation. CDFW may unilaterally revise the TKR Relocation Plan in the event circumstances warrant such a change (high mortality rate of TKR during capture, new best available science, etc.). In the event a revised TKR Relocation Plan is approved by CDFW because of either CDFW- or Permittee-initiated revisions, the revised TKR Relocation Plan shall be presented at the next MBHCPITG quarterly meeting and entered into the meeting record.

- 6.9. Bakersfield Cactus Translocation Plan. Prior to any Bakersfield cactus translocation in accordance with Condition of Approval 7.13, Permittees shall submit a Bakersfield Cactus Translocation Plan to CDFW. The Bakersfield Cactus Translocation Plan shall include at a minimum: (1) the translocation methods; (2) a map and description of the receiver site(s); (3) a description of the receiver site's soil, plant communities, and topography to demonstrate that the receiver sites(s) are suitable; (4) proposed maximum cactus density on the receiver site(s); and (5) a description of Bakersfield cactus's existing (pre-translocation) status on the receiver site(s), including density and distribution. Bakersfield cactus translocation activities shall not proceed until the Bakersfield Cactus Translocation Plan has been approved in writing by CDFW's Regional Representative. Once the Bakersfield Cactus Translocation Plan is approved by CDFW, it may be used for all Bakersfield cactus relocation activities for the duration of this ITP. Permittees shall require Developers to follow the latest version of the CDFW-approved Bakersfield Cactus Translocation Plan; any Developer projects on which Bakersfield cactus translocation is required as per Condition of Approval 7.13 shall either: (1) not be granted a Permittee Authorization by either Permittee until implementation of the CDFW-approved Bakersfield Cactus Translocation Plan is demonstrated in writing to the Permittees; or (2) any issued Permittee Authorization shall require that implementation of the CDFW-approved Bakersfield Cactus Translocation Plan be demonstrated in writing to the Permittees prior to the start of construction activities specifically contemplated in said Permittee Authorization. Any Permittee proposed modifications to the Bakersfield Cactus Translocation Plan shall be submitted to CDFW as a new proposed draft of the Bakersfield Cactus Translocation Plan. Any new proposed Bakersfield Cactus Translocation Plan

shall be approved by CDFW in writing prior to its implementation. CDFW may unilaterally revise the Bakersfield Cactus Translocation Plan in the event circumstances warrant such a change (high mortality rate of transplanted cactus, new best available science, etc.). In the event a revised Bakersfield Cactus Translocation Plan is approved by CDFW either because of CDFW or Permittee initiated revisions, the revised Bakersfield Cactus Translocation Plan shall be presented at the next MBHCPITG quarterly meeting and entered into the meeting record.

- 6.10. Updated Land Use Map. Permittees shall provide CDFW with a copy of the updated map based on aerial photography taken within 90 days of map generation required by the Implementation/Management Agreement to be furnished every 4 years. The map shall show the amount of Open and Natural Lands remaining in the Project Area.

7. Take Minimization Measures:

The following requirements are intended to ensure the minimization of incidental take of Covered Species in the Project Area during Covered Activities. Permittee shall implement and adhere to the following conditions to minimize take of Covered Species:

- 7.1. Biological Clearance Survey. Prior to either Permittee issuing a Permittee Authorization to a Developer, the Developer applying for such Permittee Authorization shall provide a written Biological Clearance Survey conducted by a CDFW-approved Qualified Wildlife Biologist (Condition of Approval 5.10), no more than 30 calendar days prior to a Developer beginning Covered Activities on a given Permittee-authorized project. The Biological Clearance Survey shall include full coverage transect surveys for SJKF dens (See Condition of Approval 7.4, below), kangaroo rat burrows (in areas identified in Condition of Approval 7.8, below), and Bakersfield cactus (for proposed projects north of State Route (SR) 58 and east of SR 99), in the proposed development footprint and a buffer zone of 50 feet in size beyond the proposed development footprint (except for any portions of the buffer zone that are already fully developed or are beyond the access rights of the developer). The Biological Clearance Survey shall be valid for no more than 30 calendar days. In the event that Covered Activities are not initiated, as authorized by either Permittee, within 30 calendar days of a Biological Clearance Survey, the Biological Clearance Survey shall be repeated. Each Developer pursuing a Permittee Authorization shall bear the costs of the Biological Clearance Survey being conducted and summarized in writing.
- 7.2. Covered Species Detection. If one or more of the "Conditions" described below in Table 1 is detected during the Biological Clearance Survey (Condition of Approval 7.1) for any proposed Developer project, Permittees shall either: (1) not

grant a Permittee Authorization for said Developer project until implementation of the Table 1 referenced "Required Minimization Measures" is demonstrated by the Developer in writing to the Permittees; or (2) any issued Permittee Authorization shall require, via specific written conditions within the Permittee Authorization, that the start of grading/building activities may not occur until implementation of the Table 1 referenced "Required Minimization Measures" are demonstrated in writing to the Permittees.

Table 1. Conditions within Proposed Development Footprint

Condition Within Proposed Development Footprint	Required Minimization Measures
Known, active, or natal SJKF den	Conditions of Approval 7.5 and 7.6
Kangaroo rat burrows (Conceptual Southwest Focus Area only)	Conditions of Approval 7.8, 7.9, and 7.10
One or more Bakersfield cactus clumps/plants	Conditions of Approval 7.11, 7.12, and 7.13

- 7.3. Developer Notification of Covered Species Detection. For Developer projects on which one or more of the Table 1 "Condition within Proposed Development Footprint" (Condition of Approval 7.2) are present, Permittees shall require the Developer to provide CDFW and Permittees with a written "Notice of Grading Start" at least 5 business days prior to ground disturbance. Such a "Notice of Grading Start" shall only be submitted after all "Required Minimization Measures" referenced in Table 1 are implemented for that specific Developer project. The "Notice of Grading Start" shall include, at a minimum, the following information: (1) project location, including a map and major cross streets; (2) project name; (3) Developer name and contact information (phone, email, and mailing address); (4) name of the Qualified Wildlife Biologist that conducted the Biological Clearance Survey; (5) a copy of the Biological Clearance Survey; and (6) written information submitted to demonstrate compliance with Condition of Approval 7.2, 7.5, 7.6 and 7.8-7.13, as applicable. Developer should keep as a record proof of their notification to CDFW.
- 7.4. SJKF Den Survey. SJKF Den Surveys shall evaluate the proposed development footprint and a 50 foot buffer zone (except for any portions of the buffer zone that are already fully developed) for potential, known, active, atypical, and natal SJKF dens, as defined in the Service 2011 "*Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance.*"
- 7.5. SJKF Den Avoidance. If a known, active, or natal SJKF den is discovered during the SJKF Den Survey/Biological Clearance Survey, the Permittees shall not issue

a Permittee Authorization unless the Developer demonstrates that they established a permanent minimum buffer using fencing or flagging as follows: (1) at least 100 feet around den(s); (2) at least 200 feet around natal dens (dens in which SJKF young are reared); and (3) at least 500 feet around any natal dens with pups (except for any portions of the buffer zone that are already fully developed). Buffer zones shall be considered Environmentally Sensitive Areas, and no Covered Activities are allowed within a buffer except per Condition of Approval 7.6., and as follows: If the work within the buffer area will not result in the destruction of the den, the den should be conserved. If the den is unoccupied (based on the required four consecutive days of monitoring), then the den can be covered in a secure manner to prevent access by SJKF while the work is being conducted. After the work is done, the den can be uncovered to allow use by SJKF. If the den is occupied and the SJKF don't want to leave, then a smaller buffer could be established, including a barricade to prevent the SJKF from exiting the den and entering the work site. A qualified biologist shall monitor the den while the work is being conducted. Permittees shall notify the Service and CDFW's Regional Representative immediately via telephone or e-mail if any SJKF active dens, natal dens, or occupied atypical dens are discovered within or immediately adjacent to any proposed development footprint. Each Developer pursuing a Permittee Authorization shall bear the costs of implementing the SJKF den avoidance requirements.

- 7.6. SJKF Den Excavation. For active dens and potential dens that exhibit signs of SJKF use or characteristics suggestive of SJKF dens (including dens in natural substrate and in/under man-made structures) that cannot be avoided as per Condition of Approval 7.5, and if, after four consecutive days of monitoring with tracking medium or infrared camera, a Qualified Wildlife Biologist has determined that SJKF is not currently present, the den may be excavated. Natal dens shall not be excavated until the pups and adults have vacated and then only after consultation with the Service and CDFW. If the excavation process reveals evidence of current use by SJKF then den excavation shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Excavation of the den may be completed when, in the judgment of a Qualified Wildlife Biologist, the SJKF has escaped from the partially excavated den. SJKF dens shall be carefully excavated until it is certain no individuals of SJKF are inside. Dens shall be fully excavated, filled with dirt, and compacted to ensure that SJKF cannot reenter or use the den during Covered Activities. If an individual SJKF does not vacate a den within the proposed construction footprint within a reasonable timeframe, Permittees shall contact the Service and CDFW and get written guidance (email will suffice) from both agencies prior to proceeding with den excavation. Each Developer pursuing a

Permittee Authorization shall bear the costs of implementing the SJKF den excavation requirements.

- 7.7. SJKF Detection on Construction Site. Permittees shall condition all Permittee Authorizations to require notification to the appropriate Permittee and CDFW within 24 hours in the event that a SJKF is observed denning or utilizing structures or materials within an active construction footprint. In addition, a minimum 100 foot no disturbance buffer from the area being used by SJKF as a denning site shall be implemented until Conditions of Approval 7.5 or 7.6 can be implemented by a Qualified Wildlife Biologist funded by the Developer.
- 7.8. TKR Trapping and Salvage. If the Biological Clearance Survey prepared pursuant to Condition of Approval 7.1 identifies TKR burrows within the proposed construction footprint of proposed Developer projects within the "Conceptual Southwest Focus Area" as identified in Figure 4 of the MBHCP, Permittees shall not issue a Permittee Authorization until a TKR Qualified Biologist (see Condition of Approval 5.11) conducts a minimum of five (5) consecutive nights of live small mammal trapping, with high trap densities focused at and around TKR burrows, runways, seed caches, and dust baths. How and where captured animals will be held and the final release location and specifics shall be in accordance a CDFW-approved TKR Relocation Plan prepared in accordance with Condition of Approval 6.8. The Developer for which the Biological Clearance Survey was conducted shall bear the costs of TKR trapping, salvage, and relocation.
- 7.9. TKR Burrow Excavation. Following live trapping activities conducted in accordance with Condition of Approval 7.8, any potential TKR burrows (e.g., any kangaroo rat burrows) present within the development footprint shall be fully excavated by hand by the TKR Qualified Biologist. The TKR Qualified Biologist shall relocate any TKR encountered in the excavated burrows to the release site(s) identified in the CDFW-approved TKR Relocation Plan prepared in accordance with Condition of Approval 6.8. The TKR Qualified Biologist shall also collect and move dormant or torpid TKR encountered to an artificial burrow installed at the release site(s) identified in the CDFW-approved TKR Relocation Plan prepared in accordance with Condition of Approval 6.8.
- 7.10. TKR Record of Handling. TKR Qualified Biologist(s) shall maintain a record of all TKR handled. This information shall include for each animal: (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult/juvenile); (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, diarrhea, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and

released. A Relocation Summary shall be prepared by the TKR Qualified Biologist and submitted by the Developer to the Permittees and CDFW as part of the information accompanying the "Notice of Grading Start" described in Condition of Approval 7.3.

