

**DEVELOPER'S STATEMENT FOR
BALAKIAN & AT&T MOBILITY
CONDITIONAL USE PERMIT DRC2018-00176**

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Note: The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

The following mitigation measures address impacts that may occur as a result of the development of the project.

Aesthetics (Visual Resources)

AES-1 **At the time of application for construction permits**, the construction drawings shall show the following specifications:

- a. The water tank shall be designed to appear as a natural aged-wood tank with realistic appearing color and texture treatments for both the tank and the support structure. No signs, banners, or graphic displays shall be painted or otherwise depicted on the tank.
- b. All of the antennas (with the exception of the GPS antennas located on the equipment shelter) shall be located completely within the faux tank.
- c. The coaxial cables and cable tray shall be located below the fence line and shall not be visible to the public.

AES-2 **At the time of application for construction permits**, the applicant shall submit accurate scaled engineering and architectural drawings of the water tank exactly as proposed. Water tank plans shall not include generic illustrations of a typical faux tank. The drawings shall include elevations and plan views. Once approved, the water tank plans shall be specifically used (in conjunction with approved color and material samples and other related documents) as a basis for assessing condition compliance during construction. The plans, specifications and estimates, and construction schedule shall provide for revisions and corrections to the water tank engineering and architectural plans prior to preparation of the final plans.

AES-3 **Prior to issuance of construction permits**, the applicant shall submit material and color test samples of all visible elements of the water tank to the County Department of Planning and Building for review and approval.

Monitoring: (Visual Recourse Measures VR-1 to VR-3) Required at the time of application for construction permits. Compliance will be verified by the County Department of Planning and Building.

San Joaquin Kit Fox

The Kit Fox Evaluation, which was completed for the Balakian and AT&T Mobility project, DRC2018-00176, on June 3, 2019 by Ace Environmental, Inc., indicates your project will impact 0.06 acres of San Joaquin kit fox habitat. The evaluation form was reviewed by Brandon Sanderson of the California Department of Fish and Game on August 3, 2019. The evaluation, complete with Mr. Sanderson's changes, resulted in a score of 76, which requires that all impacts to kit fox habitat be mitigated at a ratio of 3 acres conserved for each acre impacted (3:1). The acres impacted by the proposed project was increased to 0.07 to include the enclosed area and the access road. Total compensatory mitigation required for the project is 0.21 acres, based on 3 times 0.07 acres impacted. The mitigation options identified in BR-1 through BR-10 apply to the proposed project only; should your project change, your mitigation obligation may also change, and a reevaluation of your mitigation measures would be required.

BIO-1 **Prior to issuance of grading and/or construction permits**, the applicant shall submit evidence to the County of San Luis Obispo, Department of Planning and Building, Environmental and Resource Management Division (County) (see contact information below) that states that one or a combination of the following three San Joaquin kit fox mitigation measures has been implemented:

- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 0.21 acres of suitable habitat in the kit fox corridor area (e.g. within the San Luis Obispo County kit fox habitat area, northwest of Highway 58), either on-site or off-site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the California Department of Fish and Game (Department) and the County.

This mitigation alternative (a.) requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) above, can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between the Department and TNC to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The fee, payable to "The Nature Conservancy", would total \$525. This fee is calculated based on the current cost-per-unit of \$2500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; your actual cost may increase depending on the timing of payment. This fee must be paid after the Department provides written notification about your mitigation

options but prior to County permit issuance and initiation of any ground disturbing activities.

- c. Purchase 0.21 credits in a Department-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (c) above, can be completed by purchasing credits from the Palo Prieto Conservation Bank (see contact information below). The Palo Prieto Conservation Bank was established to preserve San Joaquin kit fox habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the California Environmental Quality Act (CEQA). The cost for purchasing credits is payable to the owners of The Palo Prieto Conservation Bank, and would total \$525. This fee is calculated based on the current cost-per-credit of \$2500 per acre of mitigation. The fee is established by the conservation bank owner and may change at any time. Your actual cost may increase depending on the timing of payment. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

Monitoring: Required prior to issuance of a grading and/or construction permit. Compliance will be verified by the County Division of Environmental and Resource Management.

BIO-2

Prior to issuance of grading and/or construction permits, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Department of Planning and Building. The retained biologist shall perform the following monitoring activities:

- a. **Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction**, the biologist shall conduct a pre-activity (i.e. pre-construction) survey for known or potential kit fox dens and submit a letter to the County reporting the date the survey was conducted, the survey protocol, survey results, and what measures were necessary (and completed), as applicable, to address any kit fox activity within the project limits.
- b. The qualified biologist shall conduct weekly site visits during site-disturbance activities (i.e. grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, for the purpose of monitoring compliance with required Mitigation Measures BIO-3 through BIO-10. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by the biologist unless observations of kit fox or their dens are made on-site or the qualified biologist recommends monitoring for some other reason. When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.
- c. **Prior to or during project activities**, if any observations are made of San Joaquin Kit fox, or any known or potential San Joaquin kit fox dens are discovered within the project limits, the qualified biologist shall re-assess the probability of incidental take (e.g. harm or death) to kit fox. At

the time a den is discovered, the qualified biologist shall contact the U.S. Fish and Wildlife Service and the Department for guidance on possible additional kit fox protection measures to implement and whether or not a Federal and/or State incidental take permit is needed. If a potential den is encountered during construction, work shall stop until such time the U.S. Fish and Wildlife Service/Department determine it is appropriate to resume work.

If incidental take of kit fox during project activities is possible, **before project activities commence**, the applicant must consult with the U.S. Fish and Wildlife Service and the Department (see contact information below). The results of this consultation may require the applicant to obtain a Federal and/or State permit for incidental take during project activities. The applicant should be aware that the presence of kit foxes or known or potential kit fox dens at the project site could result in further delays of project activities.

In addition, the qualified biologist shall implement the following measures:

- d. **Within 30 days prior to initiation of site disturbance and/or construction**, fenced exclusion zones shall be established around all known and potential kit fox dens. Exclusion zone fencing shall consist of either large flagged stakes connected by rope or cord, or survey laths or wooden stakes prominently flagged with survey ribbon. Each exclusion zone shall be roughly circular in configuration with a radius of the following distance measured outward from the den or burrow entrances:
 1. Potential kit fox den: 50 feet
 2. Known or active kit fox den: 100 feet
 3. Kit fox pupping den: 150 feet
- e. All foot and vehicle traffic, as well as all construction activities, including storage of supplies and equipment, shall remain outside of exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, and then shall be removed.
- f. If kit foxes or known or potential kit fox dens are found on site, daily monitoring during ground disturbing activities shall be required by a qualified biologist.

Monitoring: Required prior to issuance of a grading and/or construction permit. Compliance will be verified by the County Division of Environmental and Resource Management .

BIO-3

Prior to issuance of grading and/or construction permits, the applicant shall clearly delineate as a note on the project plans, that: "*Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox*". Speed limit signs shall be installed on the project site **within 30 days prior to initiation of site disturbance and/or construction**.

In addition, **prior to permit issuance and initiation of any ground disturbing activities**, conditions BIO-3 through BIO-10 of the Developer's Statement/Conditions of Approval shall be clearly delineated on project plans.

- BIO-4** During the site disturbance and/or construction phase, grading and construction activities after dusk shall be prohibited unless coordinated through the County, during which additional kit fox mitigation measures may be required.
- BIO-5** Prior to issuance of grading and/or construction permits and within 30 days prior to initiation of site disturbance and/or construction, all personnel associated with the project shall attend a worker education training program, conducted by a qualified biologist, to avoid or reduce impacts on sensitive biological resources (i.e. San Joaquin kit fox). At a minimum, as the program relates to the kit fox, the training shall include the kit fox's life history, all mitigation measures specified by the county, as well as any related biological report(s) prepared for the project. The applicant shall notify the County shortly prior to this meeting. A kit fox fact sheet shall also be developed prior to the training program, and distributed at the training program to all contractors, employers and other personnel involved with the construction of the project.
- BIO-6** During the site-disturbance and/or construction phase, to prevent entrapment of the San Joaquin kit fox, all excavation, steep-walled holes or trenches in excess of two feet in depth shall be covered at the close of each working day by plywood or similar materials, or provided with one or more escape ramps constructed of earth fill or wooden planks. Trenches shall also be inspected for entrapped kit fox each morning prior to onset of field activities and immediately prior to covering with plywood at the end of each working day. Before such holes or trenches are filled, they shall be thoroughly inspected for entrapped kit fox. Any kit fox so discovered shall be allowed to escape before field activities resume or removed from the trench or hole by a qualified biologist and allowed to escape unimpeded.
- BIO-7** During the site-disturbance and/or construction phase, any pipes, culverts, or similar structures with a diameter of four inches or greater, stored overnight at the project site shall be thoroughly inspected for trapped San Joaquin kit foxes before the subject pipe is subsequently buried, capped, or otherwise used or moved in any way. If during the construction phase a kit fox is discovered inside a pipe, that section of pipe will not be moved, or if necessary, be moved only once to remove it from the path of activity, until the kit fox has escaped.
- BIO-8** During the site-disturbance and/or construction phase, all food-related trash items such as wrappers, cans, bottles, and food scraps generated shall be disposed of in closed containers only and regularly removed from the site. Food items may attract San Joaquin kit foxes onto the project site, consequently exposing such animals to increased risk of injury or mortality. No deliberate feeding of wildlife shall be allowed.
- BIO-9** Prior to, during and after the site-disturbance and/or construction phase, use of pesticides or herbicides shall be in compliance with all local, state and federal regulations. This is necessary to minimize the probability of primary or secondary poisoning of endangered species utilizing adjacent habitats, and the depletion of prey upon which San Joaquin kit foxes depend.
- BIO-10** During the site-disturbance and/or construction phase, any contractor or employee that inadvertently kills or injures a San Joaquin kit fox or who finds any such animal either dead, injured, or entrapped shall be required to report the

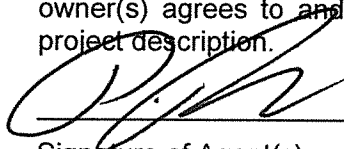
incident immediately to the applicant and County. In the event that any observations are made of injured or dead kit fox, the applicant shall immediately notify the U.S. Fish and Wildlife Service and the County by telephone. In addition, formal notification shall be provided in writing within three working days of the finding of any such animal(s). Notification shall include the date, time, location and circumstances of the incident. Any threatened or endangered species found dead or injured shall be turned over immediately to the Department for care, analysis, or disposition.

Monitoring (San Joaquin Kit Fox Measures BR-3 – BR-10): Compliance will be verified by the County Division of Environmental and Resource Management in consultation with the California Department of Fish and Game. As applicable, each of these measures shall be included on construction plans.

BIO-11 **During the site-disturbance and/or construction phase,** if construction activities should occur during the bird nesting season which is generally considered February 15 – September 1st, a preconstruction clearance survey of the site and the surrounding habitats within 500 feet of the site should be surveyed no more than 10 days prior to the start of construction. If an active nest is found within the project's zone of influence, avoidance measures will be recommended.

Monitoring (Biological Measure BR-11): Required at the time of application for construction permits/prior to ground disturbance. Compliance will be verified by the County Department of Planning and Building, in consultation with the Environmental Coordinator.

The applicant understands that any changes made to the project description subsequent to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.



Signature of Agent(s)

11/21/19

Date

DAVID BARGANI

Name (Print)