

STATE ROUTE 241 FOOTHILL SOUTH AND TESORO EXTENSIONS SETTLEMENT AGREEMENT

This State Route 241 Foothill South and Tesoro Extensions Settlement Agreement (“**Agreement**”), dated for reference purposes only as of November 10, 2016, is made by and among, the following Parties: (i) Foothill/Eastern Transportation Corridor Agency (“**TCA**”), a Joint Powers Authority comprised of the County of Orange and the cities of Anaheim, Dana Point, Irvine, Lake Forest, Mission Viejo, Orange, Rancho Santa Margarita, San Clemente, San Juan Capistrano, Santa Ana, Tustin and Yorba Linda; (ii) National Audubon Society, a New York nonprofit corporation dba Audubon California, California Coastal Protection Network, a California nonprofit public benefit corporation, California State Parks Foundation, a California nonprofit public benefit corporation, Defenders of Wildlife, a District of Columbia nonprofit corporation, Endangered Habitats League, a California nonprofit public benefit corporation, Laguna Greenbelt, Inc., a California nonprofit public benefit corporation, Natural Resources Defense Council, Inc., a New York nonprofit corporation, Orange County Coastkeeper, a California nonprofit public benefit corporation, Sea and Sage Audubon Society, a California nonprofit public benefit corporation, Sierra Club, a California nonprofit public benefit corporation, Surfrider Foundation, a California nonprofit public benefit corporation, and WiLDCOAST-COSTASALVAjE, a California nonprofit benefit corporation (each an “**SSOC Member**” and collectively the “**Save San Onofre Coalition**” or “**SSOC**”); and (iii) the People of the State of California ex rel. Kamala D. Harris, Attorney General (“**People**”), the Native American Heritage Commission (“**NAHC**”), and the California State Park and Recreation Commission (“**CSPRC**”) (each a “**Party**” and collectively, the “**Parties**”). As used in this Agreement, the terms “Parties” and “SSOC Members” include the officers, governing boards, agents, and employees of each Party or SSOC Member. “Party” does not include the members of any membership organization that is a Party who are not also officers, members of the governing board, agents or employees of the Party.

The parties to each of the following actions, which this Agreement seeks to resolve, shall file stipulations in substantially the same form as Exhibit A (“**Stipulation for Consolidation and Joinder**”) to consolidate for purposes of judgment those matters and permit the permissive joinder of Defenders of Wildlife and WiLDCOAST-COSTASALVAjE, which are SSOC Members: *California State Parks Foundation et al. v. Foothill Eastern/Transportation Corridor Agency et al.*, San Diego County Superior Court Case No. GIN051194 and *People of the State of California et al. v. Foothill/Eastern Transportation Corridor Agency et al.*, San Diego County Superior Court, Case No. GIN051371 (consolidated with Case No. GI51194) (hereafter the “**2006 CEQA Lawsuits**”); *California State Parks Foundation et al. v. Foothill Eastern/Transportation Corridor Agency et al.*, San Diego County Superior Court Case No. 37-2013-00049797-CU-WM-CTL and *People of the State of California, ex rel. Attorney General Kamala D. Harris v. Foothill/Eastern Transportation Corridor Agency et al.*, Case No. 37-2013-00050001-CU-WM-NC (consolidated with Case No. 37-2013-00049797-CU-WM-CTL) (hereafter the “**2013 CEQA Lawsuits**”); and *Native American Heritage Commission v. Foothill/Eastern Transportation Corridor Agency*, San Diego Superior Court, Case No. GIN051370 (“**NAHC Lawsuit**”). Thereafter, the Parties shall file a stipulation for entry of judgment and (“**Stipulation for Judgment**”) in the lowest numbered case stipulating to the entry

of final judgment and attaching a proposed final judgment incorporating the terms set forth in this Agreement (“**Final Judgment**”). The Stipulation for Judgment shall be substantially in the form of Exhibit B. Upon entry of the proposed Final Judgment, this Agreement shall be enforceable as an order of the court. This Agreement shall, however, be binding and enforceable as a contractual settlement agreement on and after the Effective Date, regardless of whether the court enters the Final Judgment.

RECITALS

A. This Agreement arises from TCA’s prior proposal to extend State Route 241 (“**SR 241**”) beyond its current terminus at Oso Parkway (“**SR 241 Extension Project**”). Actions taken by TCA related to this proposal have been subject to a number of pending lawsuits by SSOC Members, and by the People, NAHC, and CSPRC (collectively, “**State Parties**”). SSOC and TCA have also threatened litigation over actions taken by other public entities related to the extension of SR 241. By this Agreement, the Parties seek to finally resolve the pending lawsuits and potential lawsuits, avoid certain future claims, provide certainty as to the protection of certain natural and cultural resources, and establish a framework by which an alignment for the SR 241 Extension Project, as defined herein, can be identified, evaluated, and potentially advanced in a manner that is consistent with applicable laws and meets the transportation needs of TCA.

B. On February 23, 2006, TCA certified a Final Subsequent Environmental Impact Report (“**2006 SEIR**”) for the SR 241 Foothill South Extension and approved an alignment (the A7C-FEC-M-Initial Alternative, also known as the Green Alignment) in the DEIS/SEIR for the South Orange County Transportation Infrastructure Improvement Project (“**2006 Approvals**”).

C. Thereafter, the 2006 SEIR and 2006 Approvals were challenged under the California Environmental Quality Act, Public Resources Code §§ 21000 *et seq.* (“**CEQA**”) by certain SSOC Members, and by the People and the CSPRC, in the 2006 CEQA Lawsuits. The NAHC also filed the NAHC Lawsuit, seeking to enjoin construction, development, and permitting of the alignment approved by the 2006 Approvals under Public Resources Code §§ 5097.94 and 5097.97.

D. In 2008, the California Coastal Commission determined that the alignment approved by TCA in 2006 was inconsistent with the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 *et seq.*) (“**CZMA**”) due to its significant impacts on coastal resources and the availability of feasible alternatives to the alignment, and therefore objected to TCA’s CZMA consistency determination. On appeal, the U.S. Secretary of Commerce upheld the Coastal Commission’s objection.

E. On April 18, 2013, TCA approved an Addendum to the 2006 SEIR (“**2013 Addendum**”) and approved an extension of SR 241 to Cow Camp Road (“**2013 Approvals**”), also known as the Tesoro Extension. The 2013 Approvals and 2013 Addendum were challenged under CEQA in the 2013 CEQA Lawsuits, filed by certain SSOC Members and by the People.

F. Through a series of decisions made between June 2013 and March 2015, the San Diego Regional Water Quality Control Board (“**RWQCB**”) denied TCA’s application for waste discharge requirements under the Porter-Cologne Water Quality Control Act (Water Code §§ 13000 *et seq.*) for the Tesoro Extension (“**WDR Denial**”). On February 16, 2016, TCA and RWQCB entered into a tolling agreement by which the parties agreed to extend the time for TCA to file a legal challenge to the WDR Denial (as amended, “**RWQCB Tolling Agreement**”).

G. In 2016, construction commenced on Los Patrones Parkway (formerly known as F Street), a county arterial road between Oso Parkway and Cow Camp Road occupying the same general footprint as the proposed Tesoro Extension. Construction of Los Patrones is expected to be complete in 2018.

H. Between February and June, 2016 the County of Orange took certain actions resulting in the approval of the Oso Parkway Bridge project (“**Bridge Project**”) proposed by TCA, which would allow for a direct connection between SR 241 and Los Patrones Parkway under Oso Parkway. On May 2, 2016, SSOC, County of Orange, and TCA entered into an agreement by which the parties agreed to extend the time for SSOC to challenge the Bridge Project (as amended, “**Bridge Tolling Agreement**”).

I. TCA is considering a mobility improvement project to address concerns regarding congestion on the Interstate 5 freeway in South Orange County. Mobility improvements would be conducted in a manner that would extend SR 241 utilizing an alignment that minimizes environmental and cultural resource impacts, is economically feasible and practicable, and is consistent with applicable state and federal environmental and cultural resources laws. To achieve these objectives, TCA will only build or fund an alignment that is located outside of the Avoidance Area, as defined in this Agreement. In addition, TCA desires to collect tolls on Los Patrones Parkway upon its completion, and to proceed with the Bridge Project to create a direct connection between SR 241 and Los Patrones Parkway at the earliest possible date.

J. A primary concern of SSOC, the CSPRC, and the People, and a reason for their filing of the 2006 and 2013 CEQA Lawsuits, is the protection of San Onofre State Beach (“**SOSB**”) from the impacts of a new major thoroughfare. The NAHC, as well as SSOC, is concerned with the protection of the historic Acjachemen/Juaneno village of Panhe from the impacts of a new major thoroughfare, and the NAHC filed the NAHC Lawsuit to protect Panhe. SSOC is also concerned with the protection of the Richard and Donna O’Neill Conservancy, formerly known as the Donna O’Neill Land Conservancy (“**DOLC**”). Collectively, the State Parties, and SSOC are opposed to and desire to prevent any extension of SR 241 or other construction of a major thoroughfare in any portion of the Avoidance Area that directly impacts the SOSB or Panhe, and SSOC is opposed to and desires to prevent any extension of SR 241 or other construction of a major thoroughfare that would have a Direct Impact, as defined herein, to the Avoidance Area.

K. The State Parties and SSOC desire prompt rescission of the 2006 SEIR, the 2006 Approvals, the 2013 Addendum, and the 2013 Approvals. The State Parties and SSOC are opposed to the construction of any project that has not yet been through the Environmental Review Process, as defined herein.

L. In light of the foregoing, the Parties wish to resolve the 2006 CEQA Lawsuits, the NAHC Lawsuit, the 2013 CEQA Lawsuits, and the potential lawsuits tolled by the RWQCB Tolling Agreement and the Bridge Tolling Agreement in accordance with the terms and conditions of this Agreement.

TERMS

NOW THEREFORE, in consideration of the mutual terms, covenants, conditions, promises, and benefits contained herein, and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. DEFINITIONS. For the purposes of this Agreement, the following terms shall have the meanings set forth below:

1.1 “Avoidance Area” means the areas identified as the Avoidance Area on the map included as Exhibit C to this Agreement.

1.2 “Breach” means the failure of any Party to comply with any term of the Agreement applicable to such Party, including any requirement or obligation to act or refrain from acting that the Agreement imposes on such Party.

1.3 “Cure Period” means the fifteen (15) day period following receipt of a Notice of Breach.

1.4 “Direct Impact” means (a) the conduct of any of the following activities within any portion of the Avoidance Area: construction activities (including staging, equipment use, and storage), grading, vegetation removal, dewatering, material deposition, or ground disturbance, and (b) any direct and observable physical disturbance to the Avoidance Area caused by activities within or immediately adjacent to the Avoidance Area. This definition is not intended to reflect a position by any Party on the meaning of the term “direct impact” under CEQA.

1.5 “Effective Date” means the date on which the last Party has signed this Agreement.

1.6 “Environmental Review Process” means the environmental reviews, permits, concurrences, and approvals for a project required under all applicable environmental and cultural resources laws, including but not limited to reviews under CEQA, the National Environmental Policy Act, 42 U.S.C. §§ 4321 *et seq.* (“**NEPA**”), the California Endangered Species Act, Fish and Game Code §§ 2050 *et seq.*, the federal Endangered Species Act, 16 U.S.C. §§ 1531 *et seq.*, the Clean Water Act, 33 U.S.C. §§ 1251 *et seq.*, National Historic Preservation Act § 106, Section 4(f), 23 U.S.C. § 138 and 49 U.S.C. § 303, the California Coastal Act, Public Resources Code §§ 30000 *et seq.*, Public Resources Code §§ 5097-5097.7, 5097.9-5097.991, and CZMA (to the extent the above laws are applicable to the SR 241 Extension Project).

1.7 “**Lead Agency**” means the agencies identified as lead agencies under CEQA and NEPA for the SR 241 Extension Project.

1.8 “**Oppose**” or “**Opposing**” means: (i) to take any action or make any statement (including, but not limited to, submitting written comments or correspondence, or providing oral testimony) in any administrative or judicial forum or proceeding that (a) constitutes a challenge to, or a statement against an action, approval or determination, (b) seeks to prevent or delay any approval, or (c) is inconsistent with or contradicts statements within the Joint Statement; or (ii) to form, fund, counsel, or provide assistance to another entity or individual (including taking actions or making statements directed to the press or the public) for the purpose of challenging, administratively or judicially, such action, determination, or approval.

1.9 “**Post-Settlement Alignment**” means any alignment for the extension of SR 241 that is consistent with the project goals, objectives and transportation needs identified and established by TCA, connects to Interstate 5, and is not sited in and will not have Direct Impacts to the Avoidance Area. A Post-Settlement Alignment that is proposed to the Lead Agencies but is subsequently modified in the course of the Environmental Review Process shall continue to serve as and be a Post-Settlement Alignment for purposes of this Agreement, provided that the modified alignment is not sited in and will not have Direct Impacts to the Avoidance Area and meets the other criteria, as set forth in this Section, for a Post-Settlement Alignment.

1.10 “**Resource Agency**” or “**Resource Agencies**” means any governmental agency or agencies, including, without limitation, a Lead Agency, with discretionary approval authority over all or any portion of the SR 241 Extension Project insofar as that project will or may adversely affect any natural or cultural resources.

2. RESCISSION OF APPROVALS AND DISMISSAL OF LAWSUITS.

2.1 At the next regular meeting of the TCA Board of Directors after the Effective Date, but no later than 70 days after the Effective Date, TCA shall rescind the certification of the 2006 SEIR, the 2006 Approvals, the approval of the 2013 Addendum, and the 2013 Approvals. If, despite good faith efforts by TCA, rescission does not occur within 70 days after the Effective Date, the Parties may mutually agree to extend the 70-day deadline. The rescission shall not limit the right of TCA or a Lead Agency to include or incorporate by reference data, analyses, and findings from the 2006 SEIR and 2013 Addendum, or other applicable adopted planning documents for use, in accordance with federal and state law, in the consideration of and the Environmental Review Process for the SR 241 Extension Project.

2.2 TCA shall cause the RWQCB Tolling Agreement to terminate no later than 30 days after the Effective Date of this Agreement. TCA further agrees not to file a lawsuit challenging the decisions of the RWQCB or State Water Resources Control Board relating to the WDR Denial.

2.3 The Parties shall file the Stipulation for Consolidation and Joinder and the Stipulation for Final Judgment in accordance with Section 8.2. The entry of Final Judgment in accordance with the Stipulation for Judgment shall constitute the full and final determination of

the rights of the parties in the 2006 CEQA Lawsuits, 2013 CEQA Lawsuits, and the NAHC Lawsuit (collectively, “**Lawsuits**”), consistent with section 577 of the California Code of Civil Procedure, and shall therefore terminate the Lawsuits. No appeal may be taken from the Final Judgment, as entered by the court. Except as the parties may otherwise agree in writing, if the court affirmatively declines to approve the Final Judgment in the Stipulation for Judgment, or if the court has not approved and entered the Final Judgment within 90 days after the Effective Date, then the Parties shall prepare and submit a Stipulation for Dismissal, in substantially the form of Exhibit D, for the dismissal with prejudice of the Lawsuits, no later than 15 days after the later of: (a) the court’s denial of the Stipulation for Judgment or, in the absence of court action, the 90th day following the Effective Date; or (b) TCA’s completion of the rescissions required in Section 2.1, and the termination required in Section 2.2. If, after reasonable efforts, the Parties are unable to obtain the court’s approval of the Stipulation for Dismissal in substantially the form of Exhibit D, the Parties shall use good faith efforts to obtain dismissals of the Lawsuits on such terms as the court will accept and that, to the extent possible, will further the purposes of this Agreement, provided that in any event, this Agreement and all of its terms shall continue to fully bind the Parties.

3. ENVIRONMENTAL REVIEW PROCESS AND MITIGATION FOR SR 241 EXTENSION PROJECT.

It is the Parties’ intent to establish a framework for the evaluation of one or more Post-Settlement Alignments, and not bind TCA’s discretion to approve, disapprove or condition any Post-Settlement Alignment as may be required by the Environmental Review Process.

3.1 Exclusion of Avoidance Area. The Parties acknowledge that following the rescissions required by Section 2.1, TCA intends to formally commence with the Lead Agencies an Environmental Review Process for the SR 241 Extension Project. As part of that process, TCA shall comply with the following:

3.1.1 TCA shall identify and evaluate one or more Post-Settlement Alignments. If TCA is not the Lead Agency under NEPA or CEQA for the SR 241 Extension Project, TCA shall propose and present to the Lead Agencies, and request that each such Lead Agency study such Post-Settlement Alignments in the Environmental Review Process.

3.1.2 TCA shall not construct or provide funding for the construction of any road alignment that is located within, or that would have Direct Impacts to, the Avoidance Area.

3.2 Conservation Measures Framework. A Post-Settlement Alignment is likely to be located in part in the San Mateo Creek watershed and impact the ecological and recreational values of the affected habitat in the watershed. This watershed has also been the primary focus of SSOC’s longstanding efforts to protect recreational and natural resources. It is the Parties’ intent to establish a framework, as described in this Section, for developing a habitat resources plan with a priority for potential land acquisitions and habitat restoration projects primarily within the San Mateo Creek Watershed. Nothing in this Agreement limits TCA’s obligation to comply with CEQA in connection with determining whether to approve or disapprove Conservation Measures as defined herein. The Parties agree as follows:

3.2.1 **Environmental Oversight Committee.** Within 90 days after the Effective Date, TCA shall establish a committee (“**Environmental Oversight Committee**”) that shall be responsible for identifying measures to mitigate impacts and protect the environment in connection with the SR 241 Extension Project. In consultation with SSOC, TCA shall prepare a framework that will address, *inter alia*, the identification and appointment of the Environmental Oversight Committee members and the process for identifying eligible mitigation and resource protection measures. The Environmental Oversight Committee shall include, at a minimum, TCA, NAHC, and three members to be selected by SSOC. TCA shall invite representatives from one or more Resource Agencies to serve on the Environmental Oversight Committee.

3.2.2 **Habitat Conservation Fund.**

3.2.2.1 TCA shall commit to the expenditure of \$28,000,000 as mitigation for a Post-Settlement Alignment for the primary purpose of preserving and restoring San Mateo Creek and its watershed (“**Conservation Fund**”). The Conservation Fund requirement is not intended to limit TCA’s mitigation obligations under applicable laws should those obligations exceed the Conservation Fund requirement.

3.2.2.2 With input from the Environmental Oversight Committee, TCA and SSOC shall cooperate in good faith to: (i) identify and assess potential land acquisitions and habitat restoration projects within the San Mateo Creek Watershed and adjacent watersheds that are ecologically related to habitat potentially impacted by a Post-Settlement Alignment (“**Conservation Measures**”); and (ii) prioritize such Conservation Measures on a list, (“**Conservation Measure List**” or “**List**”). A measure is “ecologically related” if it would provide ecosystem benefits that mitigate for biological values potentially impacted by a Post-Settlement Alignment. If a good faith dispute arises as to whether a proposed acquisition or restoration project is ecologically related to potentially impacted habitat, TCA and SSOC shall jointly request that the U.S. Fish and Wildlife Service (“**USFWS**”) provide a determination as to whether a measure is or is not ecologically related to potentially impacted habitat, which determination shall be binding on the Parties for purposes of this Section. If the USFWS refuses to issue such a determination, TCA and SSOC shall meet and confer to identify another mutually-agreeable Resource Agency to provide a binding determination.

3.2.2.3 The Conservation Measure List shall not include any measure that (a) is determined by USFWS (or another mutually-agreeable Resource Agency if USFWS refuses to consult and issue a determination) as not ecologically related to habitat potentially impacted by a Post-Settlement Alignment, or (b) would physically interfere with the implementation of a Post-Settlement Alignment being considered in the Environmental Review Process. In preparing the Conservation Measure List, priority shall be given to Conservation Measures within the San Mateo Creek watershed. If TCA and SSOC determine such measures are infeasible or do not require expenditure of the full Conservation Fund, other measures, including measures outside of the San Mateo Creek watershed, may be approved by mutual agreement between TCA and SSOC. Preparation of the Conservation Measure List shall be completed no later than December 31, 2017. Upon completion of the Conservation Measure List, TCA shall provide a written copy of the List to the State Parties.

3.2.2.4 After the Conservation Measure List has been prepared, TCA shall diligently and in good faith proceed to implement promptly each of the Conservation Measures on the List, in compliance with applicable laws, in the priority order set forth in the List, until the full Conservation Fund is exhausted. At least 15 days prior to making an expenditure from the Conservation Fund, TCA shall provide SSOC with written notice of the expenditure. If SSOC opposes such proposed expenditure within such 15 day period, the Parties shall meet and confer to resolve the dispute. TCA shall not proceed with the expenditure until such dispute has been resolved as identified in this Section. Upon making any expenditure from the Conservation Fund, TCA shall provide written notice containing a brief description of the expenditures to the State Parties. Nothing in this paragraph shall limit TCA's ability to expend monies other than or in excess of those in the Conservation Fund on any item on the Conservation Measure List or for other mitigation measures related to the SR 241 Extension Project.

3.2.2.5 All property acquisition costs and fees associated with the measures on the Conservation Measure List, including the reasonable costs of long term habitat restoration, management, and monitoring, shall be eligible to be credited toward satisfaction of TCA's Conservation Fund obligation. Eligible costs may include the costs of reasonably required outside consultants, but shall not include any staff or legal costs incurred by TCA or SSOC.

3.2.2.6 TCA and SSOC may from time to time amend the Conservation Measure List by joint written agreement, as may be needed to, *inter alia*, address measures on the Conservation Measure List that can no longer be reasonably accomplished and to ensure that the Conservation Measure List includes sufficient measures to allow expenditure of all of the Conservation Fund. In coordination with SSOC, as required by this Agreement, TCA shall use best efforts to implement each Conservation Measure at the earliest possible date, and to fully expend the Conservation Fund no later than December 31, 2021. If the Conservation Fund has not been fully expended by December 31, 2021, TCA shall place the remaining funds in an escrow account for the sole purpose of implementing the SSOC and TCA mutually agreed upon Conservation Measures for the benefit of the San Mateo Creek or adjacent watersheds.

3.2.2.7 Conservation Measures funded and performed under this Section 3.2.2 shall serve as mitigation required under the Environmental Review Process for any approved Post-Settlement Alignment to the full extent permitted by the Lead Agencies or applicable Resource Agency. Except as provided in Section 3.2.2.8, TCA shall be obligated to expend all of the Conservation Fund, regardless of whether the measures identified on the Conservation Measure List exceed the minimum project mitigation required by the Resource Agencies.

3.2.2.8 If TCA provides written notice to the Parties that it has formally abandoned the SR 241 Extension Project, TCA's obligations under this Section 3.2.2 shall cease; provided, however, that if TCA thereafter revives the SR 241 Extension Project, TCA's obligations under this Section 3.2.2 shall resume. If TCA formally abandons the SR 241 Extension Project, TCA shall be permitted to utilize, sell or bank, as mitigation credit, any Conservation Measure established with Conservation Fund monies prior to the abandonment of

the SR 241 Extension Project, provided the credit is for a specific project or projects, and further provided that none of the projects is in or will have a Direct Impact to the Avoidance Area. Unless the SR 241 Extension Project is formally abandoned, TCA may not utilize, sell or bank any mitigation credit established with Conservation Fund monies for any non-TCA project.

3.2.3 Coastal Access Management Plan.

3.2.3.1 Any future work performed or funded by TCA for the SR-241 Extension Project, and occurring in that portion of San Mateo Creek and adjacent lands that are outside of the Avoidance Area, as shown on Sheet 2 of Exhibit C, shall conform and be subject to a coastal access management plan (“**Coastal Access Management Plan**”). As early in the Environmental Review Process as possible, but no later than December 31, 2017, TCA and SSOC, in consultation with the Environmental Oversight Committee, and with the participation of TCA and SSOC consultants, shall prepare and execute a mutually-agreeable Coastal Access Management Plan that is designed to achieve the following:

(a) During construction, ensure continuous pedestrian access to Trestles Beach from Panhe Nature Trail/San Onofre State Beach Trail (“**Beach Trail**”), and continuous pedestrian, skateboard, and bicycle access both across Interstate-5 via Cristianitos Road and to the existing trail located just west of and paralleling the southbound on-ramp to Interstate 5 at Cristianitos Road, which connects Cristianitos Road to the Beach Trail (“**Bike Trail**”). For reference, the Beach Trail and Bike Trail are depicted on Sheet 2 of Exhibit C. TCA may, at times, provide an alternate means of access where required for safety or constructability purposes. Such alternative access shall ensure at least an equivalent level of pedestrian, skateboard and bicycle access, shall be in place whenever access to the Beach Trail or Bike Trail is closed or substantially restricted, and shall be in place for the minimum period needed for safety or constructability purposes.

(b) Ensure that permanent road improvements do not adversely affect permanent public access on the Beach Trail and Bike Trail, including, without limitation, avoiding construction of structures or installation of pavement within the area shown as the “No Pavement Area” on Sheet 2 of Exhibit C, and provide a minimum 10-foot setback of any above-ground permanent improvements from the Bike Trail. The parties acknowledge that it may not be possible to provide a 10-foot setback at the southbound on-ramp to Interstate 5 at Cristianitos Road, in which case, TCA shall provide the maximum setback distance that is possible within the existing State right-of-way.

(c) Provide improvements, which shall be specifically identified in the Coastal Access Management Plan, that will enhance the public access experience for SOSB visitors.

(d) Avoid ground disturbance, vegetation removal, and impacts to wetlands and riparian areas within the disturbance limits shown on Sheet 2 of Exhibit C to the maximum extent feasible.

3.2.3.2 In preparing and implementing the Coastal Access Management Plan, TCA and SSOC recognize and mutually agree that: (i) TCA shall implement each of the Coastal Access Management Plan measures so long as the measure does not preclude compliance with a direction, regulation, or guidance that is issued by a Resource Agency and is applicable to an approved Post-Settlement Alignment; (ii) the Coastal Access Management Plan measures shall be separate from, and in addition to, the Conservation Measures required by Section 3.2.2; and (iii) TCA's ability to agree to or implement a Coastal Access Management Plan measure may be limited by an obligation to mitigate impacts to Camp Pendleton imposed on TCA by the Marine Corps ("**MC Measures**"), provided, however, that TCA will use its best efforts to obtain MC Measures that avoid any conflicts with or limitations on the Coastal Access Management Plan measures, and where such conflict or limitation exists, the Parties will use good faith efforts to resolve such conflict or limitation in a manner that achieves the parameters identified in Section 3.2.3.1, or to the extent those parameters cannot be fully achieved, agree on alternative measures that will achieve those parameters to the maximum extent possible. Nothing in this Section 3.2.3.2 shall be construed as an endorsement by SSOC of any MC Measures or other proposals, projects or actions related to Camp Pendleton that are within the Avoidance Area or located southerly and easterly of the Project Limit Line, or as limiting SSOC's rights to Oppose such measures, proposals, projects or actions.

3.2.3.3 This Section 3.2.3 is not intended to limit TCA's mitigation obligations under applicable laws should those obligations exceed TCA's obligations under the Coastal Access Management Plan as required by this section. Coastal Access Management Plan obligations shall serve as mitigation required under the Environmental Review Process for any approved Post-Settlement Alignment to the full extent permitted by the Lead Agencies or applicable Resource Agency.

3.3 SSOC Engagement in Environmental Review Process. TCA and SSOC shall work cooperatively during the Environmental Review Process, consistent with the terms of this Agreement, including the following:

3.3.1 To the extent permitted by law, and subject to Section 3.3.4, TCA shall actively seek the participation and input of SSOC and/or specific SSOC Members concerning the development of the Post-Settlement Alignments, evaluation of alternatives, analysis of impacts, and development of mitigation measures.

3.3.2 Within 30 days of the Effective Date, representatives of SSOC shall meet with TCA to establish a general framework for implementation of this Agreement and for SSOC's continued engagement in the Environmental Review Process. The framework shall provide for regular meetings between SSOC representatives and TCA, which shall be at least quarterly except as otherwise provided in the agreed framework or in this Agreement. TCA and SSOC shall cooperate in good faith to implement the framework and to resolve issues arising in the Environmental Review Process or in the implementation of this Agreement.

3.3.3 SSOC shall designate an SSOC Member representative to act as the lead participant in the Environmental Review Process ("**Lead Participant**"). The initial Lead Participant shall be Dan Silver of the Endangered Habitats League. SSOC may from time to

time change the designated Lead Participant upon written notice to TCA and with TCA approval, which TCA shall not unreasonably withhold.

3.3.4 If TCA requests that the Lead Participant participate in a meeting with a Resource Agency, the Lead Participant is encouraged, but not required, to attend. The Lead Participant shall be permitted to require, as a condition of participating in any meeting with a Resource Agency that is not a public meeting, that TCA waive in writing the non-opposition obligations in Sections 5.1.2 and 5.3 concerning mitigation measures and alternatives applicable to the Lead Participant, for the duration of the meeting.

4. OSO BRIDGE CONSTRUCTION AND LOS PATRONES PARKWAY TOLL COLLECTION.

4.1 Timing of Bridge Project Construction. Until a new Environmental Impact Report (“EIR”) for the SR 241 Extension Project is certified and a Post-Settlement Alignment is approved, TCA shall not commence construction of the Bridge Project or any other structure that would permit a direct connection between SR 241 and Los Patrones Parkway, including but not limited to construction of any temporary or permanent bridge over SR 241 or over Oso Parkway, unless any one of the following events has occurred (each a “**Triggering Event**”):

4.1.1 A written agreement is entered into that is enforceable by SSOC between TCA, the California State Transportation Agency, the California Natural Resources Agency, and SSOC, agreeing that no new major thoroughfare shall be constructed in the Avoidance Area (“**Protective Agreement**”).

4.1.2 The Legislature has passed and the Governor has signed into law legislation preventing TCA from constructing a road in the Avoidance Area, in substantially the form and substance attached as Exhibit F to this Agreement, without any additional non-*de minimis* obligations or requirements that are imposed upon but not acceptable to TCA, and without any additional non-*de minimis* provisions unacceptable to SSOC (“**Protective Legislation**”).

4.1.3 Conservation easements, in a form acceptable to TCA and SSOC, are acquired that prohibit the construction of a major thoroughfare, and in which the state or federal government has a third party beneficiary or other enforceable interest, on a sufficient area of lands and in such location within the Avoidance Area so as to effectively preclude construction of a major thoroughfare in whole or part in the lands comprising DOLC, and any part of SOSB within the Avoidance Area, as the DOLC and SOSB exist on the Effective Date (“**Protective Easements**”).

4.1.4 Following a meet and confer session, any other measure, occurrence, or circumstance to which TCA and SSOC agree in writing, may constitute a Triggering event.