- 7.11. Bakersfield Cactus Avoidance. If the Biological Clearance Survey prepared pursuant to Condition of Approval 7.1 identifies Bakersfield cactus within the proposed construction footprint of a proposed Developer project, Permittees shall not issue a Permittee Authorization until the Developer demonstrates that all Bakersfield cacti shall be avoided by a minimum of 25 feet, unless Condition of Approval 7.13 is implemented. This avoidance distance may be lessened on a specific case-by-case basis if CDFW concurs in writing that a modified distance proposed by a Bakersfield Cactus Qualified Botanist (Condition of Approval 5.12) is sufficient to avoid direct or indirect take of Bakersfield cactus.
- 7.12. Bakersfield Cactus Avoidance Fencing. Sturdy, highly visible, plastic construction avoidance fencing (or comparable fencing approved in writing by the CDFW Regional Representative) shall be installed around Bakersfield cactus avoidance areas (Condition of Approval 7.11) and located in accordance with direction from the Bakersfield Cactus Qualified Botanist. Fencing shall be securely staked and installed in a durable manner that would be reasonably expected to withstand wind and weather events and last at least through the construction period. Fencing shall be inspected at least twice weekly during the construction period. Fencing shall be removed upon completion of construction of the Developer project.
- 7.13. Bakersfield Cactus Translocation. The Bakersfield Cactus Qualified Botanist shall translocate Bakersfield cactus, which cannot be avoided by construction activities in accordance with Condition of Approval 7.11, to the nearest suitable habitat specifically identified in the Bakersfield Cactus Translocation Plan (Condition of Approval 6.9) prior to disturbance of any Bakersfield cacti. Translocated cacti shall be planted in habitat that Permittees have proven to be suitable for Bakersfield cactus by demonstrating that Bakersfield cactus occurs naturally at the same general location and the plantable area has suitable soils, vegetation, and other aspects to support a self-sustaining population of Bakersfield cactus. The density of plantings shall not exceed densities that occur naturally in the vicinity of the Project. Pads shall be taken from the translocated clumps of cacti and planted in the receiver sites to increase the number of plants.
- 7.14. Covered Species Injury. If a Covered Species is injured as a result of Project related activities, a Qualified Wildlife Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility that routinely evaluates

and treats the injured Covered Species. Permittees shall identify the potential facilities before starting Covered Activities. The Developer or appropriate Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee with jurisdiction shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.

- 7.15. Daily Entrapment Inspections. Permittee Authorizations shall require that workers on Developer projects shall inspect all open holes, sumps, and trenches within the development footprint covered by the Permittee Authorization at the beginning, middle, and end of each day for trapped Covered Species. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two- and eight feet deep shall be covered when workers or equipment are not actively working in the excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than eight feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each work day. Trenches, holes, sumps, or other excavations that are covered long term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. If any worker discovers that Covered Species have become trapped, the Developer and their workers shall cease all Covered Activities in the vicinity and notify Permittees immediately, whom shall in turn notify CDFW immediately. Developer and its workers shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or, alternatively, a Qualified Wildlife Biologist shall capture and relocate the animal, in accordance with CDFW direction regarding the final disposition of the animal. The Developer for which the Biological Clearance Survey was conducted shall bear the costs of Covered Species salvage.
- 7.16. Materials Inspection. Permittee Authorizations shall require that workers on Developer projects thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (three inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection one of these animals is discovered inside the structure, workers shall notify Permittees and allow the Covered Species to safely escape that section of the structure before moving and utilizing the structure. In the event that Permittees are notified

of such an incident, Permittees shall notify CDFW in writing (via email will suffice) within 48 hours of the incident.

- 7.17. Equipment Inspection. Permittee Authorizations shall require that workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Developer shall contact a Qualified Wildlife Biologist to determine if they can safely move the Covered Species out of harm's way in compliance with this ITP.
- 7.18. Sump Surveys. Permittees shall be allowed to train personnel/staff to inspect work areas and buffer zones prior to Operations and Maintenance (O&M) activities in sumps or other similar features to make determinations if there are any potential (as defined in the Service 2011 "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance") den sites. If potential den sites are observed, a Qualified Wildlife Biologist shall conduct a SJKF den survey in accordance with Condition of Approval 7.4 prior to any O&M activities being conducted in sumps or other similar features within the Project Area by either Permittee. If a known, active, or natal SJKF den is discovered during the SJKF Den Survey, the O&M work shall not proceed unless the Public Works Department (or other Permittee department conducting the O&M work) demonstrates to the appropriate Designated Representative that either: (1) den avoidance will occur as per Condition of Approval 7.5; or (2) den excavation has occurred in accordance with Condition of Approval 7.6.

8. Habitat Management Land Acquisition:

CDFW has determined that permanent protection and perpetual management of HM lands is necessary and required pursuant to CESA to fully mitigate Project-related impacts of the taking on the Covered Species that will result with implementation of the Covered Activities. This determination is based on factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

- 8.1 HM Land Acquisition through Collection of the HMF. To meet the requirement for HM land acquisition, prior to each Permittee Authorization issued in the Project Area, the appropriate Permittee shall require payment of the HMF, based on the gross acres of the site addressed by the Permittee Authorization. The HMF payment shall run with the land, and once paid for a specific acreage, the land under development shall not need to be paid for subsequent development within the same gross acreage. Collection of the HMF shall fund HM land acquisition

both within and outside the Project Area, as approved by CDFW. The acquired HM land acreage shall stay ahead of the development acreage at the following rates: There shall be 1 acre of HM lands acquired for each acre of open land developed, and 3 acres of HM lands acquired for each 1 acre of natural land developed. At all times, the amount of acquired HM lands shall be greater than the greater of the following: (1) the amount of approved (via Permittee Authorization) Urban Development on Open Land; or (2) three times the amount of approved (via Permittee Authorization) Urban Development on Natural Land, as depicted in the information conveyed in the Quarterly and Annual Reports as required by Conditions of Approval 6.3 and 6.4. As of October 26, 2012, the MBHCPITG had unencumbered funds of approximately \$8,000,000.00 for HM land acquisition and associated costs.

For parcels less than two and one-half acres in size, the HMF shall be calculated for the entire gross acreage of the parcel. For those parcels that are two and one-half gross acres or larger, the HMF will be calculated on the disturbance authorized in the Permittee Authorization, but not for less than two and one-half gross acres. However, if the Developer can adequately demonstrate to the Permittee that will be issuing the Permittee Authorization that a portion of the parcel will not be disturbed by activities such as, but not limited to, grading, drainage, or storage, the Permittee shall not require payment of the HMF for the undisturbed acreage unless and until development of that area is authorized in a subsequently issued Permittee Authorization.

Permittees shall not collect HMFs for the following:

- Additions, remodels or reconstruction totaling not more than a fifty percent increase from the square footage of pre-existing development.
- Existing mobile home replacement.
- Oil and gas production and extraction, including accessory or incidental structures and improvements.
- Commercial agricultural practices, uses and structures, including but not limited to tillage, cultivation, grading, ditching, storage, stacking, barns, equipment buildings and agricultural housing.
- Development of any parcel for which the Service and/or CDFW has approved other mitigation procedures through issuance of other ITPs and 10(a)(1)(B) permits.
- Local public projects less than ten acres in size undertaken for strictly public purposes and incidental to urban growth.

- Demolition.
- Any permitted activity that does NOT require grading. Grading is defined as any excavation or filling or combination, including rough grading as described in the most currently adopted California Building Code adopted by the Permittees; for example, additions of accessory structures that are customarily incidental and subordinate to the principal building or use and typically do not require grading.

In accordance with the requirements of Conditions of Approval 8.1 above, the MBHCPITG shall receive the collected HMFs and, through the pursuit of willing sellers, shall purchase HM lands by: processing the property through the close of escrow; performing a Phase I Environmental Assessment; and removing any debris as required by CDFW. The HMF shall also cover the Permittees' administrative costs of HM land acquisition, and the funding of the Enhancement (fencing) and Endowment (long-term management) funds.

Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittees shall:

- 8.1.1. Fee Title/Conservation Easement. Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. Permittees shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966 subdivision (j) and 65967 subdivision (e);

- 8.1.2. HM Lands Approval. Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;
- 8.1.3. HM Lands Documentation. Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;
- 8.1.4. Land Manager. Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;
- 8.1.5. Start-up Activities. Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) establishing initial fencing; (2) conducting litter removal; (3) conducting initial habitat restoration or enhancement, if applicable; and (4) installing signage;
- 8.1.6. Endowment Fund. Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in this ITP, and the conservation easement (for lands not transferred to CDFW). After obtaining CDFW approval of the HM lands, Permittees shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands. Endowment as used in this ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by this ITP,

Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.

Permittees shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands. The long-term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with this ITP, and the conservation easement (for lands not transferred to CDFW). Such activities shall be funded through the Endowment; and,

- 8.1.7 Identify an Endowment Manager. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittees shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittees' written proposal, CDFW shall inform Permittees in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittees with a written explanation of the reasons for its determination. If CDFW does not provide Permittees with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).

Areas that will be specifically targeted for HM land acquisition are:

1. Land acquisition outside of the MBHCP area, within areas designated as "pre-approved" by the CDFW.
2. Acquisition and management of between 500 and 1,000 acres of land in the northeast portion of the study area for the primary purpose of preserving the Bakersfield cactus.
3. Acquisition and management of land adjacent to the Kern Water Bank on the west side of I-5, south of Panama Lane.

Permittees shall receive 100 percent (100%) "Mitigation Credit" (e.g., 1 acre of HM land acquisition counted towards the HM land acquisition obligation described in this ITP for each acre purchased) for HM lands where land disturbance associated with paved surfaces, concrete lined canals, graded roads, and oil and gas production well pads and appurtenant structures (collectively, disturbances) is less than two percent (2%) of the total land area being considered for HM land acquisition. Where disturbance comprises more than two percent (2%) of the total land area, Permittees shall not receive credit for the disturbed area exceeding two percent (2%) unless CDFW and the Service approve a larger credit. Calculations shall be rounded to the nearest whole percentage point.

8.2 In-lieu of HMF payment. Permittees may allow Developers to directly acquire lands (Directly Acquired HM Lands) in accordance with the requirements of Conditions of Approval 8.1.1 through 8.1.6, in lieu of HMF payment, if both of the following apply: (1) preservation of the proposed Directly Acquired HM Lands is consistent with the land acquisition criteria set forth below; and (2) the proposed Directly Acquired HM Lands are acceptable to the MBHCPITG. Permittees shall not issue a Permittee Authorization absent payment of the HMF, unless and until fee title to the Directly Acquired HM Lands are transferred, and a Conservation Easement recorded (when lands not transferred to CDFW), in accordance with Conditions of Approval 8.1.1 through 8.1.6.

Land appropriate for acquisition as all or part of the HM land requirement described in this ITP may, at the discretion of the MBHCPITG, qualify as Directly Acquired HM Lands if it is:

1. Within one of the potential HM land acquisition areas identified in the MBHCP Implementation/Management Agreement (Agreement No. 94-159) dated August 15, 1994. or
2. Within an area determined by the CDFW and Service MBHCPITG advisory members to provide benefits to one or more of the Covered Species.

8.2.1 Acceptance of Directly Acquired HM Lands. In either of the above cases, CDFW will provide written notification to the MBHCPITG if CDFW is willing to accept title to the proposed Directly Acquired HM Lands and act as the management entity for such lands, which shall be proposed in compliance with Conditions of Approval 8.1.1 through 8.1.6. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property, in accordance with Condition of Approval 8.1.1.

- 8.2.2 HM Land Calculation. Directly Acquired HM Lands shall not be included in the calculations for the purposes of determining the cumulative amount of HM lands acquired unless and until the Directly Acquired HM Lands are transferred and they qualify as HM lands.
- 8.2.3 Directly Acquired HM Land Costs. Prior to either Permittee issuing a Permittee Authorization to a Developer proposing Directly Acquired HM Lands, the appropriate Permittee shall collect the per acre MBHCP fee for Enhancement, Endowment and MBHCP administrative costs, according to the fee rates that exist at the time of payment. In instances where the MBHCPITG determines the Directly Acquired HM Land being transferred represents unique habitat values or assists in achieving specific preservation or management goals of the MBHCP, the MBHCPITG may choose to pay all or a portion of these fees.

Amendment:

This ITP may be amended as provided by California Code of Regulations, Title 14, section 783.6, subdivision (c), and other applicable law. This ITP may be amended without the concurrence of the Permittees as required by law, including if CDFW determines that continued implementation of the Project as authorized under this ITP would jeopardize the continued existence of the Covered Species or where Project changes or changed biological conditions necessitate an ITP amendment to ensure that all Project-related impacts of the taking to the Covered Species are minimized and fully mitigated.

Stop-Work Order:

CDFW may issue Permittees a written stop-work order requiring Permittees to suspend any Covered Activity for an initial period of up to 25 days to prevent or remedy a violation of this ITP, including but not limited to the failure to comply with reporting or monitoring obligations, or to prevent the unauthorized take of any CESA endangered, threatened, or candidate species. Permittees shall stop work immediately as directed by CDFW upon receipt of any such stop-work order. Upon written notice to Permittees, CDFW may extend any stop-work order issued to Permittees for a period not to exceed 25 additional days. Suspension and revocation of this ITP shall be governed by California Code of Regulations, Title 14, section 783.7, and any other applicable law. Neither the Designated Biologist nor CDFW shall be liable for any costs incurred in complying with stop-work orders.

Compliance with Other Laws:

This ITP sets forth CDFW's requirements for Permittees to implement the Project pursuant to CESA. This ITP does not necessarily create an entitlement to proceed with the Project. Permittees are responsible for complying with all other applicable federal, state, and local law.

Notices:

Permittees shall deliver a fully executed duplicate original ITP by registered first class mail or overnight delivery to the following address:

Habitat Conservation Planning Branch
California Department of Fish and Wildlife
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1260
Sacramento, California 95814

Written notices, reports and other communications relating to this ITP shall be delivered to CDFW by registered first class mail at the following address, or at addresses CDFW may subsequently provide the Permittees. Notices, reports, and other communications shall reference the Project name, Permittees, and ITP Number (2081-2013-08-04) in a cover letter and on any other associated documents.

Original cover with attachment(s) to:

Jeffrey R. Single, Regional Manager
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4005
Fax (559) 243-4020

Unless Permittees are notified otherwise, CDFW's Regional Representative for purposes of addressing issues that arise during implementation of this ITP is:

Craig Bailey
California Department of Fish and Wildlife
1234 East Shaw Avenue
Fresno, California 93710
Telephone (559) 243-4014
Fax (559) 243-4020
Email: Craig.Bailey@wildlife.ca.gov

Compliance with CEQA:

CDFW's issuance of this ITP is subject to CEQA. CDFW is a responsible agency pursuant to CEQA with respect to this ITP because of prior environmental review of the Project by the lead agency, the City of Bakersfield (See generally Pub. Resources Code, §§ 21067, 21069.) The lead agency's prior environmental review of the Project is set forth in the MBHCP Section IV Final Environmental Impact Report (State Clearinghouse No. 1989020264) dated July 1993, that the City of Bakersfield certified for the MBHCP in August 1993. At the time the lead agency certified the EIR and approved the Project it also adopted various mitigation

Incidental Take Permit
No. 2081-2013-058-04
CITY OF BAKERSFIELD AND COUNTY OF KERN
METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT

measures for the Covered Species as conditions of Project approval. The Project as contemplated in the EIR allowed for the Urban Development of up to 14,200 acres of Natural Lands or 33,400 acres of Open Lands, though as of December 31, 2012, there were only 3,116.67 acres of Natural Lands converted to Urban land use (approximately 11,000 acres less than contemplated in the EIR), and 18,405.5 acres of Open Lands converted to Urban Development (approximately 15,000 acres less than contemplated in the EIR).

This ITP, along with CDFW's related CEQA findings, which are available as a separate document, provide evidence of CDFW's consideration of the lead agency's EIR for the Project and the environmental effects related to issuance of this ITP (CEQA Guidelines, § 15096, subd. (f)). CDFW finds that issuance of this ITP will not result in any previously undisclosed potentially significant effects on the environment or a substantial increase in the severity of any potentially significant environmental effects previously disclosed by the lead agency. Furthermore, to the extent the potential for such effects exists, CDFW finds adherence to and implementation of the Conditions of Project Approval adopted by the lead agency, and that adherence to and implementation of the Conditions of Approval imposed by CDFW through the issuance of this ITP, will avoid or reduce to below a level of significance any such potential effects. CDFW consequently finds that issuance of this ITP will not result in any significant, adverse impacts on the environment.

Findings Pursuant to CESA:

These findings are intended to document CDFW's compliance with the specific findings requirements set forth in CESA and related regulations. (Fish & G. Code § 2081, subs. (b)-(c); Cal. Code Regs., tit. 14, §§ 783.4, subds, (a)-(b), 783.5, subd. (c)(2).)

CDFW finds based on substantial evidence in the ITP application, MBHCP EIR, MBHCP, Implementation/Management Agreement, Service issued ITP, the results of CDFW's participation in the MBHCPITG and CESA MOU administration over the past 20 years, and the administrative record of proceedings, that issuance of this ITP complies and is consistent with the criteria governing the issuance of ITPs pursuant to CESA:

- (1) Take of Covered Species as defined in this ITP will be incidental to the otherwise lawful activities covered under this ITP;
- (2) Impacts of the taking on Covered Species will be minimized and fully mitigated through the implementation of measures required by this ITP and as described in the MMRP. Measures include: (1) permanent habitat protection resulting from collection of the HMF; a program that has worked successfully over the past 20 years; (2) minimization measures more protective than that contemplated in the MBHCP for SJKF denning within the City of Bakersfield urban landscape; (3) salvage of TKR in the areas most likely to be occupied by the species; (4) salvage and transplantation of Bakersfield cactus from development areas; and (5) Quarterly and Annual Compliance Reports. CDFW evaluated factors including an assessment of the importance of the habitat in the Project Area, the extent to which the Covered Activities will impact the habitat, and CDFW's estimate of the acreage required to provide for adequate compensation.

Based on this evaluation, CDFW determined that protection and management in perpetuity of 1 acre of high quality HM lands for each acre of Open Land developed, and 3 acres of high quality HM lands acquired for each 1 acre of Natural Land developed, along with the minimization, monitoring, reporting, and funding requirements of this ITP minimizes and fully mitigates the impacts of the taking caused by the Project;

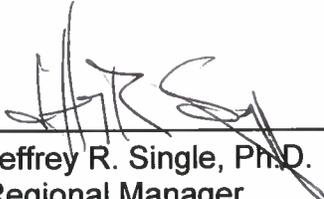
- (3) The take avoidance and mitigation measures required pursuant to the conditions of this ITP and its attachments are roughly proportional in extent to the impacts of the taking authorized by this ITP;
- (4) The measures required by this ITP maintain Permittees' objectives to the greatest extent possible;
- (5) All required measures are capable of successful implementation;
- (6) This ITP is consistent with any regulations adopted pursuant to Fish and Game Code sections 2112 and 2114;
- (7) Permittees have ensured adequate funding to implement the measures required by this ITP as well as for monitoring compliance with, and the effectiveness of, those measures for the Project; and
- (8) Issuance of this ITP will not jeopardize the continued existence of the Covered Species based on the best scientific and other information reasonably available, and this finding includes consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (1) known population trends; (2) known threats to the species; and (3) reasonably foreseeable impacts on the species from other related projects and activities. Moreover, CDFW's finding is based, in part, on CDFW's express authority to amend the terms and conditions of this ITP without concurrence of the Permittees as necessary to avoid jeopardy and as required by law.

Attachments:

ATTACHMENT 1	Mitigation Monitoring and Reporting Program
ATTACHMENT 2A, 2B	Habitat Management Lands Checklist; Proposed Lands for Acquisition Form
ATTACHMENT 3	Literature Cited

ISSUED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on August 20, 2014



Jeffrey R. Single, Ph.D.
Regional Manager
CENTRAL REGION

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of this ITP, and (3) agrees on behalf of the Permittee to comply with all terms and conditions

City of Bakersfield

By:  Date: 8/21/14
Printed Name: Alan Tardy Title: City Manager

County of Kern

By:  Date: 8/21/14
Printed Name: Lorelei Oviatt Title: Director

Incidental Take Permit
No. 2081-2013-058-04
CITY OF BAKERSFIELD AND COUNTY OF KERN
METROPOLITAN BAKERSFIELD URBAN DEVELOPMENT

Attachment 1

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)
CALIFORNIA ENDANGERED SPECIES ACT**

INCIDENTAL TAKE PERMIT NO. 2081-2013-058-04

PERMITTEE: City of Bakersfield

PERMITTEE: County of Kern

PROJECT: Metropolitan Bakersfield Urban Development

PURPOSE OF THE MMRP

The purpose of the MMRP is to ensure that the impact minimization and mitigation measures required by the Department of Fish and Wildlife (CDFW) for the above-referenced Project are properly implemented, and thereby to ensure compliance with section 2081(b) of the Fish and Game Code and section 21081.6 of the Public Resources Code. A table summarizing the mitigation measures required by CDFW is attached. This table is a tool for use in monitoring and reporting on implementation of mitigation measures, but the descriptions in the table do not supersede the mitigation measures set forth in the California Incidental Take Permit (ITP) and in attachments to the ITP, and the omission of a permit requirement from the attached table does not relieve the Permittee of the obligation to ensure the requirement is performed.

OBLIGATIONS OF PERMITTEE

Mitigation measures must be implemented within the time periods indicated in the table that appears below. Permittee has the primary responsibility for monitoring compliance with all mitigation measures and for reporting to CDFW on the progress in implementing those measures. These monitoring and reporting requirements are set forth in the ITP itself and are summarized at the front of the attached table.

VERIFICATION OF COMPLIANCE, EFFECTIVENESS

CDFW may, at its sole discretion, verify compliance with any mitigation measure or independently assess the effectiveness of any mitigation measure.

TABLE OF MITIGATION MEASURES

The following items are identified for each mitigation measure: Mitigation Measure, Source, Implementation Schedule, Responsible Party, and Status/Date/Initials. The Mitigation Measure column summarizes the mitigation requirements of the ITP. The Source column identifies the ITP condition that sets forth the mitigation measure. The Implementation Schedule column shows the date or phase when each mitigation measure will be implemented. The Responsible Party column identifies the person or agency that is primarily responsible for implementing the mitigation measure. The Status/Date/Initials column shall be completed by the Permittee during preparation of each Status Report and the Final Mitigation Report, and must identify the implementation status of each mitigation measure, the date that status was determined, and the initials of the person determining the status.

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
BEFORE DISTURBING SOIL OR VEGETATION					
1	Designated Representative. Permittees shall both designate a representative (Designated Representative) responsible for communications with CDFW and overseeing compliance with the ITP. At the time of ITP issuance, both Permittees' Designated Representatives are their respective administrators for the MBHCPITG. At any time during the term of the ITP, in the event that either Permittee proposes to change their Designated Representative, the Permittee proposing to change its Designated Representative shall notify CDFW in writing within five business days of the new Designated Representative's name, business address, and contact information.	ITP Condition # 5.9	Before issuing first Permittee Authorization or before commencing Permittee projects, (whichever occurs first)/ For changes- throughout the ITP term	Permittees	
2	Qualified Wildlife Biologist. Permittees shall submit to CDFW in writing the names, qualifications, business addresses, and contact information of proposed Qualified Wildlife Biologists before starting Covered Activities. Permittee shall ensure that the proposed Qualified Wildlife Biologists are knowledgeable and experienced in the biology and natural history of the Covered Species. Permittees shall obtain CDFW advance written approval of each proposed Qualified Wildlife Biologist before accepting biological surveys conducted by these individuals to satisfy terms of the ITP. Permittees may at any time propose to add or remove names from the list of CDFW-approved Qualified Wildlife Biologists. CDFW may remove individuals from the list of CDFW-approved Qualified Wildlife Biologists in the event of apparent non-compliance with the Fish and Game Code or the ITP.	ITP Condition # 5.10	Before issuing first Permittee Authorization or before commencing Permittee projects, (whichever occurs first)/ For list changes- throughout the ITP term	Permittees/ CDFW	
3	Tipton Kangaroo Rat (TKR) Qualified Biologist. Permittees shall submit to CDFW in writing the names, qualifications, business addresses, and contact information of proposed TKR Qualified Biologist(s) at least 30 calendar days before initiation of any TKR Trapping and Salvage activities. Permittee shall ensure that the proposed TKR Qualified Biologist(s) is experienced with the live trapping and handling of <i>Dipodomys nitratoides</i> ssp., and that such previous experience is demonstrated to be from one or more of the following scenarios: (1) working under his/her own CDFW 2081(a) permit for TKR or a conspecific kangaroo rat; (2) working under another individual's 2081(a) for TKR or a conspecific kangaroo rat permit; the contact information for the lead individual must be provided and the lead individual must vouch for the proposed TKR Qualified Biologist's experience and qualifications; and/or (3) the proposed TKR Qualified Biologist has conducted live trapping and salvage of TKR or a conspecific as a CDFW-approved Qualified Wildlife Biologist under a 2081(b) (e.g., ITP) permit where <i>Dipodomys</i> sp. is a Covered Species. In this last instance, the ITP number and project name shall also be furnished. Permittees shall obtain CDFW advance written approval of each proposed TKR Qualified Biologist before accepting any TKR Trapping and Salvage documentation prepared by these biologists. Permittees may at any time propose to add or remove names from the list of CDFW-approved TKR Qualified Biologists. CDFW may remove individuals from the list of TKR Qualified Biologist in the event of apparent non-compliance with the Fish and Game Code or the ITP, or any apparent failure to practice and apply widely practiced means by which to minimize trap related mortality and injury.	ITP Condition # 5.11	For projects that require TKR relocation and burrow excavation: before Permittee Authorization project activities commence and before Permittee project activities commence and at least 30 calendar days before TKR Trapping and Salvage activities commence/ For list changes- throughout the ITP term	Permittees/ CDFW	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p>4 <u>Bakersfield Cactus Qualified Botanist</u>. Permittees shall submit to CDFW in writing the names, qualifications, business addresses, and contact information of proposed Bakersfield Cactus Qualified Botanist(s) at least 30 calendar days before initiation of any Bakersfield cactus translocation. Permittees shall ensure that the proposed Bakersfield Cactus Qualified Botanist(s) is experienced with the identification, collection, and transplantation of Bakersfield cactus or other beaver tail cacti, and that such previous experience is demonstrated to be from one or more of the following scenarios: (1) working under his/her own CDFW 2081(a) permit for Bakersfield cactus; (2) working under another individual's 2081(a) for Bakersfield cactus; the contact information for the lead individual is provided and the lead individual must vouch for the proposed Bakersfield Cactus Qualified Botanist(s) experience and qualifications; and/or (3) the proposed Bakersfield Cactus Qualified Botanist(s) has conducted Bakersfield cactus salvage and translocation as a CDFW approved Qualified Wildlife Biologist under a 2081(b) (e.g., ITP) permit where Bakersfield cactus is a Covered Species. In this last instance, the ITP number and project name shall also be furnished. Permittees shall obtain CDFW advance written approval of each proposed Bakersfield Cactus Qualified Botanist(s) before accepting any Bakersfield cactus propose to add or remove names from the list of CDFW-approved Bakersfield Cactus Qualified Botanist(s). CDFW may remove individuals from the list of Bakersfield Cactus Qualified Botanist(s) in the event of apparent non-compliance with the Fish and Game Code or the ITP, or any apparent failure to practice and apply widely accepted means by which to minimize cactus mortality during salvage and relocation efforts.</p>	<p>ITP Condition # 5.12</p>	<p>For projects that require Bakersfield cactus translocation: before Permittee Authorization project activities commence and before Permittee project activities commence and at least 30 calendar days before Bakersfield cactus translocation activities commence/ For list changes- throughout the ITP term</p>	<p>Permittees/ CDFW</p>	
<p>5 <u>Habitat Mitigation Fee (HMF)</u>. Permittees shall collect a Habitat Mitigation Fee (HMF) prior to the issuance or approval of any Permittee Authorization in the Project Area. If no Permittee Authorization is required for a Covered Activity (such as for Permittees' projects), the HMF shall be paid prior to initiation of vegetation- or ground disturbing activities for said project. The current HMF is \$2,145 per acre (\$1,198.25 per acre for HM land acquisition costs, \$159.99 per acre for HM land fencing and improvement, \$477.72 per acre for HM land endowment, and \$309.81 per acre for Permittee MBHCP implementation costs)</p>	<p>ITP Condition # 5.6</p>	<p>Before issuing Permittee Authorizations and before commencing Permittee projects throughout the ITP term</p>	<p>Permittees</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
6	<p>TKR Relocation Plan. Permittees shall submit a TKR Relocation Plan to CDFW prior to any TKR relocation activities. TKR relocation activities shall not proceed until the TKR Relocation Plan has been approved in writing by CDFW's Regional Representative. Once the TKR Relocation Plan is approved by CDFW, it may be used for all TKR relocation activities for the duration of the ITP. Permittees shall require Developers to follow the latest version of the CDFW-approved TKR Relocation Plan; any Developer projects on which TKR relocation is required shall either: (1) not be granted a Permittee Authorization by either Permittee until implementation of the CDFW-approved TKR Relocation Plan is demonstrated in writing to the Permittees; or (2) any issued Permittee Authorization shall require that implementation of the CDFW-approved TKR Relocation Plan be demonstrated in writing to the Permittees prior to the start of construction activities specifically contemplated in said Permittee Authorization. Any Permittee proposed modifications to the TKR Relocation Plan shall be submitted to CDFW as a new proposed draft of the TKR Relocation Plan. Any new proposed TKR Relocation Plan shall be approved by CDFW in writing prior to its implementation. CDFW may unilaterally revise the TKR Relocation Plan in the event circumstances warrant such a change. In the event a revised TKR Relocation Plan is approved by CDFW because of either CDFW- or Permittee initiated revisions, the revised TKR Relocation Plan shall be presented at the next MBHCPITG quarterly meeting and entered into the meeting record.</p>	ITP Condition # 6.8	For projects that require TKR relocation and burrow excavation: before Permittee Authorization project activities commence and before Permittee commencement/ For TKR Relocation Plan changes- throughout the ITP term	Permittees/ CDFW	
7	<p>Bakersfield Cactus Translocation Plan. Prior to any Bakersfield cactus translocation, Permittees shall submit a Bakersfield Cactus Translocation Plan to CDFW. The Bakersfield Cactus Translocation Plan shall include at a minimum: (1) the translocation methods; (2) a map and description of the receiver site(s); (3) a description of the receiver site's soil, plant communities, and topography to demonstrate that the receiver sites(s) are suitable; (4) proposed maximum cactus density on the receiver site(s); and (5) a description of Bakersfield cactus's existing (pre translocation) status on the receiver site(s), including density and distribution. Bakersfield cactus translocation activities shall not proceed until the Bakersfield Cactus Translocation Plan has been approved in writing by CDFW's Regional Representative. Once the Bakersfield Cactus Translocation Plan is approved by CDFW, it may be used for all Bakersfield cactus relocation activities for the duration of the ITP. Permittees shall require Developers to follow the latest version of the CDFW-approved Bakersfield Cactus Translocation Plan; any Developer projects on which Bakersfield cactus translocation is required shall either: (1) not be granted a Permittee Authorization by either Permittee until implementation of the CDFW-approved Bakersfield Cactus Translocation Plan is demonstrated in writing to the Permittees; or (2) any issued Permittee Authorization shall require that implementation of the CDFW-approved Bakersfield Cactus Translocation Plan be demonstrated in writing to the Permittees prior to the start of construction activities specifically contemplated in said Permittee Authorization. Any Permittee proposed modifications to the Bakersfield Cactus Translocation Plan shall be submitted to CDFW as a new proposed draft of the Bakersfield Cactus Translocation Plan. Any new proposed Bakersfield Cactus Translocation Plan shall be approved by CDFW in writing prior to its implementation. CDFW may unilaterally revise the Bakersfield Cactus Translocation Plan in the event circumstances warrant such a change. In the event a revised Bakersfield Cactus Translocation Plan is approved by CDFW either because of CDFW or Permittee initiated revisions, the revised Bakersfield Cactus Translocation Plan shall be presented at the next MBHCPITG quarterly meeting and entered into the meeting record.</p>	ITP Condition # 6.9	For projects that require Bakersfield cactus translocation: before Permittee Authorization project activities commence and before Permittee commencement/ For Bakersfield Cactus Translocation Plan changes- throughout the ITP term	Permittees/ CDFW	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials								
8	<p><u>Notification Before Commencement</u>. If a Covered Species is identified in the Biological Clearance Survey, the Permittees shall require the Developer to notify CDFW, the Service and the applicable Permittee via a "Notice of Grading Start" at least five (5) business days prior to ground disturbance in accordance with Condition of Approval 7.3 in the ITP, as well as Conditions of Approvals 6.1, and 7.1 through 7.16.</p>	ITP Condition # 6.1	All projects throughout the ITP term	Permittees/Developers									
9	<p><u>Biological Clearance Survey</u>. Prior to either Permittee issuing a Permittee Authorization to a Developer, the Developer applying for such Permittee Authorization shall provide a written Biological Clearance Survey conducted by a CDFW-approved Qualified Wildlife Biologist, no more than 30 calendar days prior to a Developer beginning Covered Activities on a given Permittee-authorized project. The Biological Clearance Survey shall include full coverage transect surveys for SJKF dens, kangaroo rat burrows, and Bakersfield cactus (for proposed projects north of State Route (SR) 58 and east of SR 99), in the proposed development footprint and a buffer zone of 50 feet in size beyond the proposed development footprint (except for any portions of the buffer zone that are already fully developed or are beyond the access rights of the developer). The Biological Clearance Survey shall be valid for no more than 30 calendar days. In the event that Covered Activities are not initiated, as authorized by either Permittee, within 30 calendar days of a Biological Clearance Survey, the Biological Clearance Survey shall be repeated. Each Developer pursuing a Permittee Authorization shall bear the costs of the Biological Clearance Survey being conducted and summarized in writing.</p>	ITP Condition # 7.1	Permittee: before issuing Permittee Authorizations and before commencing Permittee projects Developers: no more than 30 calendar days prior to commencing ground- or vegetation-disturbing activities Throughout the ITP term	Permittees/Developers									
10	<p><u>Covered Species Detection</u>. If one or more of the "Conditions" listed below in Table 1 is detected during the Biological Clearance Survey for any proposed Developer project, Permittees shall either: (1) not grant a Permittee Authorization for said Developer project until implementation of the Table 1 referenced "Required Minimization Measures" is demonstrated by the Developer in writing to the Permittees; or (2) any issued Permittee Authorization shall require, via specific written conditions within the Permittee Authorization, that the start of grading/building activities may not occur until implementation of the Table 1 referenced "Required Minimization Measures" are demonstrated in writing to the Permittees.</p> <p>Table 1. Conditions within Proposed Development Footprint</p> <table border="1" data-bbox="1003 1045 1208 1944"> <thead> <tr> <th data-bbox="1003 1045 1057 1528">Condition Within Proposed Development Footprint</th> <th data-bbox="1003 1528 1057 1944">Required Minimization Measures</th> </tr> </thead> <tbody> <tr> <td data-bbox="1057 1045 1094 1528">Known, active, or natal SJKF den</td> <td data-bbox="1057 1528 1094 1944">Conditions of Approval 7.5 and 7.6</td> </tr> <tr> <td data-bbox="1094 1045 1148 1528">Kangaroo rat burrows (Conceptual Southwest Focus Area only)</td> <td data-bbox="1094 1528 1148 1944">Conditions of Approval 7.8, 7.9, and 7.10</td> </tr> <tr> <td data-bbox="1148 1045 1208 1528">One or more Bakersfield cactus clumps/plants</td> <td data-bbox="1148 1528 1208 1944">Conditions of Approval 7.11, 7.12, and 7.13</td> </tr> </tbody> </table>	Condition Within Proposed Development Footprint	Required Minimization Measures	Known, active, or natal SJKF den	Conditions of Approval 7.5 and 7.6	Kangaroo rat burrows (Conceptual Southwest Focus Area only)	Conditions of Approval 7.8, 7.9, and 7.10	One or more Bakersfield cactus clumps/plants	Conditions of Approval 7.11, 7.12, and 7.13	ITP Condition # 7.2	Before commencing ground- or vegetation-disturbing activities Throughout the ITP term	Permittees	
Condition Within Proposed Development Footprint	Required Minimization Measures												
Known, active, or natal SJKF den	Conditions of Approval 7.5 and 7.6												
Kangaroo rat burrows (Conceptual Southwest Focus Area only)	Conditions of Approval 7.8, 7.9, and 7.10												
One or more Bakersfield cactus clumps/plants	Conditions of Approval 7.11, 7.12, and 7.13												

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
11	<p>Developer Notification of Covered Species Detection. For Developer projects on which one or more of the Table 1 "Condition within Proposed Development Footprint" (Condition of Approval 7.2) are present, Permittees shall require the Developer to provide CDFW and Permittees with a written "Notice of Grading Start" at least 5 business days prior to ground disturbance. Such a "Notice of Grading Start" shall only be submitted after all "Required Minimization Measures" referenced in Table 1 are implemented for that specific Developer project. The "Notice of Grading Start" shall include, at a minimum, the following information: (1) project location, including a map and major cross streets; (2) project name; (3) Developer name and contact information (phone, email, and mailing address); (4) name of the Qualified Wildlife Biologist that conducted the Biological Clearance Survey; (5) a copy of the Biological Clearance Survey; and (6) written information submitted to demonstrate compliance with Condition of Approval 7.2, 7.5, 7.6 and 7.8-7.13, as applicable. Developer should keep as a record proof of their notification to CDFW.</p>	ITP Condition # 7.3	At least 5 business days before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	
12	<p>SJKF Den Survey. SJKF Den Surveys shall evaluate the proposed development footprint and a 50 foot buffer zone (except for any portions of the buffer zone that are already fully developed) for potential, known, active, atypical, and natal SJKF dens, as defined in the Service 2011 "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance."</p>	ITP Condition # 7.4	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	
13	<p>SJKF Den Avoidance. If a known, active, or natal SJKF den is discovered during the SJKF Den Survey/Biological Clearance Survey, the Permittees shall not issue a Permittee Authorization unless the Developer demonstrates that they established a permanent minimum buffer using fencing or flagging as follows: (1) at least 100 feet around den(s); (2) at least 200 feet around natal dens (dens in which SJKF young are reared); and (3) at least 500 feet around any natal dens with pups (except for any portions of the buffer zone that are already fully developed). Buffer zones shall be considered Environmentally Sensitive Areas, and no Covered Activities are allowed within a buffer except per Condition of Approval 7.6., and as follows: If the work within the buffer area will not result in the destruction of the den, the den should be conserved. If the den is unoccupied (based on the required four consecutive days of monitoring), then the den can be covered in a secure manner to prevent access by SJKF while the work is being conducted. After the work is done, the den can be uncovered to allow use by SJKF. If the den is occupied and the SJKF don't want to leave, then a smaller buffer could be established, including a barricade to prevent the SJKF from exiting the den and entering the work site. A qualified biologist shall monitor the den while the work is being conducted. Permittees shall notify the Service and CDFW's Regional Representative immediately via telephone or e-mail if any SJKF active dens, natal dens, or occupied atypical dens are discovered within or immediately adjacent to any proposed development footprint. Each Developer pursuing a Permittee Authorization shall bear the costs of implementing the SJKF den avoidance requirements.</p>	ITP Condition # 7.5	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
14	<p>SJKF Den Excavation. For active dens and potential dens that exhibit signs of SJKF use or characteristics suggestive of SJKF dens (including dens in natural substrate and in/under man-made structures) that cannot be avoided as per Condition of Approval 7.5, and if, after four consecutive days of monitoring with tracking medium or infrared camera, a Qualified Wildlife Biologist has determined that SJKF is not currently present, the den may be excavated. Natal dens shall not be excavated until the pups and adults have vacated and then only after consultation with the Service and CDFW. If the excavation process reveals evidence of current use by SJKF then den excavation shall cease immediately and tracking or camera monitoring as described above shall be conducted/resumed. Excavation of the den may be completed when, in the judgment of a Qualified Wildlife Biologist, the SJKF has escaped from the partially excavated den. SJKF dens shall be carefully excavated until it is certain no individuals of SJKF are inside. Dens shall be fully excavated, filled with dirt, and compacted to ensure that SJKF cannot reenter or use the den during Covered Activities. If an individual SJKF does not vacate a den within the proposed construction footprint within a reasonable timeframe, Permittees shall contact the Service and CDFW and get written guidance (email will suffice) from both agencies prior to proceeding with den excavation. Each Developer pursuing a Permittee Authorization shall bear the costs of implementing the SJKF den excavation requirements.</p>	ITP Condition # 7.6	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	
15	<p>SJKF Detection on Construction Site. Permittees shall condition all Permittee Authorizations to require notification to the appropriate Permittee and CDFW within 24 hours in the event that a SJKF is observed denning or utilizing structures or materials within an active construction footprint. In addition, a minimum 100 foot no disturbance buffer from the area being used by SJKF as a denning site shall be implemented until Conditions of Approval 7.5 or 7.6 can be implemented by a Qualified Wildlife Biologist funded by the Developer.</p>	ITP Condition # 7.7	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	
16	<p>TKR Trapping and Salvage. If the Biological Clearance Survey prepared pursuant to Condition of Approval 7.1 identifies TKR burrows within the proposed construction footprint of proposed Developer projects within the "Conceptual Southwest Focus Area" as identified in Figure 4 of the MBHCP, Permittees shall not issue a Permittee Authorization until a TKR Qualified Biologist conducts a minimum of five (5) consecutive nights of live small mammal trapping, with high trap densities focused at and around TKR burrows, runways, seed caches, and dust baths. How and where captured animals will be held and the final release location and specifics shall be in accordance with Condition of Approval 6.8. The Developer for which the Biological Clearance Survey was conducted shall bear the costs of TKR trapping, salvage, and relocation.</p>	ITP Condition # 7.8	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	
17	<p>TKR Burrow Excavation. Following live trapping activities conducted in accordance with Condition of Approval 7.8, any potential TKR burrows (e.g., any kangaroo rat burrows) present within the development footprint shall be fully excavated by hand by the TKR Qualified Biologist. The TKR Qualified Biologist shall relocate any TKR encountered in the excavated burrows to the release site(s) identified in the CDFW-approved TKR Relocation Plan prepared in accordance with Condition of Approval 6.8. The TKR Qualified Biologist shall also collect and move dormant or torpid TKR encountered to an artificial burrow installed at the release site(s) identified in the CDFW-approved TKR Relocation Plan prepared in accordance with Condition of Approval 6.8.</p>	ITP Condition # 7.9	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
18	<p>TKR Record of Handling. TKR Qualified Biologist(s) shall maintain a record of all TKR handled. This information shall include for each animal: (1) the locations (Global Positioning System (GPS) coordinates and maps) and time of capture and/or observation as well as release; (2) sex; (3) approximate age (adult/juvenile); (4) weight; (5) general condition and health, noting all visible conditions including gait and behavior, emaciation, salivation, hair loss, ectoparasites, and injuries; and (6) ambient temperature when handled and released. A Relocation Summary shall be prepared by the TKR Qualified Biologist and submitted by the Developer to the Permittees and CDFW as part of the information accompanying the "Notice of Grading Start" described in Condition of Approval 7.3.</p>	ITP Condition # 7.10	Before commencing ground- or vegetation-disturbing activities	TKR Qualified Biologists	
19	<p>Bakersfield Cactus Avoidance. If the Biological Clearance Survey prepared pursuant to Condition of Approval 7.1 identifies Bakersfield cactus within the proposed construction footprint of a proposed Developer project, Permittees shall not issue a Permittee Authorization until the Developer demonstrates that all Bakersfield cacti shall be avoided by a minimum of 25 feet, unless Condition of Approval 7.13 is implemented. This avoidance distance may be lessened on a specific case-by-case basis if CDFW concurs in writing that a modified distance proposed by a Bakersfield Cactus Qualified Botanist (Condition of Approval 5.12) is sufficient to avoid direct or indirect take of Bakersfield cactus.</p>	ITP Condition # 7.11	Before commencing ground- or vegetation-disturbing activities	Permittees/ Developers	
20	<p>Bakersfield Cactus Avoidance Fencing. Sturdy, highly visible, plastic construction avoidance fencing (or comparable fencing approved in writing by the CDFW Regional Representative) shall be installed around Bakersfield cactus avoidance areas and located in accordance with direction from the Bakersfield Cactus Qualified Botanist. Fencing shall be securely staked and installed in a durable manner that would be reasonably expected to withstand wind and weather events and last at least through the construction period. Fencing shall be inspected at least twice weekly during the construction period. Fencing shall be removed upon completion of construction of the Developer project.</p>	ITP Condition # 7.12	Before commencing ground- or vegetation-disturbing activities Inspected at least twice weekly	Permittees/ Developers	
21	<p>Bakersfield Cactus Translocation. The Bakersfield Cactus Qualified Botanist shall translocate Bakersfield cactus, which cannot be avoided by construction activities in accordance with Condition of Approval 7.11, to the nearest suitable habitat specifically identified in the Bakersfield Cactus Translocation Plan prior to disturbance of any Bakersfield cacti. Translocated cacti shall be planted in habitat that Permittees have proven to be suitable for Bakersfield cactus by demonstrating that Bakersfield cactus occurs naturally at the same general location and the plantable area has suitable soils, vegetation, and other aspects to support a self-sustaining population of Bakersfield cactus. The density of plantings shall not exceed densities that occur naturally in the vicinity of the Project. Pads shall be taken from the translocated clumps of cacti and planted in the receiver sites to increase the number of plants.</p>	ITP Condition # 7.13	Before commencing ground- or vegetation-disturbing activities	Bakersfield Cactus Qualified Botanists/ Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
22	<p><u>Sump Surveys</u>. Permittees shall be allowed to train personnel/staff to inspect work areas and buffer zones prior to Operations and Maintenance (O&M) activities in sumps or other similar features to make determinations if there are any potential (as defined in the Service 2011 "Standardized recommendations for protection of the San Joaquin kit fox prior to or during ground disturbance") den sites. If potential den sites are observed, a Qualified Wildlife Biologist shall conduct a SJKF den survey in accordance with Condition of Approval 7.4 prior to any O&M activities being conducted in sumps or other similar features within the Project Area by either Permittee. If a known, active, or natal SJKF den is discovered during the SJKF Den Survey, the O&M work shall not proceed unless the Public Works Department (or other Permittee department conducting the O&M work) demonstrates to the appropriate Designated Representative that either: (1) den avoidance will occur as per Condition of Approval 7.5; or (2) den excavation has occurred in accordance with Condition of Approval 7.6.</p>	ITP Condition # 7.18	Before commencing O&M activities in sumps or other similar features	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
23	<p>HM Land Acquisition through Collection of the HMF. To meet the requirement for HM land acquisition, prior to each Permittee Authorization issued in the Project Area, the appropriate Permittee shall require payment of the HMF, based on the gross acres of the site addressed by the Permittee Authorization. The HMF payment shall run with the land, and once paid for a specific acreage, the land under development shall not need to be paid for subsequent development within the same gross acreage. Collection of the HMF shall fund HM land acquisition both within and outside the Project Area, as approved by CDFW. The acquired HM land acreage shall stay ahead of the development acreage at the following rates: There shall be 1 acre of HM lands acquired for each acre of open land developed, and 3 acres of HM lands acquired for each 1 acre of natural land developed. At all times, the amount of acquired HM lands shall be greater than the greater of the following: (1) the amount of approved (via Permittee Authorization) Urban Development on Open Land; or (2) three times the amount of approved (via Permittee Authorization) Urban Development on Natural Land, as depicted in the information conveyed in the Quarterly and Annual Reports as required by Conditions of Approval 6.3 and 6.4. As of October 26, 2012, the MBHCPITG had unencumbered funds of approximately \$8,000,000.00 for HM land acquisition and associated costs.</p> <p>For parcels less than two and one-half acres in size, the HMF shall be calculated for the entire gross acreage of the parcel. For those parcels that are two and one half gross acres or larger, the HMF will be calculated on the disturbance authorized in the Permittee Authorization, but not for less than two and one-half gross acres. However, if the Developer can adequately demonstrate to the Permittee that will be issuing the Permittee Authorization that a portion of the parcel will not be disturbed by activities such as, but not limited to, grading, drainage, or storage, the Permittee shall not require payment of the HMF for the undisturbed acreage unless and until development of that area is authorized in a subsequently issued Permittee Authorization.</p> <p>Permittees shall not collect HMFs for the following:</p> <ul style="list-style-type: none"> • Additions, remodels or reconstruction totaling not more than a fifty percent increase from the square footage of pre-existing development. • Existing mobile home replacement. • Oil and gas production and extraction, including accessory or incidental structures and improvements. • Commercial agricultural practices, uses and structures, including but not limited to tillage, cultivation, grading, ditching, storage, stacking, barns, equipment buildings and agricultural housing. • Development of any parcel for which the Service and/or CDFW has approved other mitigation procedures through issuance of other ITPs and 10(a)(1)(B) permits. • Local public projects less than ten acres in size undertaken for strictly public purposes and incidental to urban growth. • Demolition. • Any permitted activity that does NOT require grading. Grading is defined as any excavation or filling or combination, including rough grading as described in the most currently adopted California Building Code adopted by the Permittees; for example, additions of accessory structures that are customarily incidental and subordinate to the principal building or use and typically do not require grading. 	ITP Condition # 8.1	Prior to each Permittee Authorization issued in the Project Area	Permittees	Rev. 2013.1.1

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>In accordance with the requirements of Conditions of Approval 8.1 above, the MBHCPITG shall receive the collected HMFs and, through the pursuit of willing sellers, shall purchase HM lands by: processing the property through the close of escrow; performing a Phase I Environmental Assessment; and removing any debris as required by CDFW. The HMF shall also cover the Permittees' administrative costs of HM land acquisition, and the funding of the Enhancement (fencing) and Endowment (long-term management) funds.</p> <p>Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittees shall:</p>				
	DURING CONSTRUCTION				
24	<p>Permittee Authority. To ensure compliance with the Conditions of Approval of the ITP, either Permittee shall have authority to immediately stop any activity that does not comply with the ITP, and/or to order any reasonable measure to avoid the unauthorized take of an individual of the Covered Species.</p>	ITP Condition # 5.13	Throughout the ITP term	Permittees	
25	<p>CDFW Access. Permittees shall provide CDFW staff with reasonable access to the development projects authorized by either Permittee, and shall otherwise fully cooperate with CDFW efforts to verify compliance with or effectiveness of mitigation measures set forth in the ITP.</p>	ITP Condition # 5.14	Throughout the ITP term	Permittees	
26	<p>HMF Annual Update. The MBHCPITG shall establish and update the HMF, on a gross acre basis, required to implement the mitigation program. The HMF shall, at a minimum, be adjusted annually for inflation. On an annual basis, no later than December 31, of each year, CDFW will update the MBHCPITG on funding requirements and a gross acre basis for Enhancement and Endowment funds for properties approved during the subsequent calendar year. The Enhancement and Endowment fees, on a gross acre basis, shall be set by the date of the MBHCPITG meeting at which the MBHCPITG approves the purchase of the specific Habitat Management lands (HM lands).</p>	ITP Condition # 5.7	Throughout the ITP term and no later than December 31 annually	Permittees/ CDFW	
27	<p>HMF Disposition. The Permittees shall hold all HMFs collected, and any fines collected, in a separate trust for payment of HM land acquisition costs as well as the associated enhancement and endowment costs, in addition to the associated administration costs, as identified in the MBHCP Implementation/Management Agreement (hereafter, Implementation Agreement), which include, but are not limited to, the cost of HM land acquisition, long-term HM land management funds (endowment), HM land improvement, public facilities and administration of the MBHCP program by the Permittees. Funds shall be transferred to the MBHCPITG for use in implementation of the MBHCP on a quarterly basis by the Permittees.</p>	ITP Condition # 5.8	Throughout the ITP term	Permittees	
28	<p>Notification of Non-compliance. The Designated Representative(s) shall immediately notify CDFW in writing if it determines that either Permittee, or any Developer utilizing the MBHCP, as authorized by a Permittee Authorization, is not in compliance with the MBHCP or any Condition of Approval of the ITP, including but not limited to any actual or anticipated failure to implement measures within the time periods indicated in the ITP and/or this MMRP. The Designated Representative(s) shall report any non-compliance with the ITP to CDFW within 24 hours.</p>	ITP Condition # 6.2	All projects	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
29	<p>Quarterly Compliance Report. The Permittees each and separately shall maintain and provide the MBHCPITG, with a record of the following on a quarterly basis: (1) the cumulative amount of Urban Development (in acres) requiring HM land acquisition per Condition of Approval 8 in the ITP for the reporting period and since the start of the MBHCP; (2) the cumulative amount of Natural Land approved for Urban Development for the reporting period and since the start of the MBHCP; (3) the cumulative amount of Open Land approved for Urban Development for the reporting period and since the start of the MBHCP; (4) the amount in acres of Mitigation Credits (as defined in Condition of Approval 8.1 in the ITP) outstanding and unused, and the holder of record of such credits; (5) the cumulative amount in acres of HM lands which have not been committed as mitigation for the cumulative amount of Urban Development authorized by Permittee Authorizations; (6) the ratio of cumulative (since the start of the MBHCP) Urban Development acreage to HM land acreage for: a) Natural Land to Urban Development; b) Open Land to Urban Development; and c) existing Urban Land to Urban Development; and (7) an update to the baseline map showing Natural Land, Open Land and Urban land based on the above information. Permittees shall also submit this Quarterly Compliance Report directly to CDFW's Regional Office at the office listed in the Notices section of the ITP and via e-mail to CDFW's Regional Representative. At the time of the ITP's approval, the CDFW Regional Representative is Craig Bailey (craig.bailey@wildlife.ca.gov). CDFW may at any time increase the timing and number of compliance inspections and reports required under this provision depending upon the results of previous compliance inspections. If CDFW determines the reporting schedule must be changed, CDFW will notify both Permittees in writing of the new reporting schedule. Quarterly Compliance reports shall also be provided to the public at the MBHCPITG quarterly meetings.</p>	ITP Condition # 6.3	Throughout the ITP term	Permittees	
30	<p>Annual Status Report. Permittees shall provide CDFW with an Annual Status Report (ASR) no later than January 31 of every year beginning with issuance of this ITP and continuing until CDFW accepts the Final Mitigation Report identified below. Each ASR shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports for that year identified in Condition of Approval 6.3; (2) the amount of habitat authorized via Permittee Authorizations to be converted to Urban Development over the past year, showing the amount of Natural Land and the amount of Open Land so affected; (3) an estimate of the amount of taking of any Covered Species which has taken place within the Project Area, which can be based on suitable acreage lost; (4) the cumulative amount (in acres) of HM lands acquired and placed into permanent conservation status as required by Condition of Approval 8; (5) management activities conducted during the past year and those management activities proposed for the following year on lands acquired accepted by the Permittees and CDFW but pending transfer to CDFW or other CDFW-approved HM land holder; (6) enhancement activities conducted in the past year and those planned for the coming year on lands acquired accepted by the Permittees and CDFW but pending transfer to CDFW or other CDFW-approved HM land holder; (7) a qualitative analysis of the population status of the Covered Species in each HM land area for any lands acquired by the Permittees but pending transfer to CDFW or other CDFW-approved HM land holder; and (8) a description of any scientific research authorized or conducted by the MBHCPITG on lands acquired accepted by the Permittees and CDFW but pending transfer to CDFW or other CDFW-approved HM land holder, as well as proposed research on such lands for the upcoming year.</p>	ITP Condition # 6.4	Throughout the ITP term	Permittees	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
31	Notification of Take or Injury. Permittees shall immediately notify CDFW if a Covered Species is taken or injured by a Project-related activity, or if a Covered Species is otherwise found dead or injured within the vicinity of a Permittee authorized project. The Designated Representative(s) shall provide initial notification to CDFW by calling the Regional Office at (559) 243-4005. The initial notification to CDFW shall include information regarding the location, species, and number of animals taken or injured and the ITP Number. Following initial notification, Permittees shall send CDFW a written report within two calendar days. The report shall include the date and time of the finding or incident, location of the animal or carcass, and if possible provide a photograph, explanation as to cause of take or injury, and any other pertinent information.	ITP Condition # 6.6	All projects	Permittees	
32	<u>San Joaquin Kit Fox Den and Corridor Map</u> . The MBHCPITG shall maintain a map (San Joaquin Kit Fox Den and Corridor Map) showing identified SJKF dens and potential SJKF den corridors (above ground canals and railroad track easements). This map shall be continually updated as new observations are submitted to either Permittee, and an updated San Joaquin Kit Fox Den and Corridor Map shall be submitted to CDFW no later than January 31, of every year beginning with issuance of the ITP and continuing until CDFW accepts the Final Mitigation Report.	ITP Condition # 6.7	Throughout the ITP term/ No later than January 31 annually	Permittees	
33	<u>Updated Land Use Map</u> . Permittees shall provide CDFW with a copy of the updated map based on aerial photography taken within 90 days of map generation required by the Implementation/Management Agreement to be furnished every 4 years. The map shall show the amount of Open and Natural Lands remaining in the Project Area.	ITP Condition # 6.10	Throughout the ITP term and every 4 years	Permittees	
34	<u>Covered Species Injury</u> . If a Covered Species is injured as a result of Project related activities, a Qualified Wildlife Biologist shall immediately take it to a CDFW approved wildlife rehabilitation or veterinary facility that routinely evaluates and treats the injured Covered Species. Permittees shall identify the potential facilities before starting Covered Activities. The Developer or appropriate Permittee shall bear any costs associated with the care or treatment of such injured Covered Species. The Permittee with jurisdiction shall notify CDFW of the injury to the Covered Species immediately by telephone and e-mail followed by a written incident report. Notification shall include the date, time, location, and circumstances of the incident and the name of the facility where the animal was taken.	ITP Condition # 7.14	All projects	Qualified Wildlife Biologists/ Permittees/ Developers	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
35	<p>Daily Entrapment Inspections. Permittee Authorizations shall require that workers on Developer projects shall inspect all open holes, sumps, and trenches within the development footprint covered by the Permittee Authorization at the beginning, middle, and end of each day for trapped Covered Species. All trenches, holes, sumps, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and that are between two- and eight feet deep shall be covered when workers or equipment are not actively working in the excavation, which includes cessation of work overnight, or shall have an escape ramp of earth or a non-slip material with a less than 1:1 (45 degree) slope. All trenches, holes, and other excavations with sidewalls steeper than a 1:1 (45 degree) slope and greater than eight feet deep shall be covered when workers or equipment are not actively working in the excavation and at the end of each work day. Trenches, holes, sumps, or other excavations that are covered long term shall be inspected at the beginning of each working day to ensure inadvertent entrapment has not occurred. If any worker discovers that Covered Species have become trapped, the Developer and their workers shall cease all Covered Activities in the vicinity and notify Permittees immediately, whom shall in turn notify CDFW immediately. Developer and its workers shall allow the Covered Species to escape unimpeded if possible before Covered Activities are allowed to continue, or, alternatively, a Qualified Wildlife Biologist shall capture and relocate the animal, in accordance with CDFW direction regarding the final disposition of the animal. The Developer for which the Biological Clearance Survey was conducted shall bear the costs of Covered Species salvage.</p>	ITP Condition # 7.15	All projects	Permittees/ Developers/ Qualified Wildlife Biologists/ CDFW	
36	<p>Materials Inspection. Permittee Authorizations shall require that workers on Developer projects thoroughly inspect for Covered Species in all construction pipe, culverts, or similar structures with a diameter of 7.6 centimeters (three inches) or greater that are stored for one or more overnight periods before the structure is subsequently moved, buried, or capped. If during inspection one of these animals is discovered inside the structure, workers shall notify Permittees and allow the Covered Species to safely escape that section of the structure before moving and utilizing the structure. In the event that Permittees are notified of such an incident, Permittees shall notify CDFW in writing (via email will suffice) within 48 hours of the incident.</p>	ITP Condition # 7.16	All projects	Permittees/ Developers	
37	<p>Equipment Inspection. Permittee Authorizations shall require that workers shall inspect for Covered Species under vehicles and equipment before the vehicles and equipment are moved. If a Covered Species is present, the worker shall wait for the Covered Species to move unimpeded to a safe location. Alternatively, the Developer shall contact a Qualified Wildlife Biologist to determine if they can safely move the Covered Species out of harm's way in compliance with the ITP.</p>	ITP Condition # 7.17	All projects	Permittees/ Developers	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p>38</p> <p>Habitat Acquisition and Protection. To provide for the acquisition and perpetual protection and management of the HM lands, the Permittees shall:</p> <p>8.1.1 <u>Fee Title/Conservation Easement.</u> Transfer fee title to the HM lands to CDFW pursuant to terms approved in writing by CDFW. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property provided that the district, organization, entity, or person meets the requirements of Government Code sections 65965-65968, as amended. If CDFW does not hold fee title to the HM lands, CDFW shall act as grantee for a conservation easement over the HM lands or shall, in its sole discretion, approve a non-profit entity, public agency, or Native American tribe to act as grantee for a conservation easement over the HM lands provided that the entity, agency, or tribe meets the requirements of Civil Code section 815.3. If CDFW does not hold the conservation easement, CDFW shall be expressly named in the conservation easement as a third-party beneficiary. Permittees shall obtain CDFW written approval of any conservation easement before its execution or recordation. No conservation easement shall be approved by CDFW unless it complies with Government Code sections 65965-65968, as amended and includes provisions expressly addressing Government Code sections 65966 subdivision (j) and 65967 subdivision (e).</p> <p>8.1.2 <u>HM Lands Approval.</u> Obtain CDFW written approval of the HM lands before acquisition and/or transfer of the land by submitting, at least three months before acquisition and/or transfer of the HM lands, a formal Proposed Lands for Acquisition Form (see Attachment 2B) identifying the land to be purchased or property interest conveyed to an approved entity as mitigation for the Project's impacts on Covered Species;</p> <p>8.1.3 <u>HM Lands Documentation.</u> Provide a recent preliminary title report, initial hazardous materials survey report, and other necessary documents (see Attachment 2A). All documents conveying the HM lands and all conditions of title are subject to the approval of CDFW, and if applicable, the Wildlife Conservation Board and the Department of General Services;</p> <p>8.1.4 <u>Land Manager.</u> Designate both an interim and long-term land manager approved by CDFW. The interim and long-term land managers may, but need not, be the same. The interim and/or long-term land managers may be the landowner or another party. Documents related to land management shall identify both the interim and long-term land managers. Permittee shall notify CDFW of any subsequent changes in the land manager within 30 days of the change. If CDFW will hold fee title to the mitigation land, CDFW will also act as both the interim and long-term land manager unless otherwise specified;</p> <p>8.1.5 <u>Start-up Activities.</u> Provide for the implementation of start-up activities, including the initial site protection and enhancement of HM lands, once the HM lands have been approved by CDFW. Start-up activities include, at a minimum: (1) establishing initial fencing; (2) conducting litter removal; (3) conducting initial habitat restoration or enhancement, if applicable; and (4) installing signage;</p>	<p>ITP Conditions # 8.1.1 through #8.1.7</p>	<p>Throughout the ITP term</p>	<p>Permittees/ CDFW</p>	

	Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
	<p>8.1.6. <u>Endowment Fund</u>. Permittee shall ensure that the HM lands are perpetually managed, maintained, and monitored by the long-term land manager as described in the ITP, and the conservation easement (for lands not transferred to CDFW). After obtaining CDFW approval of the HM lands, Permittees shall provide long-term management funding for the perpetual management of the HM lands by establishing a long-term management fund (Endowment). The Endowment is a sum of money, held in a CDFW-approved fund that provides funds for the perpetual management, maintenance, monitoring, and other activities on the HM lands. Endowment as used in the ITP shall refer to the endowment deposit and all interest, dividends, other earnings, additions and appreciation thereon. The Endowment shall be governed by the ITP, Government Code sections 65965-65968, as amended, and Probate Code sections 18501-18510, as amended.</p> <p>Permittees shall ensure that the designated long-term land manager implements the management and monitoring of the HM lands. The long term land manager shall be obligated to manage and monitor the HM lands in perpetuity to preserve their conservation values in accordance with the ITP, and the conservation easement (for lands not transferred to CDFW). Such activities shall be funded through the Endowment; and,</p> <p>8.1.7. <u>Identify an Endowment Manager</u>. The Endowment shall be held by the Endowment Manager, which shall be either CDFW or another entity qualified pursuant to Government Code sections 65965-65968, as amended. Permittees shall submit to CDFW a written proposal that includes: (i) the name of the proposed Endowment Manager; (ii) whether the proposed Endowment Manager is a governmental entity, special district, nonprofit organization, community foundation, or congressionally chartered foundation; (iii) whether the proposed Endowment Manager holds the property or an interest in the property for conservation purposes as required by Government Code section 65968(b)(1) or, in the alternative, the basis for finding that the Project qualifies for an exception pursuant to Government Code section 65968(b)(2); and (iv) a copy of the proposed Endowment Manager's certification pursuant to Government Code section 65968(e). Within thirty days of CDFW's receipt of Permittees' written proposal, CDFW shall inform Permittees in writing if it determines the proposal does not satisfy the requirements of Fish and Game Code section 2081(b)(4) and, if so, shall provide Permittees with a written explanation of the reasons for its determination. If CDFW does not provide Permittees with a written determination within the thirty-day period, the proposal shall be deemed consistent with Section 2081(b)(4).</p>				
39	<p><u>In-lieu of HMF payment</u>. Permittees may allow Developers to directly acquire lands (Directly Acquired HM Lands) in accordance with the requirements of Conditions of Approval 8.1.1 through 8.1.6, in lieu of HMF payment, if both of the following apply: (1) preservation of the proposed Directly Acquired HM Lands is consistent with the land acquisition criteria set forth below; and (2) the proposed Directly Acquired HM Lands are acceptable to the MBHCPITG. Permittees shall not issue a Permittee Authorization absent payment of the HMF, unless and until fee title to the Directly Acquired HM Lands are transferred, and a Conservation Easement recorded (when lands not transferred to CDFW), in accordance with Conditions of Approval 8.1.1 through 8.1.6.</p> <p>Land appropriate for acquisition as all or part of the HM land requirement described in the ITP may, at the discretion of the MBHCPITG, qualify as Directly Acquired HM Lands if it is:</p>	ITP Condition # 8.2 including ITP Conditions # 8.2.1 through # 8.2.3	Throughout the ITP term	Developers/ CDFW	

Mitigation Measure	Source	Implementation Schedule	Responsible Party	Status / Date / Initials
<p>1. Within one of the potential HM land acquisition areas identified in the MBHCP Implementation/Management Agreement (Agreement No. 94-159) dated August 15, 1994.</p> <p>Or</p> <p>2. Within an area determined by the CDFW and Service MBHCPITG advisory members to provide benefits to one or more of the Covered Species.</p> <p>8.2.1 Acceptance of Directly Acquired HM Lands. In either of the above cases, CDFW will provide written notification to the MBHCPITG if CDFW is willing to accept title to the proposed Directly Acquired HM Lands and act as the management entity for such lands, which shall be proposed in compliance with Conditions of Approval 8.1.1 through 8.1.6. Alternatively, CDFW, in its sole discretion, may authorize a governmental entity, special district, non-profit organization, for-profit entity, person, or another entity to hold title to and manage the property, in accordance with Condition of Approval 8.1.1.</p> <p>8.2.2 HM Land Calculation. Directly Acquired HM Lands shall not be included in the calculations for the purposes of determining the cumulative amount of HM lands acquired unless and until the Directly Acquired HM Lands are transferred and they qualify as HM lands.</p> <p>8.2.3 Directly Acquired HM Land Costs. Prior to either Permittee issuing a Permittee Authorization to a Developer proposing Directly Acquired HM Lands, the appropriate Permittee shall collect the per acre MBHCP fee for Enhancement, Endowment and MBHCP administrative costs, according to the fee rates that exist at the time of payment. In instances where the MBHCPITG determines the Directly Acquired HM Land being transferred represents unique habitat values or assists in achieving specific preservation or management goals of the MBHCP, the MBHCPITG may choose to pay all or a portion of these fees.</p>				
POST-CONSTRUCTION				
<p>40 <u>Final Mitigation Report</u>. No later than 45 days after ITP expiration, Permittees shall provide CDFW with a Final Mitigation Report. Permittees shall prepare the Final Mitigation Report which shall include, at a minimum: (1) a summary of all Quarterly Compliance Reports and all ASRs; (2) a copy of this MMRP with notes showing when each of the mitigation measures was implemented; (3) all available information about Project-related incidental take of the Covered Species; (4) information about other Project impacts on the Covered Species; (5) an assessment of the effectiveness of the ITP's Conditions of Approval in minimizing and fully mitigating Project impacts of the taking on Covered Species; (6) recommendations on how mitigation measures might be changed to more effectively minimize take and mitigate the impacts of future projects on the Covered Species; and (7) any other pertinent information.</p>	ITP Condition # 6.5	No later than 45 days after ITP expiration	Permittees	

ATTACHMENT 2A
DEPARTMENT OF FISH AND WILDLIFE

HABITAT MANAGEMENT LAND ACQUISITION PACKAGE CHECKLIST FOR PROJECT APPLICANTS
The following checklist is provided to inform you of what documents are necessary to expedite the Department of Fish and Wildlife (CDFW) processing of your Habitat Management Land acquisition proposal. Any land acquisition processing requests which are incomplete when received, will be returned. The Region contact will review and approve the document package and forward it to the Habitat Conservation Planning Branch Senior Land Agent with a request to process the land acquisition for formal acceptance.

To: _____
Regional Manager, Region Name

From: _____
Project Applicant

Phone: _____

Tracking #: _____
CDFW assigned permit or agreement #

Project Name: _____

Enclosed is the complete package for the Conservation Easement OR Grant Deed

Documents in this package include:

Fully executed, approved as to form Conservation Easement Deed or Grant Deed.

Date executed: _____

Proposed Lands for Acquisition Form (PLFAF)

Phase I Environmental Site Assessment Report Date on report: _____
(An existing report may be used, but it must be less than two years old.)

Preliminary Title Report(s) for subject property is enclosed and has been reviewed for encumbrances and other easements. The title report must be less than six months old when final processing is conducted.

Included are additional documents:

document(s) to support title exceptions

document(s) to explain title encumbrances

a plot or map of easements/encumbrances on the property

Policy of Title Insurance (an existing title policy is not acceptable)

County Assessor Parcel Map(s) for subject property

Site Location Map (Site location with property boundaries outline on a USGS 1:24,000 scale topo)

Final Permit or Agreement (or other appropriate instrument)

Type of agreement: Bank Agreement Mitigation Agreement

Permit _____ Other: _____
(write in type of permit)

Final Management Plan (if required prior to finalizing permit or agreement or if this package is for a Grant Deed)

Biological Resources Report

Draft Summary of Transactions hard copy electronic copy (both are required)

PROPOSED LANDS FOR ACQUISITION FORM ("PLFAF")

Date: _____

TO: Regional Representative

Facsimile:

FROM: _____

Applicant proposes that the following parcel of land be considered for approval by the CDFW as suitable for purposes of habitat management lands to replace the adverse environmental impacts of the Project:

<u>Section</u>	<u>Township</u>	<u>Range</u>	<u>Number of Acres</u>
----------------	-----------------	--------------	------------------------

_____	_____	_____	_____
-------	-------	-------	-------

Current Legal Owner(s), include Parcel Number(s):

Location of Parcel:

APPROVED ___
REJECTED ___

By: _____

DATE: _____

Region

Explanation: _____

Attachment 3

Literature Cited

Bjurlin, C. D., B. L. Cypher, C. M. Wingert, and C. L. Van Horn Job. Urban roads and the endangered San Joaquin kit fox. California State University-Stanislaus, Endangered Species Recovery Program, Fresno, CA. 47 pp.

CNDDDB, 2013. California Natural Diversity Database, RareFind 3, Version 3.1.0. Updated March 31, 2013. Occurrence element queries for California jewelflower, Bakersfield cactus, San Joaquin adobe sunburst, Striped adobe-lily, Bakersfield smalescale, San Joaquin kit fox, blunt-nosed leopard lizard, Tipton kangaroo rat, giant kangaroo rat, San Joaquin antelope squirrel, Sacramento, CA.

Cypher B. L. 2010. Kit Foxes. Pages 49-60 in Gert, S. D., S. P. D. Riley, and B. L. Cypher, editors. Urban Carnivores: ecology, conflict, and conservation. Johns Hopkins University Press, Baltimore, MD.

Cypher, B. L., E. N. Tennant, C. L. Van Horn Job, and S. E. Phillips. 2011. Status survey for Bakersfield cactus (*Opuntia basilaris* var. *treleasei*). U.S. Bureau of Reclamation. Central Valley Project Conservation Program, Agreement Number R10AC20716. 80pp.

Cypher, B.L. and C.L. Van Horn Job, in press. Management and Conservation of San Joaquin kit foxes in urban environments. 2013 Transactions of the Western Section of The Wildlife Society.

Frost, N., 2005. San Joaquin kit fox home range, habitat use, and movements in urban Bakersfield. M.S. Thesis. Humboldt State University. 75pp.

U. S. Fish and Wildlife Service. 1998. Recovery plan for upland species of the San Joaquin Valley, California. U. S. Fish and Wildlife Service, Region 1, Portland, OR.

USFWS, 2011. Standard Recommendations for the Protection of the San Joaquin Kit Fox Prior to or During Ground Disturbance. United States Fish and Wildlife Service.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
CENTRAL REGION
1234 EAST SHAW AVENUE
FRESNO, CALIFORNIA, 93710



AMENDMENT NO. 1
(A Major Amendment)
California Endangered Species Act
Incidental Take Permit No. 2081-2013-058-04
City of Bakersfield and County of Kern
Metropolitan Bakersfield Urban Development in Kern County

INTRODUCTION

On August 20, 2014, the California Department of Fish and Wildlife (CDFW) issued Incidental Take Permit No. 2081-2013-058-04 (ITP) to the City of Bakersfield and County of Kern (Permittees) authorizing take of Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), San Joaquin kit fox (*Vulpes macrotis mutica*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), and Bakersfield cactus (*Opuntia basilaris* var. *treleasei*) (collectively, the Covered Species) associated with and incidental to Urban Development (as defined in the ITP) in the Metropolitan Bakersfield 2010 General Plan Area in Kern County, California (Project). The Project as described in the ITP originally issued by CDFW includes the urban development of up to 14,200 acres of Natural Lands or 33,400 acres of Open Lands within the 261,120-acre Metropolitan Bakersfield Habitat Conservation Plan (MBHCP) area, as defined in Figure 2 of the MBHCP, dated April 1994. The Project as defined in the ITP is specifically conditioned by the MBHCP, associated Implementation/Management Agreement dated August 15, 1994, and a federal incidental take permit pursuant to section 10(a)(1)(B) of the Endangered Species Act issued by the United States Fish and Wildlife Service on August 24, 1994. The 14,200 acres of Natural Lands or 33,400 acres of Open Lands that can be developed includes all MBHCP authorized development since 1994; as a result, only a portion of the development acreage contemplated in the 1994 MBHCP remains; as of December 31, 2012, there were 3,116.67 acres converted from Natural Lands to Urban Development, and 18,405.5 acres converted from Open Land to Urban Development. The ITP specifically authorizes development as contemplated in the MBHCP from the time of issuance of the ITP to ITP expiration in 2019.

In issuing the ITP, CDFW found, among other things, that Permittees' compliance with the Conditions of Approval of the ITP would fully mitigate impacts to the Covered Species and would not jeopardize the continued existence of the Covered Species.

During implementation of the ITP, CDFW determined that San Joaquin kit fox (SJKF) den surveys need to occur on an annual basis for long term activities. Multiple Developers have reported that SJKF have moved into their project sites during construction activities and after biological clearance surveys have been completed. Adding annual SJKF den surveys as a take minimization measure for long term activities will inform the Designated Biologist(s) and CDFW if SJKF dens have been established after Covered Activities have started and appropriate minimization measures can be implemented in response. In addition, CDFW has determined that in some instances SJKF den avoidance buffers may be reduced without impacts to SJKF. SJKF den avoidance buffer reductions may occur with written approval by CDFW when CDFW has determined that buffer reductions will not impact SJKF.

This Major Amendment No. 1 (Amendment) makes the following changes to the existing ITP:

First, this Amendment adds the requirement of annual SJKF Den Surveys for activities that extend beyond one (1) year to complete and are not concluded by January 1st of the applicable calendar year.

Second, this Amendment adds the option to allow the reduction of SJKF avoidance buffers with written approval by CDFW.

AMENDMENT

The ITP is amended as follows (amended language in ***bold italics***; deleted language in ~~strikethrough~~):

1. On page 20, Condition of Approval number 7.4, is amended to add after the last sentence:

In addition to the Biological Clearance Survey as required in Condition of Approval 7.1, SJKF den surveys shall be annually conducted each January if Covered Activities are not completed at a Project site, to identify any SJKF that may have occupied the site after completion of the Biological Clearance Survey and to maximize detection of potential natal dens. The Developer shall provide CDFW and Permittees with a written report by February 5th that includes at a minimum the following information: (1) project location, including a map and major cross streets; (2) project name; (3) Developer name and contact information (phone, email, and mailing address); (4) name of the Designated Biologist that conducted the SJKF den survey; (5) a copy of the Biological Clearance Survey as required in Condition of Approval 7.1; and (6) written information submitted to

demonstrate compliance with Conditions of Approval 7.2, 7.5, 7.6 and 7.8 through 7.13, as applicable. Developer should keep as a record proof of their notification to CDFW. Each Developer shall bear the costs of implementing the SJKF Den Surveys.

2. On page 21, Condition of Approval number 7.5, is amended to add after the last sentence:

A reduced SJKF den avoidance buffer may be authorized with written approval by CDFW. Buffer reduction requests shall be submitted by the Designated Biologist and describe why a reduced buffer will not impact SJKF. CDFW may add additional minimization measures as a condition of any buffer reduction approval; these additional CDFW specified minimization measures shall be followed by the Developer that proposed the buffer reduction.

The corresponding measures in the MMRP shall be amended to read the same as above.

All terms and conditions of the ITP and Mitigation Monitoring and Reporting Program (MMRP) that are not expressly amended herein remain in effect and must be implemented and adhered to by the Permittees.

FINDINGS

Issuance of this Amendment will not increase the amount of take of the Covered Species compared to the Project as originally approved, nor will this Amendment will increase Project impacts on these species (i.e., "impacts of taking" as used in Fish and Game Code Section 2081, subd. (b)(2)).

Discussion: This Amendment adds an additional SJKF den survey for Projects that require more than one year to complete and gives an option to reduce the specified SJKF den avoidance buffers with written approval from CDFW. This Amendment will not increase Project impacts on SJKF because additional SJKF den surveys will reduce Project-related impacts to SJKF and buffer reductions will only be approved by CDFW under special situations when buffer reductions would not impact the species.

Issuance of this Amendment does not affect CDFW's previous determination that issuance of the ITP meets and is otherwise consistent with the permitting criteria set forth in Fish and Game Code section 2081, subdivisions (b) and (c).

Discussion: CDFW determined in August 2014 that the Project, as approved, met the standards for issuance of an ITP under CESA. This determination included findings that,

among other things, the impacts of the taking would be minimized and fully mitigated and that the Project would not jeopardize the continued existence of the Covered Species. Those findings are unchanged with respect to this Amendment because the Project and ITP as amended: (1) will have no effect on the amount or severity of Project impacts on the Covered Species, as discussed above, and (2) does not substantively alter the measures that will be undertaken to minimize and mitigate previously authorized impacts on the Covered Species. Permittee's continued adherence to and implementation of the avoidance and minimization measures set forth in the ITP's Conditions of Approval and MMRP will minimize and fully mitigate impacts of the taking on the Covered Species.

None of the factors that would trigger the need for subsequent or supplemental environmental analysis of the Project under Public Resources Code section 21166 or California Code of Regulations, title 14, sections 15162 and 15163, exist as a result of this Amendment.

Discussion: CDFW issued the ITP in August 2014 as a responsible agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) after, among other things, considering the Environmental Impact Report certified by the City of Bakersfield as the lead agency for the Project. As explained in the findings below, CDFW finds for purposes of CESA that this Amendment represents a major change in the Project as originally approved. However, for the reasons explained above, CDFW concludes this Amendment is not a change in the Project that has the potential to create a new significant effect not previously analyzed, a substantial change in the circumstances under which the Project is being undertaken requiring major revisions to previous CEQA documents, or new information of substantial importance. As a result CDFW finds that no additional subsequent or supplemental environmental review is required by CEQA as part of CDFW's approval of this Amendment.

CDFW finds that this Amendment is a Major Amendment, as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

Discussion: This Amendment modifies two minimization measures, and adds an additional SJKF den survey requirement and gives an option to reduce the specified SJKF den avoidance buffers with written approval from CDFW. As described above, these changes significantly modify the two mitigation measures within the ITP. Therefore, this Amendment will significantly modify the scope or nature of the permitted Project or activity, or the minimization, mitigation, or monitoring measures in the ITP. CDFW has determined that the change to the ITP constitutes a Major Amendment as defined in California Code of Regulations, title 14, section 783.6, subdivision (c)(5).

The authorization provided by this Amendment is not valid until Permittee signs and dates the acknowledgement below, and returns one of the duplicate originals of this Amendment by registered first class mail to CDFW at:

California Department of Fish and Wildlife
Habitat Conservation Planning Branch
Attention: CESA Permitting Program
1416 Ninth Street, Suite 1260
Sacramento, California 95814

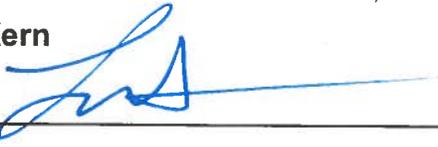
APPROVED BY THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

on 4/11/15 
Jeffrey R. Single, Ph.D.
Regional Manager
Central Region

ACKNOWLEDGMENT

The undersigned: (1) warrants that he or she is acting as a duly authorized representative of the Permittee, (2) acknowledges receipt of the original ITP and this Amendment, and (3) agrees on behalf of the Permittee to comply with all terms and conditions of the ITP as amended.

City of Bakersfield
By:  Date: 4/14/15
Printed Name: Alan Tandy Title: City Manager

County of Kern
By:  Date: 4/15/15
Printed Name: Lonela Horvath Title: Planning Director
Kern County