

## APPENDIX A

**CONSENT CEASE AND DESIST ORDER NO. CCC-20-CD-03, CONSENT RESTORATION ORDER NO. CCC-20-RO-02**

This combined Consent Cease and Desist Order and Consent Restoration Order (collectively, the “Consent Orders”) is entered into by the California Coastal Commission (the “Commission”) and the City of Los Angeles, acting by and through the Los Angeles Department of Water and Power (“LADWP”). The Commission and LADWP have agreed to work collaboratively to facilitate a resolution of the matters described in the “Notification of Intent to Commence Cease and Desist Order and Restoration Order Proceedings” issued to LADWP on March, 2, 2020.

To that end, the Commission and LADWP have had discussions over the past several months for the purpose of resolving this matter amicably through these Consent Orders. Through the execution of these Consent Orders, the Commission and LADWP mutually agree to resolve the Unpermitted Development as that term is defined in Section 7.2, below.

**1.0 Consent Cease and Desist Order CCC-20-CD-03**

Pursuant to its authority under California Public Resources Code (“PRC”) Section 30810, the Commission hereby orders and authorizes LADWP; all its successors in interest; assigns, employees, agents, and contractors; and any persons acting in concert with any of the foregoing, (hereinafter collectively referred to as “Respondent”) to take all actions required and authorized by Consent Cease and Desist Order No. CCC-20-CD-03, including, but not limited to, the following:

- 1.1 Cease and desist from engaging in any further development, as that term is defined in PRC Section 30106, on the properties identified in Section 7.3 of these Consent Orders (the “Properties”), unless authorized or found to be exempt pursuant to the Coastal Act (PRC Sections 30000 to 30900), which includes pursuant to these Consent Orders.
- 1.2 Remove, pursuant to and consistent with the terms of an approved Removal Plan, as required in Section 3.3, below, and pursuant to the terms and conditions set forth herein, all physical material placed or allowed to come to rest on the Properties as a result of any “Unpermitted Development,” as defined in Section 7.2.
- 1.3 Refrain from blocking or interfering with the public’s use of trails located on the Properties, as that term is defined in Section 7.3, and any public trails thereon.
- 1.4 Fully and completely comply with the terms and conditions of Consent Restoration Order No. CCC-20-RO-02, as provided in Section 2.0, below, including the restoration of areas impacted in accordance with these Consent Orders and the specifications set forth in the Restoration Plan that Respondent will submit pursuant to Section 3.0, below.

**2.0 Consent Restoration Order CCC-20-RO-02**

Pursuant to its authority under PRC Section 30811, the Commission hereby orders and authorizes Respondent to restore the Properties including as described in Section 3.0, below.

### **3.0 Restoration Plan**

These Consent Orders require the preparation and implementation of a Removal Plan, Remedial Grading Plan, Temporary Erosion Control Plan, Revegetation Plan, Monitoring Plan, and Mitigation Plan (hereinafter collectively referred to as “the Restoration Plan”). The Restoration Plan shall set forth the measures that Respondent shall undertake to 1) remove the physical items of Unpermitted Development; 2) conduct remedial grading; 3) install temporary erosion control measures; 4) revegetate the Restoration Area and Mitigation Area with appropriate native plants; 5) mitigate for the temporal losses of habitat resulting from the Unpermitted Development; and 6) monitor the Restoration and Mitigation Areas to ensure the success of the restoration activities. The Restoration Plan shall include the following elements and requirements:

#### **3.1 General Provisions**

- A. Within ninety (90) days of the effective date of these Consent Orders, Respondent shall submit, for the review and approval of the Executive Director, the Chief of Enforcement, the Deputy Chief of Enforcement, or Commission staff authorized to speak on behalf of those listed (hereinafter referred to as “the Executive Director”), the Restoration Plan.
- B. The Restoration Plan shall contain all of the following plan components of restoration described in detail below: (1) Temporary Erosion Control Plan; (2) Removal Plan; (3) Remedial Grading Plan; (4) Revegetation Plan; (5) Mitigation Plan, and (6) Monitoring Plan. The Restoration Plan shall outline all proposed removal activities, all proposed temporary erosion control measures, all remedial grading activities, all revegetation work, and all monitoring activities to address impacts caused by the Unpermitted Development or potential impacts caused by any activities undertaken through these Consent Orders.
- C. The Restoration Plan, and any reports prepared pursuant to the Restoration Plan or these Consent Orders, shall be prepared by a qualified restoration ecologist(s), resource specialist(s), and/or engineer(s) (“Specialist”). Within thirty (30) days of the effective date of these Consent Orders and prior to the submittal of the Restoration Plan, Respondent shall submit, for the Executive Director’s review and approval, a description of the qualifications of the proposed Specialist, including a description of the Specialist’s educational background, training, and experience related to the preparation and implementation of the Restoration Plan described herein. To meet the requirements to be a qualified Specialist for this project, one must have experience