4.2 Cooperation on Triggering Event. For purposes of this Section 4, TCA and SSOC agree as follows:

4.2.1 TCA and SSOC shall work cooperatively and use good faith efforts to secure the prompt occurrence of a Triggering Event.

4.2.2 TCA and SSOC agree to pursue the Protective Agreement initially.

4.2.3 If, by January 15, 2017, all of the parties to the Protective Agreement other than the California Natural Resources Agency have agreed to enter into the Protective Agreement, TCA and SSOC shall promptly meet and confer to determine the need for the California Natural Resources Agency to enter into the Protective Agreement and/or the need to secure Protective Legislation. Following the meet and confer, TCA and SSOC may, at their discretion, agree in writing whether and on what terms the proposed agreement would constitute a Triggering Event, as referenced in Section 4.1.4 without the need to execute a formal amendment of this Agreement.

4.2.4 If the Protective Agreement has not been entered into by January 15, 2017, TCA and SSOC shall use good faith efforts to cause, through a mutually-agreed upon process, the Protective Legislation to be introduced in the 2017 legislative session and to support its passage by the Legislature and signature by the Governor.

4.2.5 Upon the occurrence of a Triggering Event, the Parties shall have no further obligation to pursue any other Triggering Event under this Section 4.

4.2.6 Neither TCA nor SSOC shall have any obligation to support Protective Legislation that has been modified to include terms and conditions that materially differ from those provided in Exhibit F, unless TCA and SSOC have consented to the modification. If the Protective Legislation bill is amended or proposed to be amended, TCA and SSOC agree to meet and confer in good faith to review the amendment or proposed amendment and determine whether the change is material or *de minimis*, and whether to request that the author and/or another legislator, as appropriate, amend, withdraw or take other appropriate action with respect to the bill.

4.3 Preliminary Activities Excepted. Nothing in this Section shall prohibit TCA from taking actions preliminary to construction of the Bridge Project, including, without limitation, any required environmental review and design activities for the bridge, land or right-of-way acquisition, and construction or improvement of Los Patrones Parkway (including construction of on- and off-ramps between Los Patrones and Oso Parkway, but excluding construction of the bridge or any other improvements allowing a direct connection between Los Patrones and SR 241).

4.4 Interim Toll Collection on Los Patrones. TCA may collect tolls on Los Patrones Parkway on an interim basis in advance of certification of an EIR for the SR 241 Extension Project and approval of a Post-Settlement Alignment; provided, however, that TCA shall cease such collection by September 30, 2019, unless on or before that date: (a) an EIR has been certified and a Post-Settlement Alignment has been approved, or (b) a Triggering Event has occurred. If by June 1, 2019, the events described in either (a) or (b) have not occurred and TCA so requests, TCA and SSOC shall meet and confer on or before July 30, 2019 regarding an

extension of the September 30, 2019 deadline. Once toll collection is required to have ceased, TCA shall continue to refrain from toll collection on Los Patrones until such time as the events described in either (a) or (b) above have occurred; provided, however, that upon request by TCA, SSOC shall grant an extension of the September 30, 2019 deadline if SSOC has determined, in its reasonable discretion, that TCA has made substantial progress toward completing the Environmental Review Process for the SR 241 Extension Project and is diligently pursuing completion of that process.

4.5 Waiver of Challenge to Approval of Bridge Project.

4.5.1 TCA and SSOC shall use best efforts to obtain approval from the County of Orange for an amendment of the Oso Bridge Tolling Agreement that will extend the tolling period under that agreement to the occurrence of the earlier of: (a) a Triggering Event; or (b) certification of an EIR for the SR 241 Extension Project and approval of a Post-Settlement Alignment. If the County's approval is obtained, TCA and SSOC shall use best efforts to cause such amendment to be executed.

4.5.2 If such amendment to the Oso Bridge Tolling Agreement is not executed before the tolling period under that agreement expires, SSOC may file a lawsuit challenging the County's approval of the Oso Bridge Project as may be necessary to preserve its legal right to do so, but shall request that the court stay the challenge until the earlier of: (a) a Triggering Event; (b) certification of an EIR for the SR 241 Extension Project and approval of a Post-Settlement Alignment; or (c) a breach of TCA's obligations under Section 3.1.2 or an action taken by a Lead Agency or other agency to approve, construct or fund an extension of SR 241 located in, or with Direct Impacts to, the Avoidance Area. A lifting of the stay pursuant to clause (c) shall be in addition to, and not in lieu of, SSOC's remedies for TCA's breach of Section 3.1.2.

4.5.3 No later than 30 days after the occurrence of the earlier of (a) a Triggering Event, or (b) certification of an EIR for the SR 241 Extension Project and approval of a Post-Settlement Alignment, SSOC shall: (i) cause the Oso Bridge Tolling Agreement (if still in effect) to be terminated and refrain thereafter from filing any legal challenge to or otherwise opposing the County's approval of the Oso Bridge Project; or (ii) if SSOC has filed litigation pursuant to Section 4.5.2, dismiss such litigation with prejudice.

4.5.4 In addition to the Parties' obligations to meet and confer as set forth in other sections of this Agreement, the Parties shall also meet and confer in August 2017, October 2017, and at such other times as may be reasonably necessary if requested by one of the Parties.

5. FUTURE STATEMENTS, SUPPORT AND CHALLENGES.

5.1 Joint Statement.

5.1.1 The Parties will announce the Agreement in a joint statement, in substantially the form of Exhibit G ("**Joint Statement**"). The Parties shall publicly distribute the Joint Statement, which may include a mutually agreed upon joint summary of the Agreement, to the media and the public on a date to be determined by the Parties. The Parties shall refrain

from making any public statements or comments regarding the terms of the Agreement prior to the date on which the Joint Statement is publicly distributed, unless otherwise required by law, or agreed-upon in writing by the Parties.

5.1.2 No Party, without the prior written consent of the other Parties, may submit, issue or make any statement, posting or comment (whether written, oral, or electronic), including but not limited to in any administrative or judicial tribunal or proceeding, to any person, organization or agency, or on the internet, regarding the Agreement or a Post-Settlement Alignment, that is inconsistent with or contradicts statements within the Joint Statement. Notwithstanding the foregoing, statements made in the Joint Statement describing or summarizing this Agreement shall not be construed as limiting, enlarging or otherwise modifying any rights or obligations under this Agreement, and in the event of any inconsistency between the Joint Statement and this Agreement, this Agreement shall control.

5.2 Future Support. TCA and SSOC shall work cooperatively and use good faith efforts to obtain global support of the Agreement.

5.3 SSOC Non-Opposition.

5.3.1 Restrictions. SSOC and SSOC Members, individually and collectively, shall not Oppose any of the following:

5.3.1.1 Any certifications, permits, findings or approvals of any kind that may be issued specifically for and limited to a Post-Settlement Alignment under the Environmental Review Process for the SR 241 Extension Project so long as TCA complies with the mitigation required by any state or federal agency as a condition of any approval, finding, concurrence, or permit under the Environmental Review Process.

5.3.1.2 Efforts by TCA to streamline the Environmental Review Process for the SR 241 Extension Project, consistent with federal and state law, under statutory streamlining provisions that have been enacted as of the Effective Date.

5.3.1.3 The inclusion or incorporation by reference by TCA or a Lead Agency of data, analyses and findings from prior environmental review or permitting documents for SR 241 Foothill South, Tesoro Extension, and adopted regional transportation plans, for use in the Environmental Review Process for the SR 241 Extension Project. Such data, analyses and findings include, but are not limited to, Final EIR 123 (County of Orange in 1981); Final EIR #423 Foothill Transportation Corridor Orange County General Plan Transportation Element Amendment Specific Route Location (County of Orange, May 25, 1983); The Foothill Transportation Corridor Alternatives Alignment Analysis (County of Orange and TCA, 1986); Foothill Transportation Corridor Cristianitos Segment Alternative Alignment Analysis (County of Orange, September 1986); TCA EIR 3 and a Supplemental EIR (TCA, October 10, 1991); Foothill Transportation Corridor - South Major Investment Study (MIS, Michael Brandman Associates, April 1996); 2006 SEIR; and 2013 Addendum.

5.3.1.4 TCA’s participation in a pilot program that allows TCA, Caltrans or FHWA to substitute CEQA for NEPA in the Environmental Review Process for the SR 241 Extension Project, under statutory pilot program provisions that have been enacted as of the Effective Date.

5.3.1.5 TCA’s funding for Resource Agency participation in the Environmental Review Process for the SR 241 Extension Project through a mechanism that could include making contributions to the state budget to fund state personnel and funding state and/or federal agency staff through agreements.

5.3.1.6 Any Post-Settlement Alignment evaluated during or in connection with the Environmental Review Process for the SR 241 Extension Project, including but not limited to, not Opposing (i) any certification, permit, finding, or approval of any kind, and (ii) efforts to secure funding to construct an approved Post-Settlement Alignment, including the provision of local, state or federal funding of any kind, and the application for and use of Transportation Infrastructure Finance and Innovation Act (“**TIFIA**”) financing or any other financing for any authorized SR 241 Extension Project activity, to the extent such funding is limited to the costs associated with the Environmental Review Process for the SR 241 Extension Project or the design or construction of the Post-Settlement Alignment.

5.3.2 Exceptions. Notwithstanding the foregoing, SSOC’s and SSOC Members’ non-Opposition obligations shall not preclude SSOC or SSOC Members, individually or collectively, from any of the following:

5.3.2.1 Advocating for, Opposing, challenging or otherwise taking positions on state or federal legislation or regulations, including without limitation any decision by a Resource Agency with respect to listing or de-listing any species as threatened or endangered, or designating or modifying the designation of critical habitat, except to the extent the effect of the legislation or regulation is substantially limited to, and would directly affect, the SR 241 Extension Project Environmental Review Process or a Post-Settlement Alignment.

5.3.2.2 Advocating for, Opposing, challenging or otherwise taking positions on local or regional laws and regulations, matters of policy, or local or regional planning documents, except to the extent the effect of the law, regulation, policy or planning document is substantially limited to, and would directly affect, the SR 241 Extension Project Environmental Review Process or a Post-Settlement Alignment.

5.3.2.3 Advocating for, Opposing, challenging or otherwise taking positions on funding proposals or requests (including TIFIA funding) for any projects or other activities, except where the proposal or request is substantially limited to funding for the SR 241 Extension Project Environmental Review Process or a Post-Settlement Alignment.

5.3.2.4 Opposing or otherwise challenging any approval or action by any public agency with respect to any proposed or potential project that lies within or would have Direct Impacts to the Avoidance Area or that is otherwise not a Post-Settlement Alignment (“**Excepted Project**”), including, without limitation: (a) Opposing or challenging in the

Environmental Review Process for the SR 241 Extension Project any data, analyses, findings and other documents from prior environmental review or permitting documents for SR 241 Foothill South, Tesoro Extension, adopted regional transportation plans, including any documents as described in Section 5.3.1.3, to the extent such data, analyses, findings or documents are used to support, or, based upon the statement or action of any public agency, SSOC reasonably expects may be used to support a proposed or potential Excepted Project; (b) Opposing or challenging any streamlining of the Environmental Review Process or participation in any NEPA pilot program under any statutory provision enacted after the Effective Date; (c) Opposing or challenging any streamlining of the Environmental Review Process or participation in any NEPA pilot program under any statutory provision enacted before the Effective Date in the event the Lead Agency carries forward for detailed review in a Draft Environmental Impact Statement or Draft Environmental Impact Report an Excepted Project; and (d) advocating for, Opposing, challenging or otherwise taking a position on federal, state, regional or local legislation, laws, regulations (including, without limitation, decisions relating to listing and delisting of species), matters of policy, or planning documents, or on funding proposals or requests, that affect or could affect any proposed or potential Excepted Project. SSOC Members may submit comments or testimony in the Environmental Review Process for the SR 241 Extension Project as necessary to preserve their legal rights under this paragraph. Any such comments or testimony shall be directed at, and limited to addressing, issues relevant to the proposed or potential Excepted Project, but such limitation shall not preclude SSOC from submitting comments or testimony on issues that are relevant to both the Excepted Project and a Post-Settlement Alignment.

5.3.2.5 Opposing or otherwise challenging any project or portion of a project located southerly or easterly of the “Project Limit Line” depicted on sheet 2 of Exhibit C, or east of the eastern boundary line of the Avoidance Area.

5.3.2.6 Opposing or otherwise challenging any action of TCA that is inconsistent with this Agreement.

5.3.3 Sierra Club. The Sierra Club and its respective employees, officers, governing boards and committees covenant not to take any action to challenge, in a formal administrative or judicial proceeding, any certifications, permits or approvals for a Post-Settlement Alignment that may be required under the Environmental Review Process for the SR 241 Extension Project, including the specific actions set forth in Section 5.3.1.1 through 5.3.1.6 inclusive, so long as TCA complies with the mitigation required by any state or federal agency as a condition of any approval, finding, concurrence, or permit under the Environmental Review Process for the SR 241 Extension Project, and subject to each of the exceptions set forth in Section 5.3.2.

5.3.4 Disputes. If a dispute arises in connection with any actions undertaken by SSOC or SSOC Members under Section 5, SSOC (or applicable SSOC Member) and TCA shall make good faith efforts to resolve such dispute. If such dispute cannot be resolved, TCA may utilize the procedures set forth in Section 6 concerning Breach of Agreement and Remedies.

5.3.5 Clarification of Opposition by Unauthorized Persons. SSOC and each SSOC Member shall deliver to TCA a signed letter in the form of Exhibit E (“**Non-Opposition**”).

Letter”) no later than five (5) business days after the Effective Date. If TCA becomes aware that an individual has taken an action or makes a statement in the Environmental Review Process that would constitute a violation of the Agreement under this Section or Section 5.1.2 if such action were undertaken by SSOC or an SSOC Member, and such individual states or implies that he represents SSOC or an SSOC Member, or that such action or statement is the position of SSOC or an SSOC Member, the SSOC Designee or the SSOC Member, as applicable, shall, as promptly as possible but no later than 3 business days of a request by TCA, indicate to TCA whether the individual was authorized to speak on behalf of the SSOC or SSOC Member. If the individual was not authorized to speak on behalf of the SSOC or SSOC Member, TCA may submit the Non-Opposition Letter signed by SSOC or the applicable SSOC Member to the appropriate agency for inclusion in the administrative record to clarify the position of SSOC or the SSOC Member. In the event that there is a reasonable likelihood that the Non-Opposition Letter would be insufficient to clarify the position of SSOC or the SSOC Member, and that the statement or action that is covered by this Section could adversely affect the approval of a Post Settlement Alignment in the Environmental Review Process, then upon request by TCA, SSOC or the SSOC Member, as appropriate, shall meet and confer with TCA to identify a mutually-agreeable approach to clarify SSOC’s or the SSOC Member’s position. If SSOC or an SSOC Member becomes aware that an individual has taken an action or made a statement that is covered by this Section, the SSOC Designee, or SSOC Member, as applicable, shall promptly notify TCA of such action or statement.

5.4 TCA Future Obligations. TCA shall not Oppose, challenge or otherwise interfere with any of the following:

5.4.1 SSOC efforts to secure Protective Easements.

5.4.2 Efforts to renew the lease, or to obtain a new lease, between the State of California and Department of the Navy for SOSB at Camp Pendleton, whether or not the renewed or new lease would contain the same or modified terms as the current lease, including, without limitation, terms excluding any new or expanded road, highway or thoroughfare through SOSB, and terms providing for no or low monetary rent; provided, however, that TCA may Oppose any efforts to renew the lease, or to obtain a new lease, that would prohibit or unreasonably restrict or delay TCA’s ability to construct a Post-Settlement Alignment.

5.4.3 The prompt introduction and passage of the Protective Legislation if a Protective Agreement has not been entered into by January 15, 2017; provided, however, that TCA reserves the right to Oppose or challenge any legislation that imposes any material obligations or requirements on TCA beyond those provided in Exhibit F. Nothing in this Section 5.4.3 shall be construed as limiting TCA’s obligations with respect to the Protective Legislation under Section 4.1 and Section 4.2.

6. BREACH OF AGREEMENT AND REMEDIES.

6.1 Processes in the Event of a Breach.

6.1.1 Notice of Breach. If a Party (“**Complaining Party**”) believes that another Party (“**Alleged Breaching Party**”) has Breached the Agreement, the Complaining Party shall notify the Alleged Breaching Party (with a copy to all other Parties) of the alleged Breach in writing within ten (10) business days of the time that the Complaining Party becomes aware of, or reasonably should have become aware of, the circumstance constituting the alleged Breach. Such notification shall include a written explanation of the basis of the alleged Breach (“**Notice of Breach**”).

6.1.2 Response to Notice of Breach. Within the Cure Period, the Alleged Breaching Party shall either cure the Breach or provide a written response to the Complaining Parties explaining why the Alleged Breaching Party believes that no such Breach has occurred. If, by the nature of the Breach, such cure cannot reasonably be completed within the Cure Period, the Breaching Party must commence such cure within the Cure Period and, having so commenced, thereafter prosecute with diligence and dispatch until such Breach is cured or such dispute is resolved.

6.1.3 Meet and Confer Obligation. Should the Parties disagree on whether a Breach has occurred, a Breach has been adequately cured, or the remedy necessary to cure any alleged Breach, or if a Breach has not been cured within the Cure Period, the Alleged Breaching Party and Complaining Party or Complaining Parties shall meet and confer in good faith in an attempt to resolve any differences. Such meeting shall occur as soon as practicable on a mutually-agreeable date, but no later than twenty-one (21) days after receipt of the Notice of Breach. If an Alleged Breaching Party fails to respond to the Notice of Breach within the Cure Period, the Complaining Party or Parties shall not be required to meet and confer prior to taking appropriate action to enforce the Breach.

6.1.4 Court Resolution of Breaches. If an alleged Breach is not resolved through the procedures set forth in this Section 6.1, then the Complaining Party shall be entitled immediately to seek relief in the San Diego County Superior Court. No Party shall be entitled to seek relief in the San Diego County Superior Court without having complied with the procedures set forth in this Section 6.1, except where the alleged Breach would result in irreparable harm if immediate relief were not obtained and except as set forth in section 6.3 below.

6.2 Available Remedies in the Event of Breach. The Parties agree that, in the event of a Breach under this Agreement that is not cured, and following exhaustion of the process set forth in Section 6.1, the sole and exclusive remedies available to the Complaining Parties shall be to: (a) enforce, by specific performance, the Agreement obligations of the Alleged Breaching Party; (b) obtain an appropriate injunction to ensure compliance with the terms of this Agreement; or (c) exercise any other rights or remedies specifically set forth herein or otherwise permitted by law. Notwithstanding the above, and except as set forth in Section 6.3 below, no Party shall seek or be entitled to any monetary damages in the event of any breach or default

under this Agreement. Nothing in this Section shall limit the ability of a Party to enforce an express payment obligation under Section 7 of this Agreement.

6.3 The State Parties' Enforcement Authority. Except as expressly provided herein, nothing in this Agreement is intended nor shall be construed to limit the State Parties from taking appropriate enforcement actions or otherwise exercising their authority under any law. Further, nothing in this Agreement is intended nor shall be construed to limit the State Parties from taking any action related to any future proposed project, including any future project that may be related to the SR 241 Extension Project or the Bridge Project. Where a breach of this Agreement also constitutes a separate violation of law (in addition to a violation of this Agreement), the State Parties are not limited to the enforcement of this Agreement, the Stipulation for Judgment, or Final Judgment, but may seek, in another action, any fines, costs, penalties, injunctive relief, or other remedies provided for by law.

6.4 Cure of Breach.

6.4.1 Breach of SSOC Non-Opposition Provisions.

6.4.1.1 If SSOC or an SSOC Member has Breached an obligation under Section 5.1.2 or Section 5.3, and such Breach relates to statements or comments made in an administrative, regulatory, governmental, or other public forum, or on the internet, the Alleged Breaching Party shall deliver a letter in substantially the form of Exhibit H to TCA and any applicable Governmental Agency before the earlier of expiration of the Cure Period or the close of the record in the forum at issue. Timely delivery of such letter shall serve to cure the non-Opposition obligation Breach.

6.4.1.2 If SSOC or an SSOC Member has Breached an obligation under Section 5.3, and such Breach pertains to the filing of a legal action in state or federal court or filing an administrative action or complaint, such breach may be fully cured by dismissal of such action or complaint by the SSOC Member during the Cure Period, so long as such dismissal results in full termination of such action or complaint with prejudice.

6.4.2 Breach of TCA Non-Opposition Provisions. If TCA has Breached its non-opposition obligation under Section 5.4 pertaining to the Protective Legislation, TCA shall submit a letter in substantially the form of Exhibit I to SSOC and to all members of the legislature and/or committee consultants affected by the Breach within the earlier of the expiration of the Cure Period or the committee hearing or floor vote affected by the Breach. Delivery of such letter shall serve to cure the Breach if the letter was delivered prior to the affected committee hearing or floor vote. If TCA has Breached any other non-opposition obligation, it shall cure by delivering within the Cure Period a letter to SSOC and to the appropriate persons or entities clearly stating its non-opposition to the applicable activity.

6.4.3 Notice of Cure. Within five (5) business days after the Complaining Party becomes aware that the Alleged Breaching Party has taken action to cure an alleged Breach of this Agreement in accordance with this Section 6, the Complaining Party shall deliver written

notice stating that the Breach has been cured or otherwise describing what actions are required to cure the alleged Breach.

7. REIMBURSEMENT OF SSOC COSTS.

7.1 TCA shall reimburse SSOC for legal and other costs that have been incurred by SSOC Members in connection with this matter, in the amount of \$7,100,000, pursuant to the following schedule: (a) \$4 million shall be paid no later than 30 days after the earlier of (i) entry of Final Judgment pursuant to the Stipulation for Judgment, or (ii) entry of the dismissal of the Lawsuits filed by SSOC Members (Case No. GIN051194 and Case No. 37-2013-00049797-CU-WM-CTL); (b) \$2.6 million shall be paid upon the earlier of (i) the start of construction of the Oso Bridge Project or (ii) August 1, 2018; and (c) \$500,000 shall be paid upon the earlier of (i) issuance of the later of a Record of Decision (if one is required) or Notice of Determination in the Environmental Review Process or (ii) December 31, 2021.

7.2 TCA shall make each payment required by this Section 7 by delivering to a payee specified in writing by SSOC on or before the due date a check payable to payee in the required amount.

8. MISCELLANEOUS.

8.1 Term of Agreement.

8.1.1 The term of this Agreement shall commence on the Effective Date and the Parties' obligations hereunder shall terminate on the date on which all of the following have occurred: (a) the rescissions required by Section 2.1; (b) the termination of the RWQCB Tolling Agreement and the permanent forfeit of TCA's right to challenge the WDR Denial, by passage of applicable statute of limitations or otherwise; (c) the provision of the Conservation Measures required by Section 3.2.2; (d) TCA serves SSOC and the State Parties with written notice of the completion of construction of a Post-Settlement Alignment, including any mitigation required by the Environmental Review Process and any Coastal Access Management Plan obligation required by Section 3.2.3; and (e) TCA has paid the full amount of the funds required to be paid under Section 7.1(a) – (c), notwithstanding whether all of the actions in Section 7.1 have or have not occurred.

8.1.2 If, after December 31, 2021, or after the occurrence of a Triggering Event, all of the actions in clauses (a) through (e) of Section 8.1.1, inclusive, have occurred except for the actions in clause (d), and TCA has served SSOC and the State Parties with written notice that TCA has formally abandoned the SR 241 Extension Project and will take no further action to seek approval of or funding for the SR 241 Extension Project, this Agreement shall terminate; provided, however that TCA's obligations under Section 4.4 shall survive termination under this Section 8.1.2.

8.1.3 Notwithstanding the foregoing, TCA's obligations under Section 3.1.2 to refrain from constructing or funding an alignment within or that has a Direct Impact to the

Avoidance Area, and TCA's obligations under Section 3.2.2 as conditioned by Section 3.2.2.8, shall survive any termination of the Agreement under this Section 8.1.

8.1.4 In the event of termination of this Agreement, any terms and conditions of this Agreement pertaining to the interpretation, implementation, and enforcement of the surviving Section 3.1.2 and Section 3.2.2, and, if applicable, Section 4.4, including without limitation those relating to definitions, breach and remedies, court jurisdiction and venue, notices, and other general provisions pertinent to the surviving provisions, shall also survive termination.

8.2 Stipulation for Entry of Final Judgment. As early as possible, but no later than fifteen (15) business days after the Effective Date, the Parties shall file the Stipulation for Consolidation and Joinder (if not already filed). No later than five (5) business days after the Court enters the Stipulation for Consolidation and Joinder, the Parties shall file the Stipulation for Judgment, in the lowest numbered case of the Lawsuits. The Stipulation for Judgment shall contain the Parties' consent to the entry of a Final Judgment incorporating the terms of this Agreement by reference and as an exhibit. This Agreement shall be binding on the Parties regardless of whether the Stipulation for Judgment is approved and Final Judgment is entered by the court. Should the court refuse to enter the Final Judgment, the Parties agree to meet and confer regarding possible amendments to this Agreement (consistent with paragraph 8.12) to address the court's concerns.

8.3 Jurisdiction. The Parties agree that the Superior Court of California, County of San Diego, has subject matter jurisdiction over the matters alleged in the Lawsuits and personal jurisdiction over the Parties to this Agreement for purposes of enforcing this Agreement. The Parties consent to the continuing jurisdiction of and venue in the San Diego Superior Court for purposes of enforcing the Stipulation for Judgment, the Final Judgment entered by the court, and this Agreement.

8.4 SSOC Designee. SSOC shall designate and duly authorize a person ("SSOC Designee") to be a single point of contact for matters related to this Agreement, and to take such actions and perform such obligations on behalf of SSOC as may be required pursuant to this Agreement, including keeping the members of SSOC reasonably informed of the Parties' activities pursuant to this Agreement. The SSOC Designee may be changed upon not less than fifteen (15) days prior written notice to TCA, duly signed and authorized by at least a majority of the SSOC Members, but in order for such notice to be effective, the notice must designate a replacement SSOC Designee. The initial SSOC Designee shall be Damon Nagami.

8.5 Sierra Club Exclusions. The term "Party," "SSOC", and "SSOC Member" as used in Sections 3.3.2, 5.1.1, 5.1.2, 5.2, and 5.3.1 (except as incorporated by reference in 5.3.3), shall include all of the SSOC Members except the Sierra Club.

8.6 The People and CSPRC's Exclusions. With respect to Section 3, the People and CSPRC are parties to and may enforce: (a) subsection 3.1.2 with respect to any alignment within the portion of the Avoidance Area that is within SOSB, and (b) subsection 3.2, but shall not otherwise have any rights or obligations, including enforcement rights, under Section 3. The

People and CSPRC are not parties to Sections 4, 5 and 7, and shall have no rights or obligations thereunder, including enforcement rights.

8.7 NAHC Exclusions. With respect to Section 3, NAHC is a party to and may enforce: (a) subsection 3.1.2 with respect to any alignment within the Avoidance Area, and (b) subsection 3.2, but shall not otherwise have any rights or obligations, including enforcement rights, under Section 3. NAHC is not a party to Sections 4, 5 and 7, and shall have no rights or obligations thereunder, including enforcement rights.

8.8 Binding on Successors. Except as expressly provided in this Agreement, the covenants, terms, conditions, and restrictions of this Agreement shall be binding upon, and inure to the benefit of, the Parties hereto and their respective representatives, heirs, successors, and assigns.

8.9 Right To Enforce. Only the Parties and their respective representatives, heirs, successors, and assigns may enforce this Agreement against any other Party and such Party's respective representatives, heirs, successors, and assigns and any such enforcement shall be subject to the terms and limitations set forth in this Agreement.

8.10 Assignment. No Party may, collectively or individually, assign or otherwise transfer their respective rights under this Agreement without the prior written consent of the remaining Parties.

8.11 Entire Agreement. This Agreement constitutes the entire agreement among the Parties. Further, none of the Parties shall be bound by any representations, warranties, promises, statements, or information unless expressly set forth herein.

8.12 Amendments. Except as expressly provided in this Agreement, this Agreement may be amended only pursuant to a written agreement signed by all of the Parties that are governed by or have obligations under the section(s) of the Agreement that are subject to such amendment. Any amendment that is in conflict with the Agreement as set forth in the Final Judgment approved by the court, shall require approval of the court, which the Parties shall use good faith efforts to secure.

8.13 Captions. The captions of the various sections in this Agreement are for convenience and organization only, and are not intended to be any part of the body of this Agreement, nor are they intended to be referred to in construing the provisions of this Agreement.

8.14 Exhibits. All exhibits referenced in this Agreement are attached hereto and made a part of and incorporated herein.

8.15 Governing Law. This Agreement shall be deemed to have been executed and delivered within the State of California; the rights and obligations of the Parties hereunder shall be governed by, construed and enforced in accordance with the laws of the State of California.

8.16 Statutory References. Except as otherwise provided in Section 5.3.1.2 and 5.3.1.4, all statutory references in this Agreement shall mean and include the applicable statute, as amended from time to time, or, if such statute is repealed and replaced, any successor statute.

8.17 Notices, Demands and Communications Between the Parties. Formal written notices, demands, correspondence and communications between the Parties that are required by or in connection with this Agreement shall be sufficiently given if delivered personally (including delivery by private courier); dispatched by certified mail, postage prepaid and return receipt requested; delivered by nationally recognized overnight courier service; or transmitted electronically (e-mail) followed by delivery of a “hard” copy to the offices of the Parties indicated below:

TO TCA:

Chief Executive Officer
Foothill/Eastern Transportation Corridor Agency
125 Pacifica
Irvine, CA 92618
Attn: Michael A. Kraman

With copies to:

Chief Environmental Planning Officer
Foothill/Eastern Transportation Corridor Agency
125 Pacifica
Irvine, CA 92618
Attn: Valarie McFall

Nossaman LLP
18101 Von Karman Avenue, Suite 1800
Irvine, CA 92612

TO SSOC:

Natural Resources Defense Council
1314 Second Street
Santa Monica, CA 90401
Attn: Damon Nagami

With copies to:

Surfrider Foundation
P.O. Box 6010
San Clemente, CA 92674
Attn: Angela Howe

Shute, Mihaly & Weinberger LLP
396 Hayes St.
San Francisco, CA 94102
Attn: William J. White

TO THE PEOPLE:

Environment Section
Office of the Attorney General, California Dept. of Justice
600 West Broadway, Suite 1800
San Diego, CA 92101
Attn: John Everett

TO CSPRC:

Tara E. Lynch, Chief Counsel
California State Parks
1416 Ninth Street, Room 1404-6
Sacramento, California 95814

With copies to:

Supervising Deputy Attorney General Eric Katz
Natural Resources Law Section
Office of the Attorney General, California Dept. of Justice
300 S. Spring Street, Suite 1702
Los Angeles, CA 90013

TO NAHC:

Native American Heritage Commission
General Counsel's Office
1550 Harbor Blvd., Suite 100
West Sacramento, CA 95691

Office of the Attorney General, California Dept. of Justice
Attn: Senior Assistant Civil Rights Enforcement Section
300 South Spring Street, Suite 1702
Los Angeles, CA 90013

Such written notices, demands, correspondence and communications may be sent in the same manner to such persons and addresses as any Party may from time-to-time designate in writing at least fifteen (15) days prior to the name or address change. Notices personally delivered shall be deemed to have been received upon delivery. Notices delivered by certified mail, as provided above, shall be deemed to have been given and received on the first to occur of: (a) actual receipt

by any of the addressees designated above as the Party to whom notices are to be sent; or (b) within five (5) days after a certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. Notices delivered by nationally recognized overnight courier service (such as Federal Express) as provided above shall be deemed to have been received upon delivery. Notices delivered by electronic transmission shall be deemed received upon sending, provided that a “hard” copy is delivered by overnight courier as provided above.

8.18 Counterparts. This Agreement may be executed in one or more counterparts, and all the counterparts shall constitute but one and the same Agreement, notwithstanding that all Parties hereto are not signatories to the same or original counterpart.

8.19 Nonwaiver. Unless otherwise expressly provided in this Agreement, no waiver by a Party of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such Party. No delay or omission in the exercise of any right or remedy accruing to any Party upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by a Party of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other term, covenant or condition.

8.20 Authority. Each of the persons signing this Agreement on behalf of a Party hereby represents that he or she has the requisite authority to bind the Party on whose behalf he or she is signing this Agreement, and that all requisite approvals of such Party, its board of directors, shareholders, general partners, or others have been obtained. Upon the request of any Party, each Party shall deliver evidence of such authorization to all other Parties within five (5) business days. Each of the Parties represents and warrants that the execution and delivery of this Agreement by such Party, and the performance of such Party’s obligations hereunder, have been duly authorized by such Party, and that all consents or approvals necessary to cause this Agreement to be binding upon such Party have been obtained and are in full force and effect.

8.21 Understanding of Terms. The Parties each hereby affirm and acknowledge that they have read this Agreement, that they know and understand its terms, and have signed it voluntarily and after having been advised by counsel. The Parties have had a full and unhindered opportunity to consult with their attorneys, accountants, financial advisors and such other consultants, as they may have desired prior to executing this Agreement.

8.22 Construction. The Parties acknowledge that each Party and its counsel have reviewed this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any amendment or exhibits hereto.

8.23 No Third Party Beneficiaries. The Parties agree that no third party beneficiaries to this Agreement exist and that nothing contained herein shall be construed as giving any other Person third party beneficiary status.

8.24 Severability. The invalidity of any portion of this Agreement shall not invalidate the remainder. If any term, provision, covenant or condition of this Agreement is held to be invalid, void or unenforceable by a court of competent jurisdiction, the Parties shall amend this Agreement and/or take other action necessary to achieve the intent and purpose of this Agreement in a manner consistent with the ruling of the court. Notwithstanding the foregoing, if TCA's obligations under Section 3.1.2 are invalidated, annulled or otherwise rendered unenforceable, SSOC's obligations under Section 5 of this Agreement shall terminate.

8.25 Further Assurances. The Parties shall promptly perform, execute and deliver or cause to be performed, executed and delivered any and all acts, deeds and assurances, including the delivery of any documents, as any Party may reasonably require in order to carry out the intent and purpose of this Agreement.

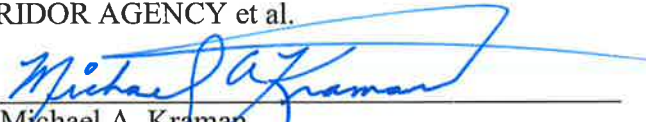
SIGNATURES BEGIN ON NEXT PAGE

IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the Effective Date.

Dated: November 10, 2016

FOOTHILL/EASTERN TRANSPORTATION
CORRIDOR AGENCY et al.


By:



Michael A. Kraman
Chief Executive Officer

Approved as to form only:

By:



Ben Rubin
Nossaman LLP
Counsel to TCA

Dated: November __, 2016

CALIFORNIA STATE PARKS FOUNDATION

By:

Elizabeth Goldstein
President

Dated: November __, 2016

ENDANGERED HABITATS LEAGUE

By:

Dan Silver
Executive Director

Dated: November __, 2016

LAGUNA GREENBELT, INC.

By:

Elisabeth M. Brown, Ph.D.
President

SIGNATURES CONTINUE ON NEXT PAGE

IN WITNESS WHEREOF, the Parties hereto have executed one or more copies of this Agreement as of the Effective Date.

Dated: November ___, 2016

FOOTHILL/EASTERN TRANSPORTATION
CORRIDOR AGENCY et al.

By: _____

Michael A. Kraman
Chief Executive Officer

Approved as to form only:


By: _____

Ben Rubin
Nossaman LLP
Counsel to TCA

Dated: November 1, 2016

CALIFORNIA STATE PARKS FOUNDATION

By: _____


Elizabeth Goldstein
President

Dated: November ___, 2016

ENDANGERED HABITATS LEAGUE

By: _____

Dan Silver
Executive Director

Dated: November ___, 2016

LAGUNA GREENBELT, INC.

By: _____

Elisabeth M. Brown, Ph.D.
President

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Dated: November ___, 2016

FOOTHILL/EASTERN TRANSPORTATION
CORRIDOR AGENCY et al.

By: _____

Michael A. Kraman
Chief Executive Officer

Approved as to form only:

By: _____

Ben Rubin
Nossaman LLP
Counsel to TCA

Dated: November ___, 2016

CALIFORNIA STATE PARKS FOUNDATION

By: _____

Elizabeth Goldstein
President

Dated: November 1, 2016

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Dan Silver
Executive Director

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President

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CORRIDOR AGENCY et al.**

By: _____

Michael A. Kraman
Chief Executive Officer

Approved as to form only:

By: _____

Ben Rubin
Nossaman LLP
Counsel to TCA

Dated: November ___, 2016

CALIFORNIA STATE PARKS FOUNDATION

By: _____

Elizabeth Goldstein
President

Dated: November ___, 2016

ENDANGERED HABITATS LEAGUE

By: _____

Dan Silver
Executive Director

Dated: November 1, 2016

LAGUNA GREENBELT, INC.

By: _____

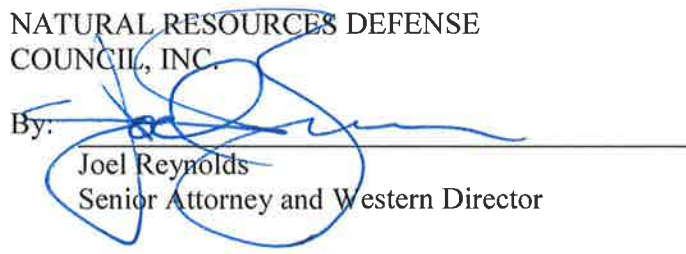

Elisabeth M. Brown, Ph.D.
President

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November 1, 2016

NATURAL RESOURCES DEFENSE
COUNCIL, INC.

By: _____


Joel Reynolds
Senior Attorney and Western Director

Dated: November __, 2016

SEA AND SAGE AUDUBON SOCIETY

By: _____

G. Victor Leipzig, Ph.D
President

Dated: November __, 2016

SIERRA CLUB

By: _____

Sharon Lee Koch
Executive Committee Chair
Angeles Chapter

Dated: November __, 2016

NATIONAL AUDUBON SOCIETY, INC.

By: _____

David Yarnold
President and Chief Executive Officer

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November ___, 2016

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Joel Reynolds
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Angeles Chapter

Dated: November 1, 2016

NATIONAL AUDUBON SOCIETY, INC.

By: _____


David Yarnold
President and Chief Executive Officer

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November 1, 2016

SURFRIDER FOUNDATION
By: 
Chad Nelsen
Chief Executive Officer

Dated: November __, 2016

CALIFORNIA COASTAL PROTECTION NETWORK
By: _____
Susan Jordan
Executive Director

Dated: November __, 2016

ORANGE COUNTY COASTKEEPER
By: _____
Garry W. Brown
Founder and President

Dated: November __, 2016

DEFENDERS OF WILDLIFE
By: _____
Kim Delfino
California Program Director

Dated: November __, 2016

WILDCOAST-COSTASALVAJE
By: _____
Serge Dedina, Ph.D.
Executive Director

SETTLEMENT AGREEMENT

Dated: November ____, 2016

SURFRIDER FOUNDATION


By: _____

Chad Nelsen
Chief Executive Officer

Dated: November 1, 2016

CALIFORNIA COASTAL PROTECTION
NETWORK

By: _____


Susan Jordan
Executive Director

Dated: November ____, 2016

ORANGE COUNTY COASTKEEPER

By: _____

Garry W. Brown
Founder and President

Dated: November ____, 2016

DEFENDERS OF WILDLIFE

By: _____

Kim Delfino
California Program Director

Dated: November ____, 2016

WILD COAST-COSTASALVAJE

By: _____

Serge Dedina, Ph.D.
Executive Director

Signatures-3

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November ___, 2016

SURFRIDER FOUNDATION

By: _____

Chad Nelsen
Chief Executive Officer

Dated: November ___, 2016

CALIFORNIA COASTAL PROTECTION
NETWORK

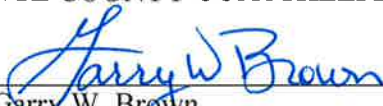
By: _____

Susan Jordan
Executive Director

Dated: November 1st, 2016

ORANGE COUNTY COASTKEEPER

By: _____


Garry W. Brown
Founder and President

Dated: November ___, 2016

DEFENDERS OF WILDLIFE

By: _____

Kim Delfino
California Program Director

Dated: November ___, 2016

WILD COAST-COSTASALVAJE

By: _____

Serge Dedina, Ph.D.
Executive Director

Signatures - 3

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November __, 2016

SURFRIDER FOUNDATION

By: _____

Chad Nelsen
Chief Executive Officer

Dated: November __, 2016

CALIFORNIA COASTAL PROTECTION
NETWORK

By: _____

Susan Jordan
Executive Director

Dated: November __, 2016

ORANGE COUNTY COASTKEEPER

By: _____

Garry W. Brown
Founder and President

Dated: November 3, 2016

DEFENDERS OF WILDLIFE

By: _____


Kim Delfino
California Program Director

Dated: November __, 2016

WILD COAST-COSTASALVAJE

By: _____

Serge Dedina, Ph.D.
Executive Director

Signatures - 3

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November ____, 2016

SURFRIDER FOUNDATION

By: _____
Chad Nelsen
Chief Executive Officer

Dated: November ____, 2016

CALIFORNIA COASTAL PROTECTION
NETWORK

By: _____
Susan Jordan
Executive Director

Dated: November ____, 2016

ORANGE COUNTY COASTKEEPER

By: _____
Garry W. Brown
Founder and President


Dated: November ____, 2016

DEFENDERS OF WILDLIFE

By: _____
Kim Delfino
California Program Director

Dated: November 09, 2016

WILDCOAST-COSTASALVAJE

By:  _____
Serge Dedina, Ph.D.
Executive Director

Signatures - 3

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November 3, 2016

PEOPLE OF THE STATE OF CALIFORNIA

Kamala D. Harris
Attorney General of California
Jamee Jordan Patterson
Supervising Deputy Attorney General

By: _____


John W. Everett
Deputy Attorney General

Dated: November ____, 2016

CALIFORNIA STATE PARK AND RECREATION
COMMISSION

By: _____

Diane Wittenberg
Chair

Approved as to form:

Kamala D. Harris
Attorney General of California

By: _____

Eric Katz
Supervising Deputy Attorney General
Attorneys for the California State Park and
Recreation Commission

SIGNATURES CONTINUE ON NEXT PAGE

Dated: November ___, 2016

PEOPLE OF THE STATE OF CALIFORNIA

Kamala D. Harris
Attorney General of California
Jamee Jordan Patterson
Supervising Deputy Attorney General


By: _____

John W. Everett
Deputy Attorney General

Dated: November 1, 2016

CALIFORNIA STATE PARK AND RECREATION
COMMISSION

By: _____


Diane Wittenberg
Chair

Approved as to form:

Kamala D. Harris
Attorney General of California

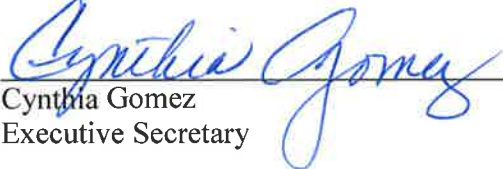
By: _____


Eric Katz
Supervising Deputy Attorney General
Attorneys for the California State Park and
Recreation Commission

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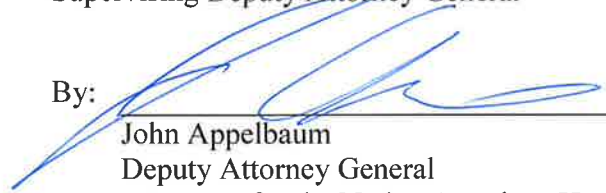
Dated: November 1, 2016

NATIVE AMERICAN HERITAGE COMMISSION

By: 
Cynthia Gomez
Executive Secretary

Approved as to form:

Kamala D. Harris
Attorney General of California
Angela Sierra
Senior Assistant Attorney General
Nancy A. Beniati
Supervising Deputy Attorney General

By: 
John Appelbaum
Deputy Attorney General
Attorneys for the Native American Heritage
Commission

END SIGNATURES

FOOTHILL/EASTERN TRANSPORTATION CORRIDOR AGENCY
BOARD OF DIRECTORS

CRAIG YOUNG
Print Name
CRAIG YOUNG 11-10-16
Signature Date

Lisa Barlett
Print Name

Lisa Barlett 11-10-16
Signature Date

Scott Voigts
Print Name

Scott Voigts 11-10-16
Signature Date

CHARLES E. Puckett 11/10/16
Print Name

Charles Puckett 11/10/16
Signature Date

J. Scott Schoeffel 11/10/16
Print Name

J. SCOTT SCHOEFFEL
Signature Date

Christina Shea
Print Name
Christina Shea 11/10/16
Signature Date

L. Anthony Beall
Print Name

L. Anthony Beall 11-10-16
Signature Date

Lucille Krug
Print Name

Lucille Krug 11-10-16
Signature Date

ED SACHS
Print Name

Ed Sachs
Signature Date

Mark A Murphy
Print Name

Mark A Murphy 11-10-16
Signature Date

LIST OF EXHIBITS

- Exhibit A:** Form of Stipulation for Consolidation and Joinder
- Exhibit B:** Form of Stipulation for Judgment
- Exhibit C:** Avoidance Area Map
- Exhibit D:** Form of Stipulation for Dismissal
- Exhibit E:** Form of Non-Opposition Letter
- Exhibit F:** Form of Protective Legislation
- Exhibit G:** Joint Statement
- Exhibit H:** Form of SSOC Cure Letter
- Exhibit I:** Form of TCA Cure Letter

830563.3

EXHIBIT A

1 WILLIAM J. WHITE (State Bar No. 181441)
 EDWARD T. SCHEXNAYDER (State Bar No. 284494)
 2 SHUTE, MIHALY & WEINBERGER LLP
 396 Hayes Street
 3 San Francisco, CA 94102
 Telephone: (415) 552-7272
 4 Facsimile: (415) 552-5816
 white@smwlaw.com
 5 schexnayder@smwlaw.com

6 Attorneys for Petitioners
 California State Parks Foundation, et al.

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 8 COUNTY OF SAN DIEGO, NORTH COUNTY DIVISION

9 CALIFORNIA STATE PARKS
 10 FOUNDATION, et al.,

11 Petitioners,

12 v.

13 FOOTHILL/EASTERN
 14 TRANSPORTATION CORRIDOR
 AGENCY, et al.,

15 Respondents.

Case No. GIN051194

Consolidated with Case No. GIN051371

**STIPULATION AND [PROPOSED]
 ORDER RE CONSOLIDATION AND
 PERMISSIVE JOINDER OF
 ADDITIONAL PETITIONERS**

Judge: Earl H. Maas, III
 Dept: N-28

Actions Filed: March 23, 2006

17 THE PEOPLE OF THE STATE OF
 18 CALIFORNIA, et al.,

19 Petitioners,

20 v.

21 FOOTHILL/EASTERN
 22 TRANSPORTATION CORRIDOR
 AGENCY, et al.,

23 Respondents.

1 CALIFORNIA STATE PARKS
FOUNDATION, et al.,

2 Petitioners,

3 v.

4 FOOTHILL/EASTERN
5 TRANSPORTATION CORRIDOR
AGENCY, et al.,

6 Respondents.

Case No. 37-2013-00049797-CU-WM-CTL

IMAGED FILE

Action Filed: May 22, 2013

Consolidated with Case No. 37-2013-
00050001-CU-WM-NC

Action Filed: May 23, 2013

Judge: Earl H. Maas, III
Dept: N-28

11 THE PEOPLE OF THE STATE OF
12 CALIFORNIA, EX REL. ATTORNEY
GENERAL KAMALA D. HARRIS,,

13 Petitioners,

14 v.

15 FOOTHILL/EASTERN
16 TRANSPORTATION CORRIDOR
AGENCY, et al.,

17 Respondents.

19 NATIVE AMERICAN HERITAGE
20 COMMISSION,

21 Plaintiff,

22 v.

23 FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR
AGENCY, et al.,

24 Defendants

Case No. GIN051370

Judge: Earl H. Maas, III
Dept: N-28

Action Filed: March 23, 2006

1 The parties to the above-captioned actions, together with proposed joined petitioners
2 Defenders of Wildlife and WiLDCOAST-COSTASALVAjE, hereby stipulate as follows:

3 **RECITALS**

4 1. The above-captioned actions are related lawsuits challenging certain approvals and
5 other actions taken by respondents/defendants Foothill/Eastern Transportation Corridor Agency
6 et. al (“TCA”) in connection with the in connection with the State Route 241 Extension Project.

7 2. A number of environmental organizations, including the National Audubon
8 Society, dba Audubon California, the California Coastal Protection Network, the California
9 State Parks Foundation, Defenders of Wildlife, Endangered Habitats League, Laguna Greenbelt,
10 Inc., Natural Resources Defense Council, Orange County Coastkeeper, Sea and Sage Audubon
11 Society, Sierra Club, Surfrider Foundation, and WiLDCOAST-COSTASALVAjE, formed a
12 coalition known as the Save San Onofre Coalition (“SSOC”) to oppose certain alignments of the
13 State Route 241 Extension Project.

14 3. On March 23, 2006, certain members of the SSOC filed *Cal. State Parks*
15 *Foundation et al. v. Foothill/Eastern Transportation Corridor Agency et al.* (Case No.
16 GIN051194), challenging the TCA’s approval of the Foothill-South project, a 16-mile extension
17 of SR 241 to Interstate 5, under the California Environmental Quality Act, Public Resources
18 Code §§ 21000 et seq. (“CEQA”).

19 4. On the same day, the People of the State of California ex rel. Kamala D. Harris,
20 Attorney General (“People”) and the California State Park and Recreation Commission
21 (“CSPRC”) filed *People of the State of California et al. v. Foothill/Eastern Transportation*
22 *Corridor Agency et al.* (Case No. GIN051371), which also challenged the Foothill South project
23 under CEQA.

24 5. Also on the same day, the Native American Heritage Commission (“NAHC”) filed
25 *Native American Heritage Commission v. Foothill/Eastern Transportation Corridor Agency, et*
26 *al.* (Case No. GIN051370) to enjoin construction, development and permitting of the Foothill-
27 South project under Public Resources Code sections 5097.94 and 5097.

1 6. By stipulation of the parties, on June 16, 2006, the CEQA cases (Case Nos.
2 GIN051194 and GIN051371) were consolidated for limited purposes, but not for purposes of
3 judgment. (On April 24, 2009, *Native American Heritage Commission* (Case No. GI051370)
4 was consolidated with a related case, *Turner v. Native American Heritage Commission* (Case No
5 37-2008-00060583); however, a notice of dismissal was filed in the *Turner* case on _____.)

6 7. On May 22, 2013, certain members of the SSOC filed *Cal. State Parks*
7 *Foundation et al. v. Foothill/Eastern Transportation Corridor Agency et al.* (Case No. 37-2013-
8 00049797-CU-WM-NC), challenging under CEQA TCA’s approval of a five-mile extension of
9 State Route 241 to Cow Camp Road, known as the Tesoro Extension. On May 23, 2013, the
10 People filed *People of the State of California, ex rel. Attorney General Kamala D. Harris v.*
11 *Foothill/Eastern Transportation Corridor Agency et al.* (Case No. 37-2013-00050001-CU-WM-
12 NC), which raised a similar CEQA challenge to the Tesoro Extension. On December 9, 2013,
13 these two cases were consolidated for limited purposes, but not for judgment, by stipulation of
14 the parties.

15 8. On September 20, 2013, this Court ordered all five of these related cases
16 (collectively, the “Lawsuits”) coordinated for purposes of tracking, discovery and
17 communication.

18 9. On September 12, 2014, this Court ordered the CEQA cases stayed pending
19 further order of the Court. On September 29, 2014, the Court similarly stayed proceedings in
20 the NAHC case..

21 10. On November ____, 2016, the TCA, the SSOC, the People, the CSPRC, and the
22 NAHC entered into a settlement agreement to resolve all of the outstanding issues in the
23 Lawsuits and other issues related to the State Route 241 Extension Project. The settlement
24 requires the parties to seek court approval of the settlement agreement as a stipulated judgment,
25 with the continuing jurisdiction of the Court to enforce the settlement under Section 664.6 of the
26 Code of Civil Procedure.

1 11. Because the settlement addresses and resolves the issues in all of the Lawsuits in
2 a single agreement, it would be impracticable to require that it be incorporated into five separate
3 judgments, each to be enforced separately. Accordingly, to implement the settlement
4 agreement, the parties desire that all five Lawsuits be consolidated for purposes of judgement.

5 12. The settlement agreement includes two members of the SSOC—Defenders of
6 Wildlife and WiLDCOAST-COSTASALVAjE—who are not presently parties to any of the
7 Lawsuits. It is important that all parties to the settlement, including Defenders of Wildlife and
8 WiLDCOAST-COSTASALVAjE, have the ability to enforce, and be subject to enforcement of,
9 the settlement as a stipulated judgment. Accordingly, the parties desire to join Defenders of
10 Wildlife and WiLDCOAST-COSTASALVAjE as petitioners under Code of Civil Procedure
11 section 378.

12 **STIPULATION**

13 In view of the foregoing, IT IS HEREBY STIPULATED AND AGREED, subject to the
14 approval of the Court, as follows:

15 1. The Lawsuits shall be consolidated for purposes of judgment.

16 2. Defenders of Wildlife and WiLDCOAST-COSTASALVAjE shall be joined as
17 additional petitioners in Case No. 37-2013-00049797-CU-WM-NC.

18 3. The stay of proceedings in the Lawsuits shall remain in effect pending further
19 order of the Court.

20
21 DATED: November , 2016

SHUTE. MIHALY & WEINBERGER LLP

22
23 Bv: _____
24 WILLIAM J. WHITE

25 Attorneys for Petitioners
26 California State Parks Foundation, et al.

27 [signatures continued on the following page]

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DATED: November . 2016

SHUTE. MIHALY & WEINBERGER LLP

By: _____
WILLIAM J. WHITE

Attorneys for Defenders of Wildlife and WILDCOAST-COSTASALVAiE

DATED: November __, 2016

NOSSAMAN LLP
ROBERT D. THORNTON
JOHN J. FLYNN III
BENJAMIN Z. RUBIN

By: _____
BENJAMIN Z. RUBIN
Attorneys for Respondents Foothill/Eastern
Transportation Corridor Agency et al.

DATED: November __, 2016

KAMALA D. HARRIS
Attorney General of California
JAMEE JORDAN PATTERSON
Supervising Deputy Attorney General
JOHN W. EVERETT
Deputy Attorney General

By: _____
JOHN W. EVERETT
Attorneys for the People of the State of California, ex
rel. Attorney General Kamala D. Harris

[signatures continued on the following page]

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DATED: November __, 2016

KAMALA D. HARRIS
Attorney General of California
ERIC KATZ
Supervising Deputy Attorney General

By: _____
ERIC KATZ
Attorneys for the California State Park and Recreation
Commission

DATED: November __, 2016

KAMALA D. HARRIS
Attorney General of California
ANGELA SIERRA
Senior Assistant Attorney General
JOHN APPELBAUM
Deputy Attorney General

By: _____
JOHN APPELBAUM
Attorneys for the Native American Heritage
Commission

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ORDER

Having read the foregoing stipulation of the parties, and good cause appearing,
IT IS SO ORDERED

DATED: _____, 2016

Hon. Hon. Earl H. Maas, III
Judge of the Superior Court

EXHIBIT B

1 WILLIAM J. WHITE (State Bar No. 181441)
 EDWARD T. SCHEXNAYDER (State Bar No. 284494)
 2 SHUTE, MIHALY & WEINBERGER LLP
 396 Hayes Street
 3 San Francisco, CA 94102
 Telephone: (415) 552-7272
 4 Facsimile: (415) 552-5816
 white@smwlaw.com
 5 schexnayder@smwlaw.com

6 Attorneys for Petitioners
 7 California State Parks Foundation, et al

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 9 FOR THE COUNTY OF SAN DIEGO - NORTH COUNTY DIVISION

<p>10 CALIFORNIA STATE PARKS 11 FOUNDATION, et al., 12 Petitioners, 13 v. 14 FOOTHILL/EASTERN 15 TRANSPORTATION CORRIDOR 16 AGENCY, et al., 17 Respondents.</p>	<p>Case No. GIN051194 Consolidated with: Case No. GIN051371 Case No. 37-2013-00049797-CU-WM-CTL (IMAGED FILE) Case No. 37-2013-00050001-CU-WM-NC Case No. GIN051370 STIPULATION FOR ENTRY OF JUDGMENT CONFIRMING AND IMPLEMENTING SETTLEMENT (Code of Civ. Proc., § 664.6)</p>
<p>18 THE PEOPLE OF THE STATE OF CALIFORNIA, et al., 19 Petitioners, 20 v. 21 FOOTHILL/EASTERN 22 TRANSPORTATION CORRIDOR 23 AGENCY, et al., 24 Respondents.</p>	<p>Judge: Hon. Earl H. Maas, III Dept.: 28 Action Filed: March 23, 2006 [Exempt from Filing Fees Pursuant to Government Code Section 6103]</p>
<p>25 AND CONSOLIDATED CASES</p>	

1 The Foothill/Eastern Transportation Corridor Agency et. al (“TCA”); the National
2 Audubon Society, dba Audubon California, the California Coastal Protection Network,
3 the California State Parks Foundation, Defenders of Wildlife, Endangered Habitats
4 League, Laguna Greenbelt, Inc., Natural Resources Defense Council, Orange County
5 Coastkeeper, Sea and Sage Audubon Society, Sierra Club, Surfrider Foundation, and
6 WILDCOAST-COSTASALVAJE, (each an “SSOC Member” and collectively the “Save
7 San Onofre Coalition” or “SSOC”); the People of the State of California ex rel. Kamala
8 D. Harris, Attorney General (“People”); the Native American Heritage Commission
9 (“NAHC”); and the California State Park and Recreation Commission (“CSPRC”) (each a
10 “Party”), and their respective counsel, hereby stipulate as follows:

11 1. **THE PARTIES.** The Parties comprise all of the parties to the following five
12 related lawsuits (collectively, “Lawsuits”), which have been consolidated for purposes of
13 judgment:

- 14 • *Cal. State Parks Foundation et al. v. Foothill/Eastern Transportation*
15 *Corridor Agency et al.* (Case No. GIN051194);
- 16 • *People of the State of California et al. v. Foothill/Eastern*
17 *Transportation Corridor Agency et al.* (Case No. GIN051371);
- 18 • *Cal. State Parks Foundation et al. v. Foothill/Eastern Transportation*
19 *Corridor Agency et al.* (Case No. 37-2013-00049797-CU-WM-NC);
- 20 • *People of the State of California, ex rel. Attorney General Kamala D.*
21 *Harris v. Foothill/Eastern Transportation Corridor Agency et al.* (Case
22 No. 37-2013-00050001-CU-WM-NC); and
- 23 • *Native American Heritage Commission v. Foothill/Eastern*
24 *Transportation Corridor Agency, et al.* (Case No. GIN051370).¹

25
26
27 ¹ A sixth related case, *Jeffrey A. Turner v. Native American Heritage Commission* (Case No. 37-
28 2008-0006058), had been consolidated with the *Native American Heritage Commission* case, but
was voluntarily dismissed with prejudice on _____.

1 2. **THE PROJECT.** Each of the Lawsuits arises from TCA’s proposal to extend
2 State Route 241 beyond its current terminus at Oso Parkway (“SR 241 Extension
3 Project”). Two of the Lawsuits filed in 2006, brought by certain Members of the SSOC,
4 and by the People and CSPRC, challenged under the California Environmental Quality
5 Act, Public Resources Code §§ 21000 et seq. (“CEQA”) the TCA’s approval of the
6 Foothill-South project, a 16-mile extension of SR 241 to Interstate 5. The third Lawsuit
7 filed in 2006, brought by the NAHC, sought to enjoin construction, development and
8 permitting of the Foothill-South project under Public Resources Code sections 5097.94
9 and 5097. In 2013, the two remaining Lawsuits were filed by certain members of the
10 SSOC and by the People, challenging under CEQA TCA’s approval of a five-mile
11 extension of State Route 241 to Cow Camp Road, known as the Tesoro Extension.

12 3. **THE SETTLEMENT AGREEMENT.** On November ____, 2016, the Parties
13 entered into a settlement agreement resolving all of the issues in the Lawsuits and related
14 issues in connection with the SR 241 Extension Project (“Settlement Agreement”). A
15 true and correct copy of the Settlement Agreement is attached to, and incorporated by
16 reference into, the [Proposed] Judgment Confirming and Implementing Settlement (“Final
17 Judgment”), attached hereto as Attachment A. The Parties desire to have the Settlement
18 Agreement incorporated into a judgment to give the settlement binding effect within the
19 litigation, with the Court to exercise continuing jurisdiction under Code of Civil
20 Procedure § 664.6 to ensure that the terms of the settlement are carried out.

21 4. **STIPULATION FOR ENTRY OF FINAL JUDGMENT.** For the foregoing
22 reasons, the Parties respectfully request that the Court enter Final Judgment in this matter
23 in the Lawsuits in the form set forth in Attachment A.

24 5. **AUTHORITY TO ENTER INTO STIPULATION.** Each signatory to this
25 Stipulation certifies that he or she is fully authorized by the Party he or she represents to
26 enter into this Stipulation, to execute it on behalf of the party represented, and to legally
27 bind that Party in consenting to the entry of Final Judgment.

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6. **COUNTERPARTS.** This Stipulation may be executed in several counterpart originals, all of which taken together shall constitute an integrated document.

7. **EFFECT OF SETTLEMENT AGREEMENT IF FINAL JUDGMENT IS NOT ENTERED.** Final Judgment shall not be effective until it is approved and entered by the Court. If the Court does not approve this Stipulation and enter Final Judgment in the form and substance proposed, the Parties agree to collaborate in good faith to overcome the Court's objections to this Stipulation or the Final Judgment. Regardless of whether Final Judgment is entered, the Settlement Agreement reached by the Parties shall remain binding.

[signatures begin on following page]

1 DATED: November ___, 2016

SHUTE, MIHALY & WEINBERGER LLP

2

3

By: _____

4

William J. White

5

Attorneys for Petitioners California State Parks
Foundation, et al.

6

7 DATED: November ___, 2016

CALIFORNIA STATE PARKS FOUNDATION

8

9

By: _____

10

Elizabeth Goldstein

11

President

12 DATED: November ___, 2016

ENDANGERED HABITATS LEAGUE

13

14

By: _____

15

Dan Silver

16

Executive Director

17

18 DATED: November ___, 2016

LAGUNA GREENBELT, INC.

19

20

By: _____

21

Elisabeth Brown

22

President

23 DATED: November ___, 2016

NATURAL RESOURCES DEFENSE
COUNCIL, INC.

24

25

26

By: _____

27

Damon Nagami

28

Senior Attorney

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DATED: November __, 2016

SEA AND SAGE AUDUBON SOCIETY

By: _____
G. Victor Leipzig
President

DATED: November __, 2016

SIERRA CLUB

By: _____
Sharon Lee Koch
Executive Committee Chair
Angeles Chapter

DATED: November __, 2016

SURFRIDER FOUNDATION

By: _____
Chad Nelsen
Chief Executive Officer

DATED: November __, 2016

NATIONAL AUDUBON SOCIETY dba
AUDUBON CALIFORNIA

By: _____

DATED: November __, 2016

CALIFORNIA COASTAL PROTECTION
NETWORK

By: _____
Susan Jordan
Executive Director

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DATED: November __, 2016

ORANGE COUNTY COASTKEEPER

By: _____
Garry Brown
Founder and President

DATED: November __, 2016

DEFENDERS OF WILDLIFE

By: _____
Kim Delfino
California Program Director

DATED: November __, 2016

WILD COAST-COSTA SALVAJE

By: _____
Serge Dedina
Executive Director

[signatures continued on the following page]

1 DATED: November __, 2016

NOSSAMAN LLP
ROBERT D. THORNTON
JOHN J. FLYNN III
BENJAMIN Z. RUBIN

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By: _____
Benjamin Z. Rubin
Attorneys for Respondents and Defendants
Foothill/Eastern Transportation Corridor
Agency et al.

DATED: November __, 2016

FOOTHILL/EASTERN TRANSPORTATION
CORRIDOR AGENCY et al.

By: _____
Michael A. Kraman
Chief Executive Officer

[signatures continued on the following page]

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DATED: November __, 2016

KAMALA D. HARRIS
Attorney General of California
JAMEE JORDAN PATTERSON
Supervising Deputy Attorney General
JOHN W. EVERETT
Deputy Attorney General

By: _____
John W. Everett
Attorneys for the People of the State of
California, ex rel. Attorney General Kamala D.
Harris

DATED: November __, 2016

KAMALA D. HARRIS
Attorney General of California
ERIC KATZ
Supervising Deputy Attorney General

By: _____
Eric Katz
Attorneys for the California State Park and
Recreation Commission

DATED: November __, 2016

KAMALA D. HARRIS
Attorney General of California
ANGELA SIERRA
Senior Assistant Attorney General
NANCY A. BENINATI
Supervising Deputy Attorney General
JOHN APPELBAUM
Deputy Attorney General

By: _____
John Appelbaum
Attorneys for the Native American Heritage
Commission

ATTACHMENT A TO EXHIBIT B

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO - NORTH COUNTY DIVISION

CALIFORNIA STATE PARKS
FOUNDATION, et al.,

Petitioners,

v.

FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR
AGENCY, et al.,

Respondents.

Case No. GIN051194

Consolidated with:
Case No. GIN051371
Case No. 37-2013-00049797-CU-WM-
CTL (IMAGED FILE)
Case No. 37-2013-00050001-CU-WM-
NC
Case No. GIN051370

**[PROPOSED] JUDGMENT
CONFIRMING AND
IMPLEMENTING SETTLEMENT**

THE PEOPLE OF THE STATE OF
CALIFORNIA, et al.,

Petitioners,

v.

FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR
AGENCY, et al.,

Respondents.

Judge: Hon. Earl H. Maas, III
Dept.: N-28

Action Filed: March 23, 2006

**[Exempt from Filing Fees Pursuant to
Government Code Section 6103]**

AND CONSOLIDATED CASES

1 This consolidated litigation involves five lawsuits (“Lawsuits”) challenging certain
2 approvals and other actions taken by respondents Foothill/Eastern Transportation
3 Corridor Agency et. al (“TCA”) in connection with the State Route 241 Extension
4 Project. The petitioners in the cases are: the National Audubon Society, dba Audubon
5 California, the California Coastal Protection Network, the California State Parks
6 Foundation, Defenders of Wildlife, Endangered Habitats League, Laguna Greenbelt, Inc.,
7 Natural Resources Defense Council, Orange County Coastkeeper, Sea and Sage Audubon
8 Society, Sierra Club, Surfrider Foundation, and WiLDCOAST-COSTASALVAJE, (each
9 an “SSOC Member” and collectively the “Save San Onofre Coalition” or “SSOC”); the
10 People of the State of California ex rel. Kamala D. Harris, Attorney General (“People”);
11 the Native American Heritage Commission (“NAHC”); and the California State Park and
12 Recreation Commission (“CSPRC”).

13 *Cal. State Parks Foundation et al. v. Foothill/Eastern Transportation Corridor*
14 *Agency et al.* (Case No. GIN051194) and *People of the State of California et al. v.*
15 *Foothill/Eastern Transportation Corridor Agency et al.* (Case No. GIN051371), were
16 filed on March 23, 2006 by certain SSOC Members, and by the People and the CSPRC,
17 respectively, and were consolidated for limited purposes, but not for judgment, by
18 stipulation of the parties on June 16, 2006.

19 *Cal. State Parks Foundation et al. v. Foothill/Eastern Transportation Corridor*
20 *Agency et al.* (Case No. 37-2013-00049797-CU-WM-NC), and *People of the State of*
21 *California, ex rel. Attorney General Kamala D. Harris v. Foothill/Eastern Transportation*
22 *Corridor Agency et al.* (Case No. 37-2013-00050001-CU-WM-NC), were filed on May
23 22, 2013 and May 23, 2013, respectively, by certain SSOC Members, and by the People,
24 respectively, and were consolidated for limited purposes, but not for judgment, by
25 stipulation of the parties on December 9, 2013.

26 *Native American Heritage Commission v. Foothill/Eastern Transportation*
27 *Corridor Agency, et al.* (Case No. GIN051370), was filed on March 23, 2006, by the
28 NAHC. The case had been consolidated with a related case (*Jeffrey A. Turner v. Native*

1 *American Heritage Commission* (Case No. 37-2008-0006058)), but that related case was
2 voluntarily dismissed on _____, 2016.

3 On September 20, 2013, this Court ordered all of the cases coordinated for
4 purposes of tracking, discovery and communication.

5 On _____, 2016, by stipulation of the parties, the five cases were consolidated for
6 purposes of judgment, and SSOC members Defenders of Wildlife WiLDCOAST-
7 COSTASALVAjE were joined as parties to Case No. 37-2013-00049797-CU-WM-NC.

8 On November __, 2016, the parties to the consolidated cases entered into a
9 settlement agreement, attached hereto as Exhibit A (“Settlement”), to resolve the
10 litigation and related issues, and on _____, 2016, the parties filed a Stipulation for Entry
11 of Judgment Confirming and Implementing Settlement (“Stipulation”).

12 The Court having reviewed the Stipulation, the Settlement, and the record of
13 proceedings in this matter, and good cause appearing therein, finds that the settlement
14 between the parties is fair and reasonable and in the public interest.

15 IT IS ORDERED AND ADJUDGED that:

- 16 1. Final judgment in the Lawsuits is entered pursuant to the terms of the
17 Settlement, which is incorporated by reference herein as if set out in full.
- 18 2. The entry of this judgment shall constitute the full and final determination
19 of the rights of the parties in the Lawsuits, consistent with section 577 of the California
20 Code of Civil Procedure.
- 21 3. The Court reserves jurisdiction to enforce the terms of the Settlement
22 pursuant to Code of Civil Procedure section 664.6.

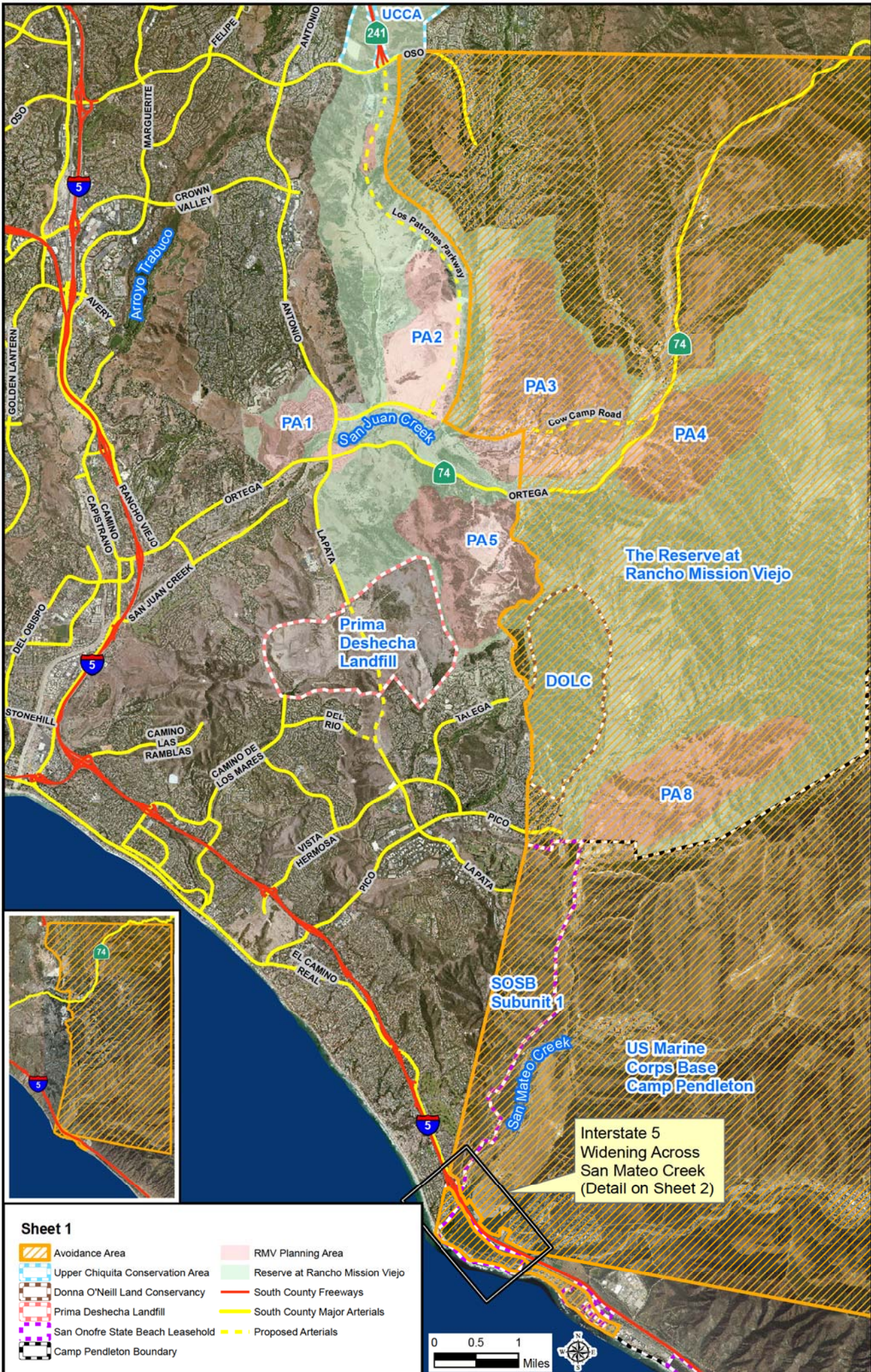
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24 DATED: _____, 2016

25 Hon. Hon. Earl H. Maas, III
26 Judge of the Superior Court
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EXHIBIT A
Settlement Agreement

EXHIBIT C



Sheet 1

- | | | | |
|--|----------------------------------|--|---------------------------------|
| | Avoidance Area | | RMV Planning Area |
| | Upper Chiquita Conservation Area | | Reserve at Rancho Mission Viejo |
| | Donna O'Neill Land Conservancy | | South County Freeways |
| | Prima Deshecha Landfill | | South County Major Arterials |
| | San Onofre State Beach Leasehold | | Proposed Arterials |
| | Camp Pendleton Boundary | | |

Interstate 5
Widening Across
San Mateo Creek
(Detail on Sheet 2)



U.S. Marine Corps Base
Camp Pendleton

Subunit 1

City of
San Clemente

Subunit 2

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Sheet 2

-  Disturbance Area Limits
-  Project Limit Line
-  Existing Caltrans Right-of-Way
-  Coastal Zone Boundary
-  Bike Trail
-  Beach Trail
-  Avoidance Area
-  No New Pavement Avoidance Area
-  San Onofre State Beach Leasehold
-  Camp Pendleton Boundary



EXHIBIT D

1 WILLIAM J. WHITE (State Bar No. 181441)
2 EDWARD T. SCHEXNAYDER (State Bar No. 284494)
3 SHUTE, MIHALY & WEINBERGER LLP
396 Hayes Street
San Francisco, CA 94102
Telephone: (415) 552-7272
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white@smwlaw.com
5 schexnayder@smwlaw.com

6 Attorneys for Petitioners
7 California State Parks Foundation, et al

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF SAN DIEGO - NORTH COUNTY DIVISION

10 CALIFORNIA STATE PARKS
11 FOUNDATION, et al.,
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Petitioners,

Case No. GIN051194
Consolidated with:
Case No. GIN051371

v.

FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR
AGENCY, et al.,
Respondents.

**STIPULATION AND [PROPOSED]
ORDER DISMISSING ACTION
PURSUANT TO SETTLEMENT
AGREEMENT AND RESERVING
TRIAL COURT JURISDICTION
PURSUANT TO C.C.P. SECTION
664.6**

THE PEOPLE OF THE STATE OF
CALIFORNIA, et al.,
Petitioners,

Judge: Hon. Earl H. Maas, III
Dept.: N-28

Action Filed: March 23, 2006

v.

FOOTHILL/EASTERN
TRANSPORTATION CORRIDOR
AGENCY, et al.,
Respondents.

**[Exempt from Filing Fees Pursuant to
Government Code Section 6103]**

[Revise caption page in each case to conform to applicable case caption]

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RECITALS

A. This case is one of five related lawsuits (“Lawsuits”) challenging certain approvals and other actions taken by [respondents/defendants] Foothill/Eastern Transportation Corridor Agency et. al (“TCA”) in connection with the State Route 241 Extension Project.

B. The Lawsuits are *Cal. State Parks Foundation et al. v. Foothill/Eastern Transportation Corridor Agency et al.* (Case No. GIN051194), consolidated for limited purposes with *People of the State of California et al. v. Foothill/Eastern Transportation Corridor Agency et al.* (Case No. GIN051371); *Cal. State Parks Foundation et al. v. Foothill/Eastern Transportation Corridor Agency et al.* (Case No. 37-2013-00049797-CU-WM-NC), consolidated for limited purposes with *People of the State of California, ex rel. Attorney General Kamala D. Harris v. Foothill/Eastern Transportation Corridor Agency et al.* (Case No. 37-2013-00050001-CU-WM-NC); and *Native American Heritage Commission v. Foothill/Eastern Transportation Corridor Agency, et al.* (Case No. GIN051370), which had been consolidated with a related case (*Jeffrey A. Turner v. Native American Heritage Commission* (Case No. 37-2008-0006058)), but that related case was voluntarily dismissed on _____, 2016.

C. On September 20, 2013, this Court ordered all of the Lawsuits coordinated for purposes of tracking, discovery and communication.

D. The parties to each of the Lawsuits (“Parties”) have entered into a settlement agreement, a copy of which is attached hereto as Exhibit A (“Settlement”).

E. In accordance with the Settlement, the TCA has rescinded the actions challenged in the Lawsuits.

F. The Settlement provides that, in the event [the Court affirmatively declines to enter proposed judgment called for in the Settlement/the proposed judgment called for in the Settlement is not entered within 90 days of the effective date of the Settlement], the Parties shall file a dismissal in this form in each of the Lawsuits.

1 F. The Settlement provides that the Parties request that this Court enter an
2 order retaining jurisdiction to enforce the Settlement pursuant to Code of Civil Procedure
3 section 664.6; and

4 G. The Court is authorized to retain jurisdiction to enforce the Settlement
5 pursuant to Code of Civil Procedure section 664.6 upon written request of the Parties as
6 provided in *Wackeen v. Malis* (2002) 97 Cal.App.4th 429, 439-441.

7
8 **STIPULATION**

9 THEREFORE, it is hereby STIPULATED and jointly requested by
10 [Petitioners/Plaintiffs] and TCA that this action be dismissed with prejudice and that the
11 Court reserve jurisdiction to enforce the Settlement pursuant to Code of Civil Procedure
12 section 664.6 and this written stipulation of the Parties.

13
14 DATED: November ____, 2016

SHUTE, MIHALY & WEINBERGER LLP

15
16
17 By: _____
18 WILLIAM J. WHITE
19 Attorneys for Petitioners California State Parks
Foundation, et al.

20 DATED: _____, 2016

NOSSAMAN LLP
ROBERT D. THORNTON
JOHN J. FLYNN III
BENJAMIN Z. RUBIN

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24 By: _____
25 BENJAMIN Z. RUBIN]
26 Attorneys for [Respondents/Defendants]
Foothill/Eastern Transportation Corridor
Agency et al.

27 [signatures continued on next page]
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DATED: , 2016

KAMALA D. HARRIS
Attorney General of California
JAMEE JORDAN PATTERSON
Supervising Deputy Attorney General
JOHN W. EVERETT
Deputy Attorney General

By: _____
JOHN W. EVERETT
Attorneys for the People of the State of
California, ex rel. Attorney General Kamala D.
Harris

DATED: , 2016

KAMALA D. HARRIS
Attorney General of California
ERIC KATZ
Supervising Deputy Attorney General

By: _____
ERIC KATZ
Attorneys for the California State Park and
Recreation Commission

DATED: , 2016

KAMALA D. HARRIS
Attorney General of California
ANGELA SIERRA
Senior Assistant Attorney General
JOHN APPELBAUM
Deputy Attorney General

By: _____
JOHN APPELBAUM
Attorneys for the Native American Heritage
Commission

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[PROPOSED] ORDER

This Court hereby reserves jurisdiction to enforce the Settlement pursuant to Code of Civil Procedure section 664.6 and this written stipulation, and the action is hereby dismissed with prejudice.

IT IS SO ORDERED:

DATED: _____, 2016

Hon. Earl H. Maas, III
Judge of the Superior Court

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EXHIBIT A
Settlement Agreement

EXHIBIT E

EXHIBIT E

Form of SSOC Non-Opposition Letter

[SSOC MEMBER LETTERHEAD]

[DATE]

To Whom it May Concern:

This letter is written with reference to the State Route 241 Extension project proposed by the Foothill/Eastern Transportation Corridor Agency (“TCA”).

The Settlement Agreement pertaining to State Route 241 Foothill South and Tesoro Extensions, dated November __, 2016 (“Agreement”), achieves major protections for critical environmental, recreational and cultural resources in southern Orange County and northern San Diego County. Under the Agreement, TCA has agreed not to construct or fund any road alignment sited in or with direct impacts to the area described in the attached diagram which is known as the “Avoidance Area”, which includes San Onofre State Beach, the Richard and Donna O’Neill Conservancy, and other important open space lands.

The Agreement also requires TCA to consider at least one alternative alignment for the State Route 241 Extension project that meets the goals, objectives and transportation needs established by TCA, connects to Interstate 5, and is not sited in and will not have direct impacts to the Avoidance Area (“Post-Settlement Alignment”).

In light of the major environmental benefits realized through the Agreement, [SSOC Member] does not oppose the approval, funding, or construction of a TCA Post-Settlement Alignment as provided in the Settlement Agreement.

[SSOC MEMBER SIGNATURE]

Attachment

[ATTACH Avoidance Area Diagram]

EXHIBIT F

EXHIBIT F

Form of Protective Legislation

Section 66484.4 is added to the Government Code to read:

Section 66484.4. Notwithstanding any provision of law to the contrary, a joint powers agency empowered under Government Code section 66484.3 shall have no authority to construct, fund or operate a major thoroughfare within the area identified as the Avoidance Area in that certain consent decree entered by the San Diego Superior Court on _____ in case numbers GIN051194, GIN051371, 37-2013-00049797-CU-WM-CTL, 37-2013-00050001-CU-WM-NC, and GIN051370.

EXHIBIT G

EXHIBIT G

Joint Statement

LANDMARK AGREEMENT ENDS 15-YEAR DISPUTE OVER SR 241 TOLL ROAD EXTENSION

Agreement between Orange County toll road agency, Attorney General and a broad coalition of national and local environmental groups will protect San Onofre State Beach, the Richard and Donna O’Neill Conservancy and San Mateo Creek watershed while allowing exploration of other transportation solutions for South Orange County

IRVINE, CALIF. – Announcing an end to the 15-year fight over the proposed Foothill-South Toll Road in southern Orange County and northern San Diego County, representatives from the Foothill/Eastern Transportation Corridor Agency (TCA), California Attorney General Kamala Harris, the Save San Onofre Coalition, the California Park and Recreation Commission and the Native American Heritage Commission detailed the elements of a historic, comprehensive settlement.

The agreement presents an opportunity for TCA to consider a number of transportation project ideas including State Route 241 – Interstate 5 connection options while protecting sensitive lands and cultural resources within the San Mateo Creek watershed, including San Onofre State Beach, the Richard and Donna O’Neill Conservancy. “TCA is very pleased to join over a dozen environmental organizations in this unprecedented outcome, which underscores the collaboration between the Agency’s leadership and leaders of the environmental community,” stated Foothill/Eastern Transportation Corridor Agency Chairman Craig Young.

“For the past two years, TCA and its team of experts have engaged in thoughtful and productive discussions about the future of improving transportation mobility and the importance of protecting environmentally sensitive areas. This agreement is a baseline for achieving both of those objectives,” added Transportation Corridor Agencies Chief Executive Officer Mike Kraman.

“The Settlement Agreement reached today is the culmination of years of work by the Save San Onofre Coalition to ensure the protection of the extraordinary recreational, cultural and natural resources of San Onofre State Beach and the Richard and Donna O’Neill Conservancy,” commented Elizabeth Goldstein, president of the California State Parks Foundation and spokesperson for the Save San Onofre Coalition. “This agreement will guarantee that millions of Californians will be able to enjoy this magnificent park, its beaches and natural areas for years to come.”

This agreement resolves all outstanding litigation arising out of the TCA's Foothill-South and Tesoro Extension plans to extend the 241 toll road in southern Orange County. Those plans were opposed by the Save San Onofre Coalition, the Attorney General and various state agencies because they would have significantly damaged environmental and cultural resources in San Onofre State Beach, the Richard and Donna O'Neill Conservancy and other open space lands. In 2008, the California Coastal Commission and the U.S. Secretary of Commerce found that the proposed Foothill-South alignment was inconsistent with state and federal coastal protection policies.

San Onofre State Beach, established in 1971 by then-Governor Ronald Reagan, is one of California's most popular state parks, receiving more than 2.4 million visitors per year and providing habitat for 11 endangered or threatened species. San Onofre also offers low-cost recreational opportunities for working families and boasts a world-renowned surf spot at Trestles Beach.

"This agreement brings an end to one of the most hard fought, long-lasting environmental battles in California history, one that we have successfully pursued for the people of the region, our state's natural heritage and the integrity of our state park system," stated Joel Reynolds, western director and senior attorney for the Natural Resources Defense Council. "Today's action is a definitive determination that the California state park at San Onofre will be preserved."

The final agreement achieves the following objectives:

1. Settles five lawsuits challenging TCA's 2006 and 2013 approvals of its Foothill-South and Tesoro Extension projects brought by the California Attorney General and members of the Save San Onofre Coalition.
2. Provides that TCA will rescind its 2006 approval of the so-called "Green Alignment" that would have run through San Onofre State Beach and its 2013 approval of its Tesoro Extension project.
3. Ensures permanent protection of San Onofre State Beach, the Richard and Donna O'Neill Conservancy, and other critical open space, wildlife habitat and cultural resources in the San Mateo Creek and adjacent watersheds from TCA-sponsored road projects.
4. Allows TCA to move forward with a formal CEQA/NEPA process to review alternative routes for connecting SR-241 to the Interstate 5 freeway and develop an SR-241 extension project that avoids San Onofre State Beach and other environmentally and culturally sensitive lands designated in the agreement, without opposition by the environmental organizations comprising the Save San Onofre Coalition.

5. Establishes a cooperative framework by which an alignment for the SR-241 and other I-5 traffic congestion solutions can be identified, evaluated and potentially advanced in a manner that follows applicable laws, is consistent with recommendations issued by regulatory agencies in 2008, and meets south Orange County's transportation needs.

6. Creates a robust conservation fund to help preserve and restore San Mateo Creek and its watershed. An important component of the agreement is an unprecedented commitment by TCA to create a \$28 million conservation fund that will help preserve and restore San Mateo Creek and its watershed. An independent oversight committee comprised of Save San Onofre Coalition members, TCA and resource agencies will work collaboratively to target priority land acquisitions and carry out critical habitat restoration projects.

"The San Mateo Creek Watershed is a unique undammed, intact watershed in coastal Southern California. Protecting the natural and recreational resources that depend upon it has been a key goal of the Save San Onofre Coalition," added Dan Silver, executive director, Endangered Habitats League. "Through this agreement, we not only guarantee protection, but also gain positive benefits now and into the future."

"This settlement agreement is the result of an innovative and collaborative process by a group of bold leaders who have worked together to develop an environmentally conscientious approach for the development of solutions to the region's mobility challenges," said Foothill/Eastern Transportation Corridor Agency Vice Chair Lisa Bartlett, who is also the chairwoman of the Orange County Board of Supervisors.

The agreement also requires preparation of a Coastal Access Management Plan that will mitigate impacts from any construction of an alternative toll road alignment project, ensure continuous public shoreline access to San Onofre State Beach during construction of any project and result in permanent public access enhancements.

"Our coalition has worked diligently for more than a decade to save the park and the surrounding watershed. This settlement agreement permanently protects these invaluable cultural, recreational and ecological resources that are treasured by the public," concluded Stefanie Sekich-Quinn of the Surfrider Foundation.

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[Editor's Note:]

The Save San Onofre Coalition comprises the following 12 California and national environmental organizations: Audubon California, California Coastal Protection Network, California State Parks Foundation, Defenders of Wildlife, Endangered Habitats League, Laguna

Greenbelt, Inc., Natural Resources Defense Council, Orange County Coastkeeper, Sea and Sage Audubon Society, Sierra Club, Surfrider Foundation and WILD Coast/COASTALVAJE

The Transportation Corridor Agencies (TCA) are two joint powers authorities formed by the California legislature in 1986 to plan, finance, construct and operate Orange County's public toll road system. Fifty-one miles of the system are complete, including the 73, 133, 241 and 261 Toll Roads. More than three hundred thousand people from all over Southern California use TCA's toll roads each day. Elected officials from surrounding cities and county supervisorial districts are appointed to serve on each agency's board of directors. Public oversight ensures that the interests of local communities and drivers are served and that TCA continues to meet the region's growing need for congestion-free transportation alternatives

EXHIBIT H

EXHIBIT H

Form of SSOC Member Cure Letter

[SSOC MEMBER LETTERHEAD]

[DATE]

To Whom It May Concern:

This letter is intended to be incorporated into the official record of proceedings relative to your agency's consideration of the SR 241 Extension Project ("Project"). [SSOC MEMBER] is a Party to the agreement entitled "State Route 241 Foothill South and Tesoro Extensions Settlement Agreement" ("Agreement") dated ____, 2016. The Agreement achieves major conservation objectives by ensuring that the Project will not be built in the extensive area of open space, conservation and park lands depicted in the map attached hereto as Exhibit A ("Avoidance Area"), and by pledging a minimum of \$28 million to habitat conservation.

On [DATE] your agency received [DESCRIBE BREACHING COMMENTS/ TESTIMONY/ ETC] ("Comments") with a statement that the Comments were made on behalf of [SSOC MEMBER]. This letter is to inform you that [SSOC MEMBER] hereby disavows the Comments. In addition, by this letter, [SSOC MEMBER] requests that the Comments be withdrawn from the record of proceedings for the Project. Finally we wish to confirm that in light of the benefits to critically important biological resources realized through the Agreement, [SSOC MEMBER] does not oppose the development of the Project outside of the Avoidance Area.

[SSOC MEMBER SIGNATURE]

EXHIBIT I

EXHIBIT I

Form of TCA Cure Letter

[TCA LETTERHEAD]

[DATE]

To Whom It May Concern:

The Foothill/Eastern Transportation Corridor Agency (“TCA”), a Joint Powers Authority, is proposing to construct the SR 241 Extension Project (“Project”). The purpose of this letter is to convey to [AGENCY/COMMITTEE/INDIVIDUAL] TCA’s current position on [PROTECTIVE EASEMENT/SOSB LEASE/PROTECTIVE LEGISLATION].

On [DATE] [YOU/YOUR AGENCY/YOUR COMMITTEE] received [DESCRIBE BREACHING ACTION]. This letter is to inform you that it is TCA’s current position that TCA [SUPPORTS THE PROTECTIVE LEGISLATION//DOES NOT OPPOSE THE PROTECTIVE EASEMENT/PROTECTIVE LEGISLATION/SOSB LEASE]. TCA therefore requests that [YOU/YOUR AGENCY/YOUR COMMITTEE] disregard the [TCA COMMUNICATION REGARDING THE PROTECTIVE EASEMENT/SOSB LEASE/PROTECTIVE LEGISLATION].

[TCA SIGNATURE]