

**IMPLEMENTATION AGREEMENT
RIVERSIDE COUNTY
LONG TERM HABITAT CONSERVATION PLAN**

THIS AGREEMENT ('Agreement') is made and entered into as of the 23 day of April 1996, by and among the United States Department of Interior ('Interior'), the United States Fish and Wildlife Service ('Service'), The United States Bureau of Land Management ('Bureau'), The Resources Agency of the State of California ('Resources Agency'), The California Department of Fish and Game ('Department'), The Riverside County Habitat Conservation Agency ('Agency'), Riverside County, California ('County'), and the cities of Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Perris, Riverside and Temecula, all of which are located within Riverside County, California (collectively, 'Cities'). The signatories to this Agreement are hereinafter referred to collectively as the 'Parties'. For and in consideration of the mutual covenants and conditions contained herein, the Parties hereto do hereby agree as follows:

I. RECITALS

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

A. Agency.

The Agency is a Joint Powers Authority created pursuant to the provisions of Article 1, Chapter 5, Division 7, Title 1 of the Government Code of the State of California relating to the joint exercise of powers common to public agencies. The Agency was created by and among the County and the Cities to plan for, acquire, administer, operate and maintain land and facilities for ecosystem conservation and habitat reserves and to implement habitat conservation plans for plants and animals which are either candidates for or listed as Threatened or Endangered pursuant to the terms of the Federal Endangered Species Act, 16 U.S.C. 1531 et. seq. ('FESA') and/or the California Endangered Species Act, California Fish and Game Code Section 2050 et. seq. ('CESA').

B. Service.

The Service is the agency of the Department of the Interior of the United States of America authorized and empowered by Congress to enforce the terms of FESA, and to issue permits to allow the incidental take of endangered and threatened species pursuant to the terms of Section 10 of FESA.

C. Bureau.

The Bureau is an agency of the Department of the Interior of the United States authorized and empowered by Congress to manage over 17 million acres of land owned by the United States located within the State of California. Included among its duties as land manager is the responsibility to conserve and protect the biological and natural resource values located upon the public lands, including animal and plant species and the habitats which support them, which responsibility the Bureau has memorialized in that certain Agreement on Biological Diversity dated September 19, 1991.

D. Department.

The Department is a Department of the Resources Agency of the State of California. It has jurisdiction over the conservation, protection and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species. See, for example, California Fish and Game Code ('CFGF') Sections 1801, 1802, 2000 and 2052. The Department is charged not to approve projects as proposed that would jeopardize the continued existence of any 'endangered' or 'threatened' species or that would result in the destruction or adverse modification of habitat essential to the continued existence of those species if there are reasonable and prudent alternatives available consistent with conserving the species or its habitat that would prevent jeopardy. CFGF Section 2053. However, in the event specific economic, social or other conditions make infeasible such alternative, individual projects may be approved if appropriate 'mitigation' and enhancement measures are provided. CFGF Section 2054. Further, the Department may authorize the Take of species listed under the California Endangered Species Act (CESA) for scientific, educational or management purposes pursuant to CESA and CFGF Sections 2081 and 2085.

E. Listing.

The Stephens' Kangaroo Rat (*Dipodomys stephensi*), ('SKR'), was listed as a threatened species by the Department in 1971 pursuant to the provisions of CESA, and as an endangered species in a final rulemaking of the Service in 1988 pursuant to the provisions of FESA.

F. Short Term Habitat Conservation Plan.

In 1989, pursuant to the provisions of Section 10(a)(1)(B) of FESA, and Section 2081 of CFGC, the County and the Cities prepared a Short Term Habitat Conservation Plan ('STHCP') and submitted it to the Service and the Department with a request that they issue a Section 10(a) permit and a Section 2081 management authorization, respectively, to allow SKR to be incidentally taken within the County and the Cities, for an initial period of two (2) years. The STHCP proposed a cooperative Federal, State and local program of conservation for the SKR and its habitat while the Parties cooperated in developing a habitat conservation plan which would provide for the long term conservation, preservation, restoration and enhancement of the SKR and its habitat.

G. Short Term Permit and Management Authorization.

Effective October 1990, the Service issued its Permit ('PRT 739678') and the Department issued its Management Authorization, both of which allowed the incidental take of SKR pursuant to the terms of the STHCP.

H. Extension and Amendment of Short Term Permit and Management Authorization.

The Agency, the County and the Cities have requested that the Service amend and extend PRT 739678 and that the Department amend and extend the Management Authorization in order to allow the Agency, the County and the Cities sufficient time to complete and submit their long term habitat conservation plan for the SKR, and to allow the Agency and the Service sufficient time to complete an Environmental Impact Report as required by the California Environmental Quality Act ('CEQA') and an Environmental Impact Statement as required by the National Environmental Policy Act ('NEPA'). As part of the date hereof, the Agency, the County and the Cities continue to operate under and pursuant to PRT 739678 and the Management Authorization issued pursuant to the STHCP.

I. Implementation Agreement.

Effective as of October 1990, the Parties entered into an Implementation Agreement ('Short Term Implementation Agreement') in order to assure the Service that the terms of the STHCP would be fully implemented.

J. Long Term Habitat Conservation Plan.

Immediately upon receipt of PRT 739678 and the Management Authorization, the Agency, through a community based process, which included the cooperation of the Service, the Bureau and the Department, began work to prepare a long term habitat conservation plan which would be the basis for a permit ('Section 10(a) Permit') which would supersede PRT 739678 and a Section 2081 Management Authorization, both of which would continue in effect for thirty years. The Parties have each approved the long term habitat conservation plan, which has been 'The Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County, California ('HCP'). The HCP provides a cooperative federal, state and local program of conservation for the SKR and its habitat and is the product of lengthy study, debate and negotiations among property owners, builders, agricultural and recreation interests, environmental and conservation groups, as well as federal, state and local governmental entities.

K. Application for the Section 10(a) Permit and Management Authorization.

On March 13, 1995, the Agency, on behalf of the County and the Cities submitted their application for the Section 10(a) Permit and Management Authorization to allow the incidental take of SKR and to supersede and totally replace PRT 739678. The HCP was included as a part of the application in order to demonstrate to the Service and the Department:

1. The impacts which will likely result from such taking;
2. What steps the Agency, the County and the Cities will take to minimize and mitigate such impacts;

3. The funding that will be available to implement such steps;
4. What alternative actions to such taking the applicant considered, and the reasons why such alternatives are not being utilized.

L. Intention of the Habitat Conservation Plan – In General.

1. In consideration of the issuance of the Section 10(a) Permit and the Section 2081 Management Authorization, it is the intention of the HCP and this Agreement to obligate the Agency, the County and the Cities, as well as the state and federal governments, to fund and establish seven (7) areas within Riverside County (collectively, the 'Core Reserves'), as more particularly described in Section 5 of the HCP, which shall contain when completed, at least 15,000 acres of occupied SKR habitat, and which shall be acquired and permanently set aside, maintained, managed and funded either by federal, state or local governmental entities for the conservation, preservation, restoration and enhancement of the SKR and its habitat.
 - (a) As of the date hereof, the Core Reserves contain approximately 12,460 acres of occupied SKR habitat on 41,221 acres of private and public lands.
 - (b) As of March 1, 1996, approximately 91% of the Core Reserves is in public ownership. The Agency shall be responsible to ensure, through acquisition, in fee or by conservation easement in perpetuity, or other mechanisms acceptable to the Service and the Department, the conservation of the remaining privately owned property within the Core Reserves.
 - (c) The Agency shall use its best efforts to ensure, through acquisition, in fee or by conservation easement in perpetuity, or other mechanisms acceptable to the Service and the Department, and utilizing those lands owned by the Bureau, as more particularly described in Appendix A of the HCP, the conservation of an additional 2,540 acres of suitable SKR habitat. In furtherance of this obligation, the Agency and the Bureau have entered into that certain Agreement to Initiate Assembled Land Exchange dated December 14, 1995 ('Agreement to Initiate') wherein the Agency and the Bureau agree to exchange certain land owned by each of them. Lands acquired by the Bureau from the Agency shall be located within Core Reserves and shall be managed by the Bureau in compliance with the terms hereof and the HCP. Lands acquired by the Agency from the Bureau shall be offered for sale or exchange. The proceeds of such sales and exchanges shall be used exclusively for the furtherance of the provisions of the HCP and this Agreement.
2. In consideration of the implementation of the conservation measures set forth in the HCP and this Agreement, the Service shall issue its Section 10(a) Permit and the Department shall issue its Section 2081 Management Authorization, each of which shall allow the incidental take of SKR within the area covered by the HCP ('Plan Area'), based upon the terms set forth in the HCP and this Agreement.

M. Legal Requirements.

In order to fulfill the requirements which allow the Service to issue the Section 10(a) Permit, the HCP sets forth measures that are intended to assure that any take of SKR occurring will be incidental; that the impacts of the take will, to the maximum extent practicable, be minimized and mitigated; that adequate funding for the provisions of the HCP will be provided; and that the take will not appreciably reduce the likelihood of the survival and recovery of the SKR in the wild.

N. Incorporation of HCP.

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

O. Cooperative Effort.

In order to insure that each of the legal requirements as set forth in Subparagraph 'M' hereof are fulfilled, each of the Parties to this Agreement must perform certain specific tasks as more particularly set forth in the HCP and this Agreement. The HCP thus describes a cooperative federal, state and local program of conservation for the SKR.

P. Termination of Short-Term Implementation Agreement. Management Authorization and PRT 739678.

This Agreement is intended to and shall supersede the Short Term Implementation Agreement in its entirety. The Section 10(a) Permit and Section 2081 Management Authorization are intended to, and shall, supersede and replace PRT 739678 and the Management Authorization issued pursuant to the STHCP. Upon execution hereof by each of the Parties and issuance of the Section 10(a) Permit and Section 2081 Management Authorization as requested by the HCP, PRT 739678, the Short Term Management Authorization, the Short Term Implementation Agreement, any amendments thereto, and each of their terms, covenants and conditions shall become null and void and of no further force and effect.

Q. Purposes.

The purposes of this Agreement are:

1. To assure the implementation of each of the terms of the HCP; and,
2. To contractually bind each of the Parties to fulfill and faithfully perform the obligations, responsibilities and tasks assigned to it pursuant to the terms of the HCP; and,
3. To provide remedies and recourses should any party fail to perform its obligations, responsibilities and tasks as set forth in this Agreement; and,
4. To provide assurances to the Cities, the County and nonfederal landowners owning land within the HCP Plan Area that, with respect to SKR, as long as the terms of this Agreement, the HCP, the Section 10(a) Permit and the Section 2081 Management Authorization issued pursuant to it are fully and faithfully performed, no additional land restrictions or financial compensation will be required of any Party to this Agreement or of any other nonfederal land owner within the jurisdiction of a party in the event of unforeseen or extraordinary circumstances, without the written consent of the City, County or nonfederal landowner involved.

R. Terms Used.

Terms defined and utilized in the HCP, CESA and FESA shall have the same meaning when utilized in this Agreement, except as specifically noted.

II. TERM

A. Stated Term.

This Agreement shall become effective on the date that the Service issues the Section 10(a) Permit requested in the HCP and shall remain in full force and effect for a period of thirty (30) years.

B. Permanence of Conserved Habitat.

Notwithstanding the stated term of this Agreement, the Parties agree and recognize that once SKR have been incidentally taken and their habitat modified pursuant to the Section 10(a) Permit and the Section 2081 management Authorization, the take and habitat modification will be permanent. It is therefore the intention of the Parties that the provisions of the HCP and of this Agreement regarding the establishment and maintenance of habitat shall likewise, to the extent permitted by law, be permanent and extend beyond the term of this Agreement; notwithstanding the foregoing, the intention to establish and maintain the habitat permanently shall not be interpreted to expand or extend the specific obligations of the Agency, the County or the Cities undertaken pursuant to the terms of the HCP or this Agreement, nor shall it obligate the County or the Cities to provide funds to establish or maintain the Core Reserves other than with those funds identified herein or in the HCP, and in no event shall the general fund (or any other source of income or fund other than those identified herein) of any City or the County become liable for such establishment or maintenance.

III. OBLIGATIONS OF THE PARTIES

A. Minimizing and Monitoring the Impacts of Incidental Take.

In order to minimize and monitor the impacts of incidental take, the Agency, the County, the Cities and the Bureau agree that they shall undertake the following tasks, responsibilities and obligations:

1. The Agency, the County and the Cities.

- a. Protection of Core Reserves.** Except as hereinafter provided, the County and the Cities shall not authorize or permit any activity which results in the disturbance of occupied SKR habitat or the take of SKR within any Core Reserve. Notwithstanding the foregoing, the County and the Cities may authorize and permit activities which may result in the disturbance of occupied SKR habitat and/or the take of SKR within Core Reserves which result from the following, all as more particularly set forth in Sections 5.C.1.q. through 5.C.1.t. of the HCP:
- (1) **Emergencies.** Public responses to emergencies, such as fire, flood and earthquake or the repair of public facilities damaged as a result of any such emergency.
 - (2) **Fire Prevention.** Fire prevention activities, as more particularly described in that certain Cooperative Agreement dated February 16, 1995, among the Service, the Department, the County and the Cities, ('Cooperative Agreement regarding Fire Prevention') the terms of which, together with the terms of any amendment(s) thereto, are hereby incorporated by reference.
 - (3) **Construction of Public Facilities.** Construction of Public facilities, including but not limited to roadways and other public facilities and projects identified in general plans, capital improvement programs or transportation improvement programs, and cooperative projects undertaken among public agencies for public health, safety and welfare purposes, provided, however, that any such construction shall occur only after consultation with the Agency, the Service and the Department to determine appropriate and reasonable methods to avoid and minimize impacts to SKR and its habitat, as set forth in Sections 5.E.3.b. and 5.E.5. of the HCP; and provided further, that in the event that such construction disturbs occupied SKR habitat or results in take of SKR, the agency or agencies sponsoring such construction ('Sponsoring Entity') shall be required to acquire and permanently dedicate one acre of occupied SKR habitat for each acre of occupied SKR habitat disturbed ('Mitigation Land') to the Agency or its designee to be held, managed and maintained pursuant to the terms of the HCP. The location of such Mitigation Land shall be subject to approval by the Service, the Department and the Agency.
 - (4) **Operation/Maintenance of Infrastructure.** Operation and Maintenance of existing infrastructure improvements, including but not limited to public roads and rights of way, flood control facilities, landfills, public buildings, water storage, transmission and treatment facilities, gas, electric and other public utility facilities ('Infrastructure Facilities'), provided, however, that such operation and maintenance of Infrastructure Facilities shall minimize take of SKR and disturbance of occupied SKR habitat to the maximum extent practicable.
- b. SKR Biological Surveys.** The County and the Cities shall require SKR biological surveys prior to authorizing or permitting any land disturbance within the Plan Area for any land disturbance which meets the following criteria, as more particularly set forth in Section 5.C.1.o. of the HCP:
- (1) **Within Occupied SKR Habitat.** Prior to the completion of the Core Reserves, as hereinafter provided, any land disturbance within known SKR occupied habitat according to the most recent SKR distribution mapping available to the Cities and the County. After completion of the Core Reserves, biological surveys shall not be required.
 - (2) **Within Core Reserves.** Any land disturbance within any Core Reserve authorized pursuant to the provisions of Section A.1.a.(3) of this Article III.
 - (3) **Exceptions.** Notwithstanding the foregoing, SKR biological surveys shall not be required prior to authorization or permitting of land disturbance in the following instances:
 - (a) **Emergencies.** Actions taken by public agencies in response to public emergencies including, but not limited to floods, earthquakes and fires.
 - (b) **Secondary Structures.** Construction of secondary structures including, but not limited to, garages, granny units and swimming pools on developed lots.

- (c) **Agriculture.** Bona fide agricultural activities that do not involve the construction of permanent improvements which require building permits.
 - (d) **Fire Prevention.** Fire prevention activities as set forth in the Cooperative Agreement regarding Fire Prevention.
 - (e) **Operation/Maintenance.** Operation and maintenance of existing Infrastructure Facilities: provided, however, that the operation and maintenance of such Infrastructure Facilities shall minimize the take of SKR and occupied SKR habitat to the maximum extent practicable.
- c. **Reporting Process: Prior to Completion of Core Reserves.** The County and the Cities shall, prior to the issuance of any permit which allows or authorizes any land disturbance within the Plan Area, complete a report ('Land Disturbance Report') which shall set forth the location of the land disturbed, the number of acres within the parcel to be developed, the amount of the fee paid, if any, and the number of acres of occupied SKR habitat which are disturbed, if any, as described in a biological survey, if required. The County and the Cities shall forward its Land Disturbance Reports to the Agency no later than the 15th day of each month, and the Agency shall summarize the information thus received in an annual report to the Service and the Department, all as more specifically described hereinafter. The Agency shall complete a Land Disturbance Report for all projects which involve the incidental take of SKR and which are sponsored by entities which do not require permits from the County or the Cities, for example, school and water districts, based upon information provided by such Sponsoring Entities.
- d. **Reporting Process: After Completion of Core Reserves.** The Cities and County shall, prior to authorizing any land disturbance within any Core Reserve as allowed pursuant to Section A.1.a.(3) of this Article III, provide a written report to the Agency ('Core Reserve Land Disturbance Report'), which sets forth the nature of the project, the number of occupied SKR acres disturbed, if any, and the location of the mitigation agreed upon by the Sponsoring Entity, the Service, the Department and the Agency. The Agency shall summarize the information thus received in the annual report to the Service and the Department, as more specifically set forth hereinafter. In cases where entities which do not require permits from the County or the Cities propose any land disturbance within a Core Reserve which are allowed pursuant to Section A.1.a.(3) of this Article III, the Agency shall prepare the Core Reserve Land Disturbance Report with information provided by the Sponsoring Entity.
- e. **Annual Reports.** The Agency shall file an annual report with the Service and the Department which:
 - (1) Prior to the completion of the Core Reserves:
 - (a) Summarizes the location and amount of land within parcels which have been developed within the Plan Area as set forth on the Land Disturbance Reports which has occurred during the previous year and cumulatively since the commencement of this Agreement.
 - (b) Sets forth the amount of the contributions from the Parties toward the Total Funding Requirement which have been received by the Agency during the previous year and cumulatively since the commencement of this Agreement.
 - (c) Calculates the amount of occupied SKR habitat which has been disturbed during the previous year and cumulatively since the commencement of this Agreement within the Plan Area, as determined from the Land Disturbance Reports.
 - (d) Calculates the amount of occupied SKR habitat which has been disturbed within the Core Reserves pursuant to the provisions of Section A.1.a.(3) of this Article III during the previous year and cumulatively since the commencement of this Agreement and the amount and location of mitigation which has been provided, as set forth on the Core Reserve Land Disturbance Reports.
 - (e) Sets forth the amount and location of Suitable Habitat and SKR occupied habitat which has been acquired during the previous year and since the commencement of this Agreement.

- (f) Summarizes the activities of the Reserve Managers Coordinating Committee ('Committee') during the previous year, including management activities within each Core Reserve.
 - (g) Presents a financial report which sets forth the status of the Contributions from the Parties and the Endowments, including revenue, expenses and fund balances, and management plans and budgets (for Core Reserves which receive financial assistance from the RCHCA) for the ensuing year.
 - (h) Estimates the current number of acres of occupied SKR habitat contained within the Core Reserves.
 - (i) Evaluates problems encountered in implementation of the HCP and corrective measures undertaken or planned to address those problems.
- (2) After completion of the Core Reserves, the annual report shall include each of those items set forth in subparagraphs (1)(b), (1)(d), (1)(e), (1)(f), (1)(g), (1)(h) and (1)(i) of this Section.

2. Bureau of Land Management.

- a. Lands Available as Habitat or for Exchange.** Bureau shall continue to hold and manage those certain 12,974 acres identified in the Appendix A of the HCP ('Bureau Contributed Lands') either as habitat for the SKR or for exchange or sale pursuant to the Agreement to Initiate in order to facilitate the conservation of a total of 15,000 acres of occupied SKR habitat.
- b. Management of Bureau Lands within Core Reserves.** Except for valid existing rights which predate this Agreement and for which a final Section 7 Biological Opinion has then been issued by the Service, the Bureau shall not authorize, permit or sanction any activity on the Bureau Contributed Lands which results in the disturbance of occupied SKR habitat or the take of SKR within any Core Reserve, and shall manage said lands to conserve, protect, restore and enhance the SKR and its habitat.
- c. Management of Exchanged Lands.** All lands received by Bureau from the Agency pursuant to the Agreement to Initiate shall be managed by the Bureau to conserve, protect, restore and enhance the SKR and its habitat as provided in the HCP. In addition, it shall fully participate in and cooperate with any Core Reserve Management Committee established for any Core Reserve as well as the Reserve Managers Coordinating Committee.

3. The Resources Agency.

The Resources Agency shall cause the Department and the Department of Parks and Recreation to manage the lands owned by them within the San Jacinto Wildlife Area and the Lake Perris State Recreation Area, respectively, which together constitute the San Jacinto/Lake Perris Core Reserve, to be managed to conserve, protect, restore and enhance the SKR and its habitat as provided in the HCP. In addition, the Department and the Department of Parks and Recreation shall fully participate in and cooperate with the Reserve Managers Coordinating Committee.

4. The Service.

In order that the SKR occupied habitat maps are as complete as possible, the Service shall provide to the County and the Cities, on a monthly basis, copies of all biological surveys conducted by it or received by it in connection with SKR matters, as well as all final biological opinions rendered by it dealing with SKR matters within the Plan Area. In addition, because biological surveys on lands outside of Core Reserves located on occupied SKR habitat shall continue to be required until the completion of the Core Reserves, the Service shall, as the list of those who are permitted by the Service to do such surveys changes either by addition or deletion, provide the County and the Cities with an up to date list of those biologists authorized by the Service to conduct SKR biological surveys.

B. Mitigation of the Impacts of Incidental Take.

In order to mitigate the impacts of incidental take, the Parties agree that they shall undertake and fulfill the following responsibilities and obligations:

1. 1:1 Habitat Replacement.

- a. Until such time as the Core Reserves have been completed as provided in Section B.1.b. of this Article III:
- (1) The Agency shall ensure, through the acquisition of fee interests, conservation easements in perpetuity, or other methods acceptable to the Service and the Department, the conservation of one acre of suitable habitat within a Core Reserve for each acre of occupied SKR habitat disturbed pursuant to the terms of the HCP, as more particularly set forth in Sections 5.C.1.1 and 5.E.3 of the HCP.
 - (2) At no time shall the cumulative number of SKR occupied acres disturbed pursuant to the HCP exceed the number of suitable SKR acres conserved by the Agency.
 - (3) The number of acres of suitable SKR habitat conserved by the Agency shall be calculated by adding the number of acres of suitable SKR habitat conserved from and after the date of this Agreement to the number of acres of suitable SKR habitat conserved by the Agency under the provisions of the STHCP less the number of acres of occupied SKR habitat disturbed during the term of the STHCP. As of the date of this Agreement, the number of acres of suitable SKR habitat conserved in excess of acres of occupied SKR habitat disturbed during the term of the STHCP is 2,212.
 - (4) The number of acres of SKR occupied habitat which have been disturbed pursuant to the term of the HCP shall be determined from the Land Disturbance Forms forwarded to the Agency by the County and the cities, which will be available to the Service and the Department.
 - (5) In the event that the Agency determines that the number of acres of SKR occupied habitat that has been disturbed pursuant to the terms of the HCP exceeds the number of acres of suitable SKR habitat conserved by the Agency, it shall notify the Service and the Department and, in addition, it shall immediately notify the County and the Cities which shall immediately suspend issuing permits which permit or authorize activities which involve the disturbance of occupied SKR habitat and notify all permittees that authorization to incidentally take SKR pursuant to the Section 10(a) permit and the Section 2081 Management Authorization has been suspended. At such time as the Agency conserves sufficient acres of suitable SKR habitat so that they again exceed the number of acres of SKR occupied habitat disturbed pursuant to the HCP, the Agency shall notify the County and the Cities that they may again authorize and permit activities which involve the disturbance of occupied SKR habitat and that the incidental take of SKR is again permitted pursuant to the Section 10(a) Permit and the Section 2081 Management Authorization.
- b. After completion of the Core Reserves, the 1:1 replacement requirement shall terminate.
- 2. Establish Core Reserves.** The Agency shall establish the Core Reserves, which shall be permanently set aside and maintained for the conservation, preservation, restoration and enhancement of the SKR and its habitat. The Core Reserves shall have configurations as set forth on figures 23 through 29 of the HCP, shall contain at least 41,212 acres, and as of the date hereof contain 12,460 acres of occupied SKR habitat, as more particularly set forth in Section 5.C.1.a. through 5.C.1.h. of the HCP; notwithstanding the foregoing, the Agency may, with the written consent of the Service and the Department, and without amendment of this Agreement, the Permit or the 2081 Management Authorization, modify through sale, exchange or otherwise, the configuration, size and/or location of the Core Reserves, if in the opinion of the Service and the Department, the revised configurations better address the overall conservation needs of the SKR.
- 3. Complete Core Reserves.** The Agency shall ensure through acquisition in fee or by means of a conservation easement in perpetuity, or other methods approved by the Service and the Department, all lands within the Core Reserves not currently in public ownership, as more particularly set forth in Sections 5.C.1.i and 5.E.2 of the HCP.
- 4. Expand Core Reserves.** The Agency shall, in conjunction with the Bureau, and utilizing, by means of sales and exchanges, those Bureau lands described in Appendix A of the HCP and the Agreement to Initiate, together with such additional lands and funds as the Bureau may from time to time make available for that purpose, conserve such additional lands as may be

necessary to increase the occupied SKR habitat conserved pursuant to the HCP by 2,540 acres, as more particularly set forth in Sections 5.C.1.j and 5.E.2 of the HCP.

5. **Maintain and Manage Core Reserves.** The Agency, the Bureau and the Resources Agency shall provide, or cause to be provided, sufficient maintenance and management of the Core Reserves, under their respective authority, to assure the permanent conservation, preservation, restoration and enhancement of SKR and SKR habitat within the Core Reserves, as more particularly set forth in Sections 5.C.1.k and 5.E.1.b of the HCP.
6. **Bureau Lands: Sales and Exchanges.** The Agency and the Bureau shall cooperate and work diligently to facilitate the sale and exchange of the Bureau Contributed Lands, in order to acquire and conserve an additional 2,540 acres of occupied SKR habitat which will be permanently set aside and managed as part of the Core Reserves for the conservation, preservation, restoration and enhancement of the SKR and SKR habitat, as set forth in Section 5.E.2 of the HCP.

C. FUNDING OF THE HCP.

1. In General.

- a. **Contributions.** In addition to the management services to be provided by the state and federal governments as provided in Section III.B.5 hereof and Section 5.E.1.b of the HCP, the parties have determined that a total of fifteen million, three hundred thousand dollars (\$15,300,000) ('Total Funding Requirement') will be necessary to carry out and implement the various minimization, monitoring and mitigation measures set forth herein, as well as the administration thereof by the Agency, during the term of this Agreement. The Total Funding Requirement shall be established by contributions from each of the Parties as follows:

County and Cities	\$11,700,000
United States of America	<u>\$ 3,600,000</u>
Total Funding Requirement	\$15,300,000

- b. **Payments.** Contributions by the United States of America shall be made as follows: At least three million, three hundred thousand dollars (\$3,300,000) shall be made available to the Bureau within three years from the date hereof to be utilized to acquire suitable SKR habitat to complete or expand the Core Reserves, as provided in the HCP. The balance of the contribution from the United States of America shall be in the form of Core Reserve management services in addition to those provided in Section III.B.5. hereof. The County and City contributions shall be paid to the Agency in cash and shall be payable according to a schedule to be developed and agreed upon among the Agency, the County, the Cities, the Department of Interior and the Resources Agency. Notwithstanding any other provision hereof, contributions from each of the Parties shall be made prior to the time such money is required to provide the minimization, monitoring and mitigation measures as provided herein.
- c. **Land, Property and In Kind Services.** Land acquired by the Bureau pursuant hereto shall be managed to conserve, protect, restore and enhance SKR and its habitat, and in kind management services shall be consistent with policies and suggestions developed by the Reserve Managers Coordinating Committee.
- d. **Termination.** Upon termination of the Permit and the Section 2081 Management Authorization, all funds remaining, together with all interest and earnings thereon shall be distributed by the Agency to such entity or entities as the Service and the Department may direct to be continued to be held, invested and distributed to maintain and manage the conserved habitat within the Core Reserves as then constituted.

2. City and County Contributions.

- a. **Additional Funding Sources.** The Agency shall pursue additional funding sources to supplement its financial commitments set forth herein, as provided in Section 5.F.3.c of the HCP. In the event the Agency is successful in obtaining additional funding from federal, state or private sources ('Supplementary Grants'), unless the grantor thereof specifically provides to the contrary as a condition thereof, or unless such Supplementary Grant must be spent, according to its terms, on measures not related to the conservation, preservation, restoration or enhancement of SKR or SKR habitat, the Supplementary Grant may be used by the Agency to fulfill its financial obligations pursuant to the terms of the HCP and this Agreement.

- b. **Payment to Agency.** All City and County contributions shall be paid to the Agency immediately upon collection or receipt and shall be held, administered, invested and expended by the Agency only in fulfillment of the obligations of the Agency, the County and the Cities as provided herein.
- c. **Sources of Contributions.** Contributions from the Cities and the County may be generated from one or many sources which may include, but not be limited to mitigation fees, fees imposed on waste disposal, state and/or federal grants (other than the Contribution of the United States of America as provided in this Article) or such other sources as the County and the Cities may determine.

3. The Bureau.

- a. **Budget Requests.** The Bureau shall include in its annual budget requests adequate dedicated and earmarked funding to allow it to fully operate, manage, maintain and monitor lands traded to it by the Agency, as provided herein and the Agreement to Initiate, as well as lands managed by it and located within any Core Reserve pursuant to the terms of this Agreement and the HCP and to actively participate on the Reserve Managers Coordinating Committee.
- b. **Land and Water Conservation Fund.** The Bureau shall initiate a request that Congress appropriate at least three million, three hundred thousand dollars (\$3,300,000) payable to it within three years from the date hereof from funds available pursuant to the Land and Water Conservation Fund Act of 1965, as amended, to acquire suitable SKR habitat to complete and/or expand the Core Reserves as set forth in the HCP and Sections III.B.3 and III.B.4 hereof. Upon receipt of any such appropriation, the Bureau shall coordinate its acquisitions to complete and/or expand Core Reserves with the Agency, shall immediately commence its acquisition efforts and shall pursue such acquisitions in an efficient and expeditious manner in order that the Core Reserves may be completed and expanded as quickly as reasonably possible.

4. The Service.

- a. **Budget Requests.** The Service shall include in its budget request adequate funding to allow it to fully perform the obligations and tasks assigned to it pursuant to the terms hereof, including, but not limited to the review of the annual reports, annual management plans and budgets as well as to cooperate with and to provide technical assistance to the Committee.
- b. **Section 7 Expenditures.** The Service shall inform the Agency of, and shall coordinate and cooperate with the Agency with respect to, the expenditure of mitigation fees paid or other mitigation required as a result of, authorization of incidental take of SKR within the Plan Area pursuant to Section 7 of the ESA in order to avoid duplication of effort and to ensure the efficient utilization of both HCP and Section 7 funds as well as efforts to conserve habitat for the SKR. In the event Reasonable and Prudent Measures or Reasonable and Prudent Alternatives which are included in any Section 7 Biological Opinion include the payment of mitigation fees, such fees may be paid to the Agency which shall hold, administer, invest and expend such funds only in fulfillment of the terms of the HCP. Any such payment of mitigation fees shall not be credited against the contribution of any Party, but shall be in addition to the funding provided for herein.

5. The Resources Agency.

- a. **Budget Requests.** The Resources Agency shall cause the Department and the Department of Parks and Recreation, to include in their budget requests adequate funding to allow them to fully perform the obligations and tasks assigned to them pursuant to the terms hereof, including, but not limited to the management of the lands owned by the Department and the Department of Parks and Recreation located within the San Jacinto/Lake Perris Core Reserve, the review of the annual reports, annual management plans and budgets as well as to cooperate with and to provide technical assistance to the Committee.
- b. **Sections 1601, 1603, 2081 and 2090.** In the event the Department determines that, as a mitigation measure for SKR in connection with any permit or authorization issued pursuant to Sections 1601, 1603, 2081 or 2090, et. seq. of the Fish and Game Code, a monetary payment is appropriate, it may direct that such payments be made to the Agency which shall hold, administer, invest and expend such funds only in fulfillment of the terms of the HCP. Any such payment shall not be credited against the contribution of any Party, but shall be in

addition to the funding provided for herein. In addition, the Department shall inform the Agency of, and shall coordinate and cooperate with the Agency with respect to, the collection and expenditure of mitigation fees paid or other mitigation required as a result of permits or authorizations issued pursuant to Sections 1601, 1603, 2081 or 2090 et. seq. which deal with SKR within the Plan Area in order to avoid duplication of effort and to promote the most effective and efficient utilization of effort and money to conserve the SKR and its habitat. The provisions of this Section are not intended to state, infer or imply that the Department may refuse to allow any person, firm or entity to take advantage of the Section 2081 Management Authorization issued pursuant hereto with respect to SKR nor that it may impose additional minimization, monitoring or mitigation measure upon any such person, firm or entity. The provisions of this Section are intended to apply only in such cases where the 2081 Management Authorization issued pursuant hereto may not, pursuant to other provisions of law, be utilized by such person, firm or entity, or in such cases where a person, firm or entity chooses not to utilize the provisions of the 2081 Management Authorization issued pursuant hereto.

IV. AUTHORIZATIONS TO TAKE

A. Section 10(a) Permit Findings.

Upon finding, after opportunity for public comment, with respect to the Section 10(a) Permit application and the HCP that:

1. Incidental Take.

Any permitted taking of the SKR will be incidental to the carrying out of otherwise lawful activities; and,

2. Minimize and Mitigate.

The provisions contained within the HCP and this Agreement will, to the maximum extent practicable, minimize and mitigate the impacts of such incidental taking; and

3. Adequate Funding.

Payment of the Total Funding Requirement by the Parties as provided in Section III.C hereof will ensure that adequate funding for the HCP will be provided; and,

4. Survival and Recovery of the SKR.

Any permitted taking of the SKR will not appreciably reduce the likelihood of the survival and recovery of the SKR in the wild; and,

5. Other Measures.

Any other measure set forth in the HCP and required by the Service or the Department as being necessary or appropriate for the purposes of the HCP (including any measures determined by the Parties to be necessary to deal with unforeseen circumstances) will be fulfilled;

The Service shall issue a Section 10(a) Permit and the Department shall issue its Section 2081 Management Authorization to the Agency, the County and the Cities. Such Section 10(a) Permit and Section 2081 Management Authorization shall be issued concurrently with the execution of this Agreement by the Service, and it is specifically agreed that this Agreement shall not become effective nor binding upon any party hereto until and unless the Section 10(a) Permit and the Section 2081 Management Agreement have been issued.

B. Section 10(a) Permit Issuance and Monitoring.

After issuance of the Section 10(a) permit, the Service shall monitor the implementation thereof, including each of the terms of this Agreement and the HCP, in order to ensure compliance with the Section 10(a) Permit, the HCP and this Agreement. In addition, the Service shall, to the maximum extent possible ensure the availability of its staff to cooperate with and provide technical assistance to the Agency and the committee as well as informal meetings with the other parties to this Agreement.

C. Section 2081 Management Authorization.

Further to and as additional terms and conditions of the Section 2081 Management Authorization issued concurrently herewith, a copy of which is attached hereto as Exhibit 'A', this Agreement constitutes a Memorandum of Understanding pursuant to Section 2081 of the CFGC and an authorization whereby the Permittees are authorized and permitted to take SKR for the term, subject to and in accordance with the provisions of this Agreement.

V. REMEDIES AND ENFORCEMENT

A. Remedies in General.

Except as set forth hereinafter, each of the Parties hereto shall have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the Section 10(a) Permit and the Section 2081 Management Authorization and to seek remedies and compensation for any breach hereof, consistent with and subject to the following:

1. No Monetary Damages.

Except as otherwise specifically provided for herein, no party shall be liable in damages to any party or other person for any breach of this Agreement, any performance or failure to perform a mandatory or discretionary obligation imposed by this Agreement or any other cause of action arising from this Agreement. Notwithstanding the foregoing:

- a. Retain Liability.** All Parties shall retain whatever liability they would possess for their present and future acts or failure to act without the existence of this Agreement.
- b. Land Owner Liability.** All Parties shall retain whatever liability they possess as owners of interests in land.

2. Injunctive and Temporary Relief.

The Parties acknowledge that the SKR is unique and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

B. The Section 10(a) Permit and Section 2081 Management Authorization.

1. Authority of County and Cities.

Any person, firm or entity acting in compliance with the provisions of the HCP and this Agreement shall be deemed to be a subpermittee or assignee of the Agency, the County or the Cities, as the case may be. The Agency, the County and the Cities shall have the right to revoke, terminate or suspend the right of any person, firm or entity to enjoy or have the benefit, right or privileges under the Section 10(a) Permit and the Section 2081 Management Authorization by terminating or suspending subpermits, assignments or building, grading or surface mining permits or development approvals which allow the disturbance of land in the event any Mitigation Fee, if then required, has not been paid or in the event any other term or condition of this Agreement, the HCP, the Section 10(a) Permit or the Section 2081 Management Authorization has not been fulfilled. In the event the Agency or any City or the County shall terminate or suspend any subpermit or assignment, as the case may be, it shall promptly notify the Service and the Department, in writing, of such termination or suspension and shall set forth in writing the basis for such termination or suspension.

2. Severability.

The violation or breach of the Section 10(a) Permit and Section 2081 Management Authorization by any person, firm or entity or by any Party hereto with respect to any one or more particular parcels of land or portions thereof within the jurisdiction of any such Party shall not adversely affect or be attributed to nor shall it result in a loss or diminution of any right, privilege or benefit hereunder of any other Party; notwithstanding the foregoing, the violation or breach of any material provision of the Section 10(a) Permit or the Section 2081 Management Authorization by the Agency may, at the discretion of the Service and the Department, be attributable to the County and the Cities.

3. Permit Suspension, Revocation or Termination.

The Section 10(a) Permit shall not be suspended or revoked except in conformance with the provisions of 50 CFR 13.27 through 13.29. The Section 2081 Management Authorization shall not be suspended or revoked except in the event of a material breach or violation of the Management Authorization, the HCP, this Agreement or the governing law, and then only after adequate notice setting forth the nature of such breach or violation, a hearing on the matter and a reasonable opportunity to cure any such breach or violation.

C. Limitations and Extent of Enforceability.

1. No further Minimization or Mitigation in Long Term Permit Area.

- a.** It is acknowledged that the purpose of this Agreement is to set forth the obligations and rights of the Parties hereto with respect to the HCP and to provide for the conservation of the SKR and the minimization, mitigation and compensatory measures required in connection with incidental taking of the SKR in the course of otherwise lawful activities within the Plan Area. Accordingly, except as otherwise required by law, no further minimization, mitigation or compensation for the conservation of the SKR will be required by or from any Party hereto or the owner of any non-federally owned land within the Plan Area.
- b.** In the event of unforeseen circumstances, the Parties shall meet and confer regarding amendments to the HCP and measures to meet the unforeseen or extraordinary circumstances; however, no additional land restrictions or financial compensation shall be required from the Agency, the County, the Cities, or any non-federal land owner without the written consent of the Party or landowner against whom such land restrictions are being sought or from whom such additional financial compensation is being demanded.

2. Regulatory Powers.

Except as otherwise specifically provided herein, no provision of this Agreement shall be deemed to limit the power of the Cities and the County to regulate the use of lands within their respective jurisdictions subject to such other limitations as may apply to such power under the Constitution and laws of the United States and the State of California. Furthermore, nothing herein contained is intended to limit the authority or responsibility of the Service or the Department to invoke the penalties or otherwise fulfill its responsibilities under FESA or CESA.

3. Section 7.

Except as specifically provided herein, nothing in this Agreement is intended to apply to any activity that is governed by the provisions of Section 7 of the ESA ('Section 7'). Notwithstanding the foregoing, the Service shall endeavor to maintain consistency between minimization and mitigation measures that result from authorization of incidental take pursuant to Section 7 and the minimization and mitigation measures required herein; provided, however, that nothing herein contained is intended to prohibit or proscribe the Service from requiring minimization and mitigation in excess of that provided for herein should the circumstances so warrant.

VI. MISCELLANEOUS PROVISIONS

A. Amendments.

- 1.** Except as otherwise set forth herein, this Agreement may be amended only with the written consent of each of the Parties hereto. Material changes, other than Minor Adjustments, as hereinafter provided to the HCP, shall be processed as an amendment to the Section 10(a) Permit and Section 2081 Management Authorization in accordance with the provisions of FESA and CESA.
- 2.** Minor adjustments to the HCP and this Agreement and all Permits and Management Authorizations issued or entered into pursuant thereto may be approved by the Agency, an Assistant Regional Director of the Service and the Director of the Department and shall take effect upon their written approval without further amendment of the HCP, this Agreement or the Permit and Management Authorization. Upon the written request for the approval of a Minor Adjustment pursuant to this Section, the parties shall use their best efforts to expeditiously consider and, if appropriate, approve said request within thirty days of said request. Minor adjustments may include such matters as a modification to the configuration of a Core Reserve so long as the amount of occupied habitat contained within the Core Reserve is not diminished

and so long as the Service and the Department determine, in writing, that the revised configuration better addresses the overall conservation needs of the SKR.

B. No Partnership.

Except as otherwise expressly set forth herein, neither this Agreement nor the HCP shall make or be deemed to make any party to this Agreement the agent for or the partner of any other party.

C. Successors and Assigns: Annexations, Acquisitions and Incorporation.

- 1. Binds and Inures.** This Agreement, and each of its covenants and conditions shall be binding upon and shall inure to the benefit of the Parties hereto and their respective successors and assigns.
- 2. Acquisition of Federal Lands.** In the event the County, any city or any person, firm or entity acquires property from the Federal government which is located within the Plan Area, the land so acquired shall thereafter be subject to and the beneficiary of the terms of the Permit.
- 3. Incorporation and Additional Members.** In the event any city within the Plan Area incorporates subsequent to the date hereof, or in the event any existing city within the Plan Area joins the RCHCA, such city shall succeed to the rights and obligations herein granted and imposed pursuant to the Permit, the Section 2081 Management Authorization, the HCP and this Agreement with respect to the land within such city, provided that such city has adopted a Mitigation Fee ordinance, if then required by the Agency, has executed an Agreement in substantially the same form that has been adopted by the County and the Cities, and has executed a written agreement, approved by the Service and the Department, wherein it agrees to be bound by the terms and conditions of the Permit, the Section 2081 Management Authorization, the HCP and this Agreement.

D. Notice.

Any notice permitted or required by this Agreement shall be delivered personally to the persons set forth below or shall be deemed given five (5) days after deposit in the United States mail, certified and postage prepaid, return receipt requested and addressed as follows or at such other address which any Party may from time to time notify each of the other Parties, in writing:

Interior United States Department of the Interior
Office of the Deputy Secretary
1849 'C' Street NW, Room 5108
Washington, DC 20240

Resources Agency State of California
Undersecretary for Resources
The Resources Agency
1416 Ninth Street, Room 1311
Sacramento, CA 95814

Service State Director
United States Fish and Wildlife Service
2800 Cottage Way, Room E-1803
Sacramento, CA 95825

Bureau State Director
Bureau of Land Management
2800 Cottage Way
Sacramento, CA 95825

Department State Director
California Department of Fish and Game
1416 Ninth Street
Sacramento, CA 95814

Agency Executive Director
Riverside County Habitat Conservation Agency
4080 Lemon Street, 12th Floor
Riverside, CA 92501

County	Chief Executive Officer County of Riverside P.O. Box 1385 Riverside, CA 92502-1385
Cities	<p>City Manager City of Corona P.O. Box 940 Corona, CA 91718-0940</p> <p>City Manager City of Hemet 450 E. Latham Hemet, CA 92543</p> <p>City Manager City of Lake Elsinore 130 South Main Street Lake Elsinore, CA 92530</p> <p>City Manager City of Moreno Valley 14177 Frederick Street Moreno Valley, CA 92552-0805</p> <p>City Manager City of Murrieta 26442 Beckman Court Murrieta, CA 92562</p> <p>City Manager City of Perris 101 North 'D' Street Perris, CA 92570</p> <p>City Manager City of Riverside 3900 Main Street Riverside, CA 92522</p> <p>City Manager City of Temecula 43174 Business Park Drive Temecula, CA 92590-3606</p>

E. Entire Agreement.

This Agreement supersedes any and all other Agreements, either oral or in writing between the Parties hereto with respect to the subject matter hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise or agreement, oral or otherwise, has been made by any other party or anyone acting on behalf of any party which are not embodied herein.

F. Attorneys' Fees.

Except as otherwise specifically provided for herein, if any action at law or equity, including any action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, all Parties to the litigation shall bear their own attorney's fees and costs. Notwithstanding the foregoing, attorneys' fees and costs recoverable against the United States, however, shall be governed by applicable Federal law.

G. Elected Officials not to Benefit.

No member of or delegate to the State Legislature or the United States Congress or Federal Resident Commissioner, shall be entitled to any share or part of this Agreement, or to any benefit that may arise from it.

H. Availability of Funds.

Implementation of this Agreement and the HCP by any of the Parties shall be subject to the availability of appropriated funds; notwithstanding the foregoing, failure of the Agency to provide the funds or services required of it as set forth herein shall be deemed to be a material breach of this Agreement and the Management Authorization and a violation of the terms of the Section 10(a) Permit. Likewise, failure of the state or federal government to provide the services or funds they are required to provide hereunder shall not be the basis or revocation, suspension or termination of the Section 10(a) Permit or the Management Authorization. In the event the state or federal government, or either of them, fail or refuse to provide the services or funds as required herein, which such failure or refusal results in the revocation, suspension or termination of the Section 10(a) Permit or Management Authorization, whether by order of any court or otherwise, the Parties hereto shall immediately meet and confer regarding modifications or amendments which may be necessary to cure the situation which caused such revocation, suspension or termination, but in no event shall any additional financial contribution be required from or land use restriction be imposed upon the Agency, the County or the Cities, or any property owner without the written consent of the Parties. In addition, the state and federal governments shall utilize their legal authority and resources to the fullest extent possible to remedy the problem which resulted in such revocation, suspension or termination, and restore the HCP, Permit and Management Authorization to full and legal operation and status as soon as possible and will expedite all actions and decisions thus required.

I. Duplicate and Counterpart Originals.

This Agreement may be executed in any number of duplicate and counterpart originals. A complete original of this Agreement containing original signatures of each of the Parties shall be circulated to each of the Parties by the Agency, and a complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

J. Third Party Beneficiaries.

Without limiting the applicability of the rights granted to the public pursuant to the provisions of 16 USC 1540(g), this Agreement shall not create the public or any member thereof as a third party beneficiary hereof, nor shall it authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damages pursuant to the provisions of this Agreement. The duties, obligations and responsibilities of the Parties to this Agreement with respect to third Parties shall remain as otherwise provided by law.

K. Force Majeure.

In the event that a Party is wholly or partly prevented from performing its obligations under this Agreement because of unforeseeable causes beyond the reasonable control and without the fault or negligence of such party ("force majeure"), including, but not limited to, acts of God, labor disputes, sudden actions of the elements, or actions of federal, state or local agencies, such party shall be excused from whatever performance is affected by such force majeure to the extent so affected, provided that nothing in the Section shall be deemed to authorize any party to violate the terms of FESA or CESA and provided further that:

1. Within fourteen (14) days after the occurrence of the force majeure, the Party prevented from performing gives the other Parties written notice describing the particulars of the occurrence; and,
2. The suspension of performance is of no greater scope and no longer in duration than is required by the force majeure; and,
3. The Party prevented from performance uses its best efforts to remedy its inability to perform, except that this subsection shall not require the settlement of any legal action, strike, walk-out, lock-out or other labor dispute on terms that, in the sole judgment of the Party prevented from performing, are contrary to its interests; and,
4. When the Party prevented from performing is able to resume performance of its obligations hereunder, such Party shall give the other Parties notice to that effect.

L. Future Multiple Species Plans.

The Parties have agreed that subsequent hereto they shall endeavor to use the HCP and the conservation measures contained therein as the basis for a habitat and ecosystem based habitat

conservation plan (MSHCP) which will provide for the conservation of the various ecosystems located within western Riverside County, together with the species which utilize the habitat and ecosystems thus conserved. In the event a MSHCP is developed, it will be the basis for applications to the Service and the Department for Section 10(a) Permits and Management Authorizations to authorize the incidental take of all species thus protected (including those currently listed as endangered or threatened as well as those which may in the future be listed) in conformance with FESA and CESA. The Parties hereby agree that, among others, the following principles shall be utilized in the endeavor to fashion and implement the MSHCP:

1. The Core Reserves established pursuant to the HCP shall be credited toward any minimization or mitigation requirement of the MSHCP.
2. All other lands currently conserved and managed for conservation of species in western Riverside County which are located within the plan area boundaries of the MSHCP shall be credited toward any minimization or mitigation requirement and be accepted as a component of the MSHCP.
3. No less than an additional 30,000 acres of federal lands currently administered by the Bureau shall be made available for either conservation or sale and exchange.
4. Technical staff from the Bureau, the Service and the Department will be readily available to assist in the development of the MSHCP.
5. The Parties shall commence immediate discussions and negotiations necessary to prepare and draft the MSHCP for submission to the Service and the Department.
6. The parties will expedite any environmental review of the MSHCP and alternatives thereto as may be required pursuant to CEQA and NEPA.

THIS AGREEMENT HAS BEEN EXECUTED ON THE DAY SET BY EACH SIGNATURE ATTACHED HERETO AND SHALL BECOME EFFECTIVE ON THE DAY AND YEAR FIRST ABOVE WRITTEN.

DATE: _____

UNITED STATES DEPARTMENT OF
INTERIOR

BY:  _____

DATE: _____

UNITED STATES FISH & WILDLIFE
SERVICE

BY: _____

DATE: _____

U.S. BUREAU OF LAND MANAGEMENT

BY: _____

DATE: _____

CALIFORNIA RESOURCES AGENCY

BY: _____

DATE: _____

CALIFORNIA DEPARTMENT OF FISH AND
GAME

BY: _____

DATE: _____

RIVERSIDE COUNTY HABITAT
CONSERVATION AGENCY

BY: _____

DATE: _____

COUNTY OF RIVERSIDE

BY: _____

(SIGNATURE PAGE CONTINUED)

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DATE: _____

UNITED STATES DEPARTMENT OF INTERIOR

BY: _____

DATE: _____

UNITED STATES FISH & WILDLIFE SERVICE

BY: 

DATE: _____

U.S. BUREAU OF LAND MANAGEMENT

BY: _____

DATE: _____

CALIFORNIA RESOURCES AGENCY

BY: _____

DATE: _____

CALIFORNIA DEPARTMENT OF FISH AND GAME

BY: _____

DATE: _____

RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY

BY: _____

DATE: _____

COUNTY OF RIVERSIDE

BY: _____

(SIGNATURE PAGE CONTINUED)

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DATE: _____

UNITED STATES DEPARTMENT OF INTERIOR

BY: _____

DATE: _____

UNITED STATES FISH & WILDLIFE SERVICE

BY: _____

DATE: 5/1/96

U.S. BUREAU OF LAND MANAGEMENT

BY: Paul Hankins

DATE: _____

CALIFORNIA RESOURCES AGENCY

BY: _____

DATE: _____

CALIFORNIA DEPARTMENT OF FISH AND GAME

BY: _____

DATE: _____

RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY

BY: _____

DATE: _____

COUNTY OF RIVERSIDE

BY: _____

(SIGNATURE PAGE CONTINUED)

THIS AGREEMENT HAS BEEN EXECUTED ON THE DAY SET BY EACH SIGNATURE ATTACHED HERETO AND SHALL BECOME EFFECTIVE ON THE DAY AND YEAR FIRST ABOVE WRITTEN.

DATE _____

**UNITED STATES DEPARTMENT OF
INTERIOR**

BY: _____

DATE _____

**UNITED STATES FISH & WILDLIFE
SERVICE**

BY: _____

DATE _____

U.S. BUREAU OF LAND MANAGEMENT

BY: _____

DATE: May 6, 1996

CALIFORNIA RESOURCES AGENCY

BY: Michael A. Manton

DATE: May 6, 1996

**CALIFORNIA DEPARTMENT OF FISH AND
GAME**

BY: Regulation & Access

DATE: _____

**RIVERSIDE COUNTY HABITAT
CONSERVATION AGENCY**

BY: _____

DATE: _____

COUNTY OF RIVERSIDE

BY: _____

(SIGNATURE PAGE CONTINUED)

THIS AGREEMENT HAS BEEN EXECUTED ON THE DAY SET BY EACH SIGNATURE ATTACHED HERETO AND SHALL BECOME EFFECTIVE ON THE DAY AND YEAR FIRST ABOVE WRITTEN.

DATE: _____

UNITED STATES DEPARTMENT OF INTERIOR

BY: _____

DATE: _____

UNITED STATES FISH & WILDLIFE SERVICE

BY: _____

DATE: _____

U.S. BUREAU OF LAND MANAGEMENT

BY: _____

DATE: _____

CALIFORNIA RESOURCES AGENCY

BY: _____

DATE: _____

CALIFORNIA DEPARTMENT OF FISH AND GAME

BY: _____

DATE: 4/10/96

RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY

BY:  _____

DATE: _____

COUNTY OF RIVERSIDE

BY: _____

(SIGNATURE PAGE CONTINUED)

THIS AGREEMENT HAS BEEN EXECUTED ON THE DAY SET BY EACH SIGNATURE ATTACHED HERETO AND SHALL BECOME EFFECTIVE ON THE DAY AND YEAR FIRST ABOVE WRITTEN.

DATE: _____

UNITED STATES DEPARTMENT OF INTERIOR

BY: _____

DATE: _____

UNITED STATES FISH & WILDLIFE SERVICE

BY: _____

DATE: _____

U.S. BUREAU OF LAND MANAGEMENT

BY: _____

DATE: _____

CALIFORNIA RESOURCES AGENCY

BY: _____

DATE: _____

CALIFORNIA DEPARTMENT OF FISH AND GAME

BY: _____

DATE: _____

RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY

BY: _____

DATE: April 30, 1994

COUNTY OF RIVERSIDE

BY: Kay Ceniceros

KAY CENICEROS
CHAIRMAN OF THE BOARD OF SUPERVISORS

WITNESSED BY:
GERALD A. MALONEY, Clerk

[Signature]

Facsimile Signature
affixed by Clerk per
Sec. 25103 Gov. Code

(SIGNATURE PAGE CONTINUED)

DATE _____

CITY OF CORONA

BY: Andrea N. Puga

DATE _____

CITY OF HEMET

BY: _____

DATE _____

CITY OF LAKE ELSINORE

BY: _____

DATE _____

CITY OF MORENO VALLEY

BY: _____

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: _____

CITY OF TEMECULA

BY: _____

DATE: _____

CITY OF CORONA

BY: _____

DATE: May 5, 1996

CITY OF HEMET

BY: Lori VanPursdale

DATE: _____

CITY OF LAKE ELSINORE

BY: _____

DATE: _____

CITY OF MORENO VALLEY

BY: _____

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: _____

CITY OF TEMECULA

BY: _____

BY _____

DATE _____

CITY OF HEMET

BY: _____

DATE: 4/26/96

CITY OF LAKE ELSINORE

BY: *[Handwritten Signature]*

DATE: _____

CITY OF MORENO VALLEY

BY: _____

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: _____

CITY OF TEMECULA

BY: _____

DATE: _____

CITY OF CORONA

BY: _____

DATE: _____

CITY OF HEMET

BY: _____

DATE: _____

CITY OF LAKE ELSINORE

BY: _____

DATE: April 23, 1996

CITY OF MORENO VALLEY

ATTEST: *Clicia Chavez*
By: _____
City Clerk

BY: *Denise V. Lanning*
Denise V. Lanning, Mayor

Approved as to Form
Date 4/24/96
By RDA
City Attorney
Moreno Valley

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: _____

CITY OF TEMECULA

BY: _____

DATE: _____

CITY OF CORONA

BY: _____

DATE: _____

CITY OF HEMET

BY: _____

DATE: _____

CITY OF LAKE ELSINORE

BY: _____

DATE: _____

CITY OF MORENO VALLEY

BY: _____

DATE: 4/23/96

CITY OF MURRIETA

BY:  _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: _____

CITY OF TEMECULA

BY: _____

DATE: _____

CITY OF CORONA

BY: _____

DATE: _____

CITY OF HEMET

BY: _____

DATE: _____

CITY OF LAKE ELSINORE

BY: _____

DATE: _____

CITY OF MORENO VALLEY

BY: _____

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: 30 April 1996

CITY OF PERRIS

BY: 
Lawrence Long - Mayor

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: _____

CITY OF TEMECULA

BY: _____

DATE: _____

CITY OF CORONA

BY: _____

DATE: _____

CITY OF HEMET

BY: _____

DATE: _____

CITY OF LAKE ELSINORE

BY: _____

DATE: _____

CITY OF MORENO VALLEY

BY: _____

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: 5/10/96

CITY OF RIVERSIDE

BY: Raula Lowndes

DATE: _____

CITY OF TEMECULA

BY: _____

DATE _____

BY _____

CITY OF HEMET

BY: _____

DATE: _____

CITY OF LAKE ELSINORE

BY: _____

DATE: _____

CITY OF MORENO VALLEY

BY: _____

DATE: _____

CITY OF MURRIETA

BY: _____

DATE: _____

CITY OF PERRIS

BY: _____

DATE: _____

CITY OF RIVERSIDE

BY: _____

DATE: April 23, 1996

CITY OF TEMECULA

BY: 

Marcel F. Lindemans, Mayor

ATTEST:


June S. Creek, CMC, City Clerk

EXHIBIT A
CALIFORNIA ENDANGERED SPECIES ACT
MANAGEMENT AUTHORIZATION
FOR IMPLEMENTATION OF
STEPHENS' KANGAROO RAT HABITAT CONSERVATION PLAN
IN
WESTERN RIVERSIDE COUNTY
RIVERSIDE COUNTY HABITAT CONSERVATION AGENCY
(Tracking No. 2081-1996-17-5)

SUMMARY

The Riverside County Habitat Conservation Agency and its member agencies (the County of Riverside and the cities of Corona, Hemet, Lake Elsinore, Moreno Valley, Murrieta, Perris, Riverside and Temecula) (collectively referred to as 'the RCHCA') has requested a Management Authorization ('MA') pursuant to California Fish and Game Code Sections 2081 and 2835 for the Stephens' kangaroo rat (*Dipodomys stephensi*), a species listed as 'threatened' under the California Endangered Species Act, Fish and Game Code §2050, et. seq.

The RCHCA proposes to manage the Stephens' kangaroo rat in accordance with "The Habitat Conservation Plan for the Stephens' Kangaroo Rat in Western Riverside County" ('The SKRHCP'), which is made binding on the RCHCA by the Implementation Agreement by and among the Department of Fish and Game ('Department'), the United States Fish and Wildlife Service and RCHCA, dated May 6, 1996 ('the IA'). The SKRHCP addresses the potential impacts of development, natural habitat loss and species endangerment and creates a plan to mitigate impacts to the Stephens' kangaroo rat and its habitat due directly or indirectly to future development of both private and public lands within the SKRHCP area ('the Plan Area'). The 533,954 acre Plan Area provides for the establishment of a regional system of seven core area reserves for conservation of the Stephens' kangaroo rat and the ecosystem upon which it depends. The core reserves include 41,221 acres of habitat. Approximately 2,440 acres of additional occupied, core reserve lands will be permanently conserved through future land sale and exchange provisions. Portions of the Plan Area are potential habitat for, or are occupied by, the Stephens' kangaroo rat. The 'take' of individuals of the Stephens' kangaroo rat is prohibited unless authorized by the Department pursuant to Fish and Game Code Sections 2081 or 2835.

The Department has determined that the preservation, conveyance, acquisition, and long-term management of habitat for the Stephens' kangaroo rat under the SKRHCP will offset the impacts contemplated by the SKRHCP and will result in preserving core reserve areas sufficient to achieve sustainable populations of the Stephens' kangaroo rat. The Department has determined further that the impacts contemplated and offset in the SKRHCP will not result in jeopardy to the continued existence of the Stephens' kangaroo rat and that by securing the acquisition of habitat lands, the SKRHCP may protect the species from further degradation. The SKRHCP, as implemented by the IA and this MA, therefore meets the requirements of California Fish and Game Code Sections 2081 and 2835. Pursuant to Sections 2081 and 2835, the Department authorizes RCHCA to 'take' the Stephens' kangaroo rat, subject to the terms and conditions of this MA and the IA.

PROJECT LOCATION

The Plan Area is located in western Riverside County, generally defined as territory west of the San Jacinto Mountains. It extends from the San Bernardino County line to the border with San Diego County. The Cleveland National Forest flanks the western boundary, and the San Bernardino National Forest roughly defines most of the eastern boundary of the Plan Area. The total area of the SKRHCP consists of 533,954 acres, including the reserve areas which comprise 41,221 acres. The SKRHCP encompasses both privately owned and publicly owned land.

PROJECT DESCRIPTION

The RCHCA and member agencies desire to: (1) plan, approve and facilitate public and private development within the Plan Area; and (2) minimize and mitigate the impacts to Stephens' kangaroo rat and its habitat by providing for the substantial conservation of such species and their habitat in the core reserve areas. The future development activities contemplated by the SKRHCP and IA include: (1) land disturbances in the Plan Area within the jurisdiction of the RCHCA member agencies; (2) bona fide ongoing agricultural operations; (3) fire prevention and emergency response activities; (4) operation and maintenance of existing infrastructure facilities; (5) construction of public facilities and; (6) case-by-case approval of projects outside the Plan Area.

These activities are referred to in this MA as 'the Project'.

HABITAT DESCRIPTION

Three major vegetation categories account for more than 94% (252,161 acres) of the natural lands within the Plan Area. Sage scrub covers 38%, followed by grasslands (31%) and chaparral (25%). Alkali playa and the total of all other vegetation types account for 3% respectively.

PROJECT IMPACTS

Over a 30-year period of appropriate Project build-out, the SKRHCP will likely result in permanent loss of Stephens' kangaroo rat occupied habitat. The type of occupied habitat subject to most of the loss will involve transitional areas where grasslands border coastal sage scrub, where sage scrub and grasslands are intermixed, areas of sparse sage scrub, and where native habitat has been removed or disturbed by agriculture and other open spaces.

SPECIES OF CONCERN

Based on recorded observations and data compiled for the Plan Area, Stephens' kangaroo rat are known to occupy approximately 30,000 acres within the SKRHCP area.

The life history information and specific status for the Stephens' kangaroo rat is provided in the SKRHCP.

EFFECTS ON SPECIES OF CONCERN

The Stephens' kangaroo rat will be subject to direct and indirect adverse impacts and take resulting from the Project. The areas where primary impacts to the species may occur are identified in the SKRHCP.

HABITAT MANAGEMENT LANDS

Preservation of Lands

Under the SKRHCP, provisions are made for the establishment of seven core reserve areas comprising a total of 41,221 acres, of which 12,460 are occupied Stephens' kangaroo rat habitat. Provisions in the SKRHCP and IA provide for an additional 2,440 (approximately) acres of occupied habitat for inclusion in the core reserves. In association with the Project, the RCHCA must preserve, acquire, and convey the conserved habitat and offsite conservation lands as detailed in the IA. The preservation and management of the remaining 15,000 acres of occupied habitat for Stephens' kangaroo rat in the core reserve land, as detailed in the SKRHCP, will provide adequate habitat for the preservation and recovery of the Stephens' kangaroo rat.

SPECIFIC CONDITIONS REQUIRED

Conservation Program and Mitigation Measures

1. All conservation, mitigation, monitoring, and impact avoidance measures, as detailed in the SKRHCP and IA, shall be implemented by the RCHCA, as specified in the IA.
2. The term of this MA shall commence on the date that the IA is executed by the last of the parties thereto and shall terminate 30 years from that date. This period is subject to earlier termination pursuant to provisions of the IA.

DISCLAIMER

3. Upon timely satisfaction of the conditions of this MA and the IA, the RCHCA and member agencies will adequately mitigate impacts to the Stephens' kangaroo rat and will achieve compliance with the California Endangered Species Act, Fish and Game Code §2050, et seq. ('CESA') with regard to the Project. The RCHCA understands and recognizes that it has pendent responsibility for compliance with any and all other applicable laws and regulations.
4. Following execution of the SKRHCP and the Department's issuance of this MA, the RCHCA's decision whether or not to proceed with the Project shall be voluntary, and subject to all other pertinent law and regulations. As such, the RCHCA, its member agencies, the State of California and the Department shall each retain whatever liability each such entity would possess and for which they would otherwise be liable for past, present or future acts or failures to act without reference to this Management Authorization, and shall hold each other free and harmless from any violation of law, lien, suit or claim of injury or damage arising out of or connected with such actions or failures to act, including any joint and several obligation, judgment or other.

DEPARTMENT FINDINGS

Species of Concern

The Department has found and determined that the SKRHCP, as implemented by the IA and this MA, meet the requirements for purposes of California Fish and Game Code Sections 2081. In this regard, the Department has found and determined that if the terms and conditions of this MA are adhered to, the taking of Stephens' kangaroo rat, including the modification of its habitat, as contemplated by the SKRHCP, the IA, and this MA, will not result in jeopardy to its continued existence and may, through the preservation, acquisition, and conveyance of the core reserve lands, protect the species from further degradation. The SKRHCP and the IA, to the extent practicable, minimize and mitigate the impacts of the taking of the Stephens' kangaroo rat including, without limitation, the modification of its habitat.

Other Species

In the event that a species not enumerated in this MA is listed as endangered or threatened pursuant to Fish and Game Code Section 2070, or is a candidate for such listing pursuant to Fish and Game Code Section 2074.2, the Department shall consider, and if appropriate, expeditiously act to negotiate and execute, a Memorandum of Understanding with the RCHCA providing for the management of the species in order that the Project may proceed in accordance with CESA.

In determining whether any further mitigation measures are required to amend this MA to include an additional species, the Department shall: (1) take into consideration that the RCHCA has minimized and mitigated the impacts to the Stephens' kangaroo rat within the Plan Area to the maximum extent practicable; and, (2) cooperate with the RCHCA in good faith to minimize, consistent with CESA, any impediment to the Project's implementation resulting from the listing of a species not enumerated in this MA.

CALIFORNIA DEPARTMENT OF FISH AND GAME

BY: *Josephine B. Delgado*

TITLE: *Director*

DATE: *May 6, 1996*