successfully completing restoration and revegetation (using southern California native plant species) of coastal sage scrub, oak woodland, riparian, southern maritime chaparral habitats, preferably in the Santa Monica Mountains region of Los Angeles County. In addition, to meet the requirements for a qualified engineer or other Specialist that will prepare the Removal, Remedial Grading, and Erosion Plans, one must have experience successfully designing and implementing restorative grading, structure removal, and erosion control plans in similar habitat types to those found in the Restoration and Mitigation Areas. If the Executive Director determines that the qualifications of the Specialist are not adequate to conduct the required restoration work, the Executive Director shall notify Respondent and, within 10 days of such notification, Respondent shall submit a different Specialist for the Executive Director's review and approval.

- D. The Restoration Plan shall include a survey map from a licensed surveyor, with input from the Restoration Specialist, drawn to scale, that shows the specific parameters, locations and extents of: (1) all applicable property boundaries; (2) the physical items placed or allowed to come to rest on the Properties as a result of the Unpermitted Development that are to be removed under Section 3.3, below; (3) the area of native vegetation removal resulting from the Unpermitted Development; (4) the current topography of all landscape feature on the Properties; (5) the locations of all erosion control measures to be installed pursuant to Section 3.2, below; (6) any existing non-native and invasive plants that shall be removed pursuant to Section 3.5, below; (7) the locations of all species, individually delineated and labeled, to be planted pursuant to Section 3.5, and 3.6, below; and (8) the specific locations and directions from which photographs will be taken for the annual monitoring reports pursuant to Section 3.7(D)(1) below.
- E. The Restoration Plan shall provide that, prior to the initiation of any restoration, mitigation, remedial grading, or removal activities, the boundaries of the Restoration Area and Mitigation Area shall be physically delineated in the field, using temporary measures such as fencing, stakes, colored flags, or colored tape. The Restoration Plan shall further provide that all delineation materials shall be removed when no longer needed, and verification of such removal shall be provided in the annual monitoring report corresponding to the reporting period during which the removal occurred. Respondent shall ensure that any such measures are maintained and do not come loose or dislodged, and that if any material does come loose or is dislodged, Respondent shall immediately retrieve and dispose of such materials to avoid additional impacts to the Restoration/Mitigation Areas or adjacent habitat.

- F. The Restoration Plan shall include a specific schedule/timeline of activities for each of the Restoration Plan components listed below from Section 3.2 to 3.8, the procedures to be used, and identification of the parties who will be conducting the restoration activities. The schedule/timeline of the activities in the Restoration Plan shall be in accordance with the deadline in these Consent Orders, and shall be in accordance with the ideal planting seasons. To the extent the deadlines in these Consent Orders are inconsistent with the ideal planting seasons, the Executive Director may extend any deadlines pursuant to Section 14.0 of this agreement.
- G. The Restoration Plan shall describe, in detail, all equipment to be used. All tools utilized shall be hand tools unless the Specialist demonstrates to the satisfaction of the Executive Director that mechanized equipment is needed and will not impact resources protected under the Coastal Act, including but not limited to: geological stability, integrity of landforms, freedom from erosion, and the existing native vegetation. If Respondent proposes using mechanized equipment, the Restoration Plan shall provide for:
1. Limitations on the hours of operation for all equipment and a contingency plan that addresses at a minimum: (1) potential impacts from equipment use, including disturbance of areas where revegetation and/or mitigation will occur and the responses thereto; (2) potential spills of fuel or other hazardous releases that may result from the use of mechanized equipment and the responses thereto; and (3) any potential water quality impacts.
  2. Designated areas for staging of any construction equipment and materials, including receptacles and temporary stockpiles of materials. All stock piles and construction materials shall be covered, enclosed on all sides, located as far away as possible from drain inlets and any waterway, no demolition or construction materials, debris, or waste shall be placed or stored where it may enter sensitive habitat, receiving waters or a storm drain, or be subject to wind or runoff erosion or dispersion.
  3. Designated and confined areas for maintaining and washing machinery and equipment specifically designed to control runoff shall be included. Thinners or solvents shall not be discharged into sanitary or storm sewer systems. The discharge of hazardous material is prohibited.
- H. Prior to Respondent submitting the Restoration Plan, Respondent shall consult with State Parks, the owner of the majority of the Properties, to

ensure that the Restoration Plan will provide the successful restoration of its property consistent with applicable requirements.

### **3.2 Temporary Erosion Control Plan**

- A. As part of the Restoration Plan, Respondent shall submit a Temporary Erosion Control Plan, prepared by a qualified Specialist approved pursuant to Section 3.1.C, above, to stabilize the soil, prevent erosion, address ground disturbance during any construction or restoration activities, and stabilize the soil and prevent erosion during the establishment of any vegetation planted pursuant to Section 3.5, below.
- B. The Temporary Erosion Control Plan shall: (1) include a narrative report describing all temporary run-off and erosion control measures to be used during remedial grading/removal/restoration/mitigation activities; (2) identify and delineate on a grading or site plan the location of all temporary erosion control measures; and (3) specify that the remedial grading, removal work, and construction of erosion control features shall take place only during the dry season (April 1 to November 1) unless the Executive Director approves an extended time period for the purposes of greater resource protection. If recommended by the Specialist, this period may be extended for a limited period of time pursuant to Section 14.0.
- C. The Temporary Erosion Control Plan shall indicate that all erosion control measures are required to be installed and fully functional on the Restoration Area and Mitigation Area prior to, or concurrent with, the initial removal activities required by these Consent Orders and maintained at all times of the year throughout the removal, remedial grading, revegetation, mitigation, and monitoring process, to minimize erosion across the site and potential sedimentation of streams, drains, and/or culverts.
- D. The Temporary Erosion Control Plan shall indicate that all erosion control measures, including measures to encase filtering devices, shall be comprised of bio-degradable materials, and shall be designed to not entrap snakes, birds, and other animals. Any soil stabilizers shall be compatible with native plant recruitment and establishment. Soil stabilization methods shall not include the placement of retaining walls or other permanent structures, grout, geogrid, or similar materials.
- E. The Temporary Erosion Control Plan shall indicate that all erosion control measures are temporary and will be eliminated and removed from the Restoration Area and Mitigation Area by Respondent once the native plant habitat is established. Verification of such removal shall be provided in the annual monitoring report for the reporting period during which the removal occurred.

- F. The Temporary Erosion Control Plan shall include the following deadlines:
1. Within **ten (10) days** of approval of the Restoration Plan by the Executive Director or pursuant to an extension under Section 14.0, Respondent shall commence implementation of the Temporary Erosion Control Plan.
  2. Within **fifteen (15) days** of commencing installation activities under the Temporary Erosion Control Plan or pursuant to an extension under Section 14.0, Respondent shall conclude installation.
  3. Within **fifteen (15) days** of the completion of the installation of erosion control measures under the Temporary Control Plan or pursuant to an extension under Section 14.0 Respondent shall submit evidence, for the Executive Director’s review and approval in the form of a narrative report as described in Section 3.7.B, below. The Temporary Erosion Control Plan Report shall also show the type of devices installed and document their impact on the environment, if any have occurred.

### 3.3 Removal Plan

- A. The Removal Plan shall include a description of the location and identify of, and proposed plan for, the removal of all physical items resulting from Unpermitted Development to be removed from the Properties, including all fill that will not be used to restore the road, cut/dead vegetation, any construction materials, and any other physical item of Unpermitted Development that is not necessary to effectuate any other element of these Consent Orders.
- B. The Removal Plan shall identify the location of the site(s) for the off-site disposal of all materials removed from the Properties and all waste generated during restoration activities pursuant to these Consent Orders. If a disposal site is located in the Coastal Zone and is not an existing sanitary landfill, a Coastal Development Permit (“CDP”) is required for such disposal. All hazardous waste must be disposed of at a suitable licensed disposal facility.
- C. The Removal Plan shall indicate that removal activities shall not disturb areas outside of the Restoration Area or the Mitigation Area. The Removal Plan shall indicate that any areas in or outside of the Restoration Area and Mitigation Area disturbed by the removal activities under the Removal Plan shall be included in restoration activities under this Restoration Plan, including any further removal, temporary erosion control, regrading, and/or revegetation measures that are required to address the additional disturbance.
- D. The removal plan shall include the following deadlines:

1. Within **fifteen (15) days** of approval of the Restoration Plan by the Executive Director or pursuant to an extension under Section 14.0, Respondent shall initiate removal of the physical items related to the Unpermitted Development.
2. Within **thirty (30) days** from implementation of the Removal Plan or pursuant to an extension under Section 14.0, all removal activities shall be completed.
3. Within **fifteen (15) days** of completion of the removal of all unpermitted items or pursuant to an extension under Section 14.0, Respondent shall submit evidence, for the Executive Director's review and approval, in the form of a narrative report as described in Section 3.7.B, below, showing that respondent have completed removal pursuant to the approved Restoration Plan.

### **3.4 Remedial Grading Plan**

- A. Respondent shall submit, as part of the Restoration Plan, a Remedial Grading Plan prepared by a qualified Specialist approved pursuant to Section 3.1.C, above, that will describe all measures necessary to return the Properties to their pre-violation topography. If historical data or topographic maps are not available for this location, Respondent shall propose an approximation of the topography that existed prior to the Unpermitted Development based on undisturbed slopes in the area, for the review and approval of the Executive Director. If such approach is used, the Specialist shall submit in writing that the proposed approximation is the most accurate depiction of what the topography looked like prior to the occurrence of the Unpermitted Development.
- B. The Remedial Grading Plan shall include sections showing original and finished grades, and a quantitative breakdown of grading amount (cut/fill), drawn to scale with contours that clearly illustrate, as accurately as possible, the pre-violation and the current, unpermitted topography. The Remedial Grading Plan shall demonstrate how the proposed remedial grading will restore the Properties to their original, pre-violation topography. The Remedial Grading plan shall identify the source and date of all data used to produce this information.
- C. The Remedial Grading Plan shall indicate that the proposed remedial grading will restore the original topography of the Properties, or the topography that is approved by the Executive Director if changes to the original topography are necessary to ensure a more successful restoration, to the condition that existed prior to any unpermitted disturbance and that will be sufficient to support restoration of native habitat.



- D. Implementation of the Restorative Grading Plan shall be undertaken in a way that minimizes the impacts to the Restoration Area and Mitigation Area. Areas adjacent to the Restoration Area and Mitigation Area shall not be disturbed by activities related to remedial grading or any other activity required by these Consent Orders. Prior to initiation of any activities resulting in physical alteration of the Properties, the disturbance boundary shall be physically delineated in the field using temporary measures identified in Section 3.1.E, above.
- E. The Remedial Grading Plan shall include the following deadlines:
1. Within **fifteen (15)** days of completing implementation of the Removal Plan or pursuant to an extension under Section 14.0 Respondent shall begin implementation of the Remedial Grading Plan.
  2. Within **thirty (30)** days of commencing implementation of the remedial grading activities or pursuant to an extension under Section 14.0 Respondent shall complete implementation of the Remedial Grading Plan.
  3. Within **fifteen (15)** days of the completion of implementing the Remedial Grading Plan or pursuant to an extension under Section 14.0, Respondent shall submit evidence, for the Executive Director's review and approval in the form of a narrative report as described in 3.7.B, below, showing that Respondent have completed the remedial grading pursuant to the approved Restoration Plan.

### **3.5 Revegetation Plan**

- A. Respondent shall submit, as part of the Restoration Plan, a Revegetation Plan prepared by a qualified Specialist approved pursuant to Section 3.1.C, above, that will describe the measures necessary to revegetate the Restoration and Mitigation Area such that the Restoration Area and Mitigation Area has a similar plant density, total cover and species composition as that typical of the undisturbed native habitat found in the Reference Site, pursuant to Section 3.5.C in the surrounding area.
- B. The Revegetation Plan shall include a detailed description of the methods that Respondent shall utilize to restore the Restoration Area and Mitigation Area to the condition that existed prior to the Unpermitted Development occurring. The Revegetation Plan shall include detailed descriptions, including graphic representations, narrative reports, and photographic evidence, as necessary. The Revegetation Plan shall demonstrate that the Restoration Area and Mitigation Area will be revegetated using plant species endemic to and appropriate for the Properties.

- C. The Revegetation Plan shall identify the natural habitat type that is the model of the restoration and describe the desired relative abundance of particular species in each vegetation layer. This section shall explicitly lay out the restoration goals and objectives for the revegetation based on that model. The Revegetation Plan shall be based on a reference site or sites, which will be used as a model or goal for restoration. The reference site(s) shall be undisturbed and should be located on site or, if such a site is not present, in the general vicinity of the Properties. More than one Reference Site may be necessary to address various habitat types impacted by the Unpermitted Development. The Revegetation Plan shall include a detailed description of the Reference Site, including rationale for selection, location, soil type, and species composition, distribution, and densities. The Reference Sites shall be located as close as possible to the Restoration Area and Mitigation Area, shall be similar in all relevant respects, and shall serve as the standard for measuring success of all restoration activities under these Consent Orders.
1. Based on these goals and the composition of the Reference Site(s), the Revegetation Plan shall list the species Respondent will plant, the plan shall identify, describe, and provide a rationale for the species that are to be planted (plant “palette”), as well as their size and number, the number of container plants, and the rate and method of seed application, as applicable.
  2. The Revegetation Plan shall indicate that plant propagules and seeds must come from local, native stock of the Santa Monica Mountains. If plants, cuttings, or seeds are obtained from a nursery, the nursery must certify that they are of local origin (Santa Monica Mountains) and are not cultivars. The Revegetation Plan shall provide specifications for preparation of nursery stock. Technical details of planting methods (e.g. spacing, mycorrhizal inoculation, etc.) shall be included. Respondent shall not use non-native plant species, which could supplant native plant species in the Restoration Area.
- D. The Revegetation Plan shall include a map showing the type, size, and location of all plant materials that will be planted in the Restoration Area; the location of all non-native plants to be removed from the Restoration Area; the topography of all other landscape features on the site; and the location of photographs of the Restoration Areas that will provide reliable photographic evidence for annual monitoring reports, as described in Section 3.7.D.1, below.
- E. The Revegetation plan shall include a schedule for installation of plants, removal of non-native plants, and completion of revegetation on the Properties prepared by the Specialist.

1. The revegetation schedule shall include specific time periods and deadlines, including identifiable interim goals, for planting, other revegetation activities, and additional non-native species removal work spread out over the time period established in this section. If the planting schedule requires planting to occur at a certain time of year beyond the deadlines as set forth herein, the Executive Director may, at the written request of Respondent, extend the deadlines as set forth in Section 14.0 of these Consent Orders in order to achieve optimal growth of the vegetation.
- F. The Revegetation Plan shall include a detailed explanation of the performance standards that will be utilized to determine the success of the restoration. The performance standards shall identify that 'x' native species appropriate to the habitat should be present, each with at least 'y' percent cover or with a density of at least 'z' individuals per square meter. The description of restoration success shall be described in sufficient detail to enable an independent specialist to duplicate it.
- G. The Revegetation Plan shall demonstrate that all non-native vegetation within the Restoration Area and Mitigation area will be eradicated prior to any revegetation activities on the Properties unless the Specialist determines, and demonstrates to the satisfaction of the Executive Director, that complete eradication of non-native vegetation is not possible. The Commission understands that annual European grasses have naturalized and does not expect them to be completely eradicated from the Restoration Area. In addition, the Revegetation Plan shall specify that non-native vegetation removal shall occur year-round, including on a monthly basis during the rainy season (November through April) for the duration of the Monitoring period. The Specialist shall recommend removal of non-native plants outside the Restoration Area if they determine that such non-natives could impact or limit the success of the native plantings within the Restoration Area.
- H. The Revegetation Plan shall describe the proposed use of artificial inputs, such as irrigation, fertilizer or herbicides, including the full range of amounts of the inputs that may be utilized. Respondent shall utilize the minimum amount necessary to support the establishment of the plantings for successful restoration.
1. No permanent irrigation system is allowed in the Restoration Area. A temporary above-ground irrigation system to provide for the establishment of plantings is allowed for a maximum of three (3) years or until the revegetation has become established, whichever comes first, at which time the temporary irrigation system shall be removed.
  2. If, after the three (3) year time limit, the vegetation planted pursuant to the Revegetation Plan has not become established,

the Executive Director may, upon receipt of a written request from Respondent, allow for the continued use of the temporary irrigation system. The written request shall outline the need for and duration of the proposed extension.

I. Deadlines

The Revegetation Plan shall include the following deadlines:

1. Within 60 days of after Respondent completes the Remedial Grading Plan or pursuant to an extension under Section 14.0, below, Respondent shall commence initial phases of revegetation activities by implementing the Revegetation Plan. The schedule/timeline of activities in the Restoration Plan shall be in accordance with the deadlines in these Consent Orders, unless changes are authorized pursuant to Section 3.5.E.1.
2. Within 15 days of commencing implementation of activities under the Revegetation Plan or pursuant to an extension under Section 14.0, below, Respondent shall complete implementation of all planting activities under the Revegetation Plan.
3. Within 15 days of the completion of all revegetation activities or pursuant to an extension under Section 14.0, below, Respondent shall submit evidence, for the Executive Director's review and approval, in the form of a narrative report as described in Section 3.7.D, below, demonstrating that the revegetation has been completed pursuant to these Consent Orders and the approved Restoration Plan.

**3.6 Mitigation Plan**

- A. Respondent shall submit as part of the Restoration Plan prepared by a qualified Specialist approved pursuant to Section 3.1.C, above, that will describe the measures necessary to mitigate for the temporal loss of habitat caused by the Unpermitted Development. The Mitigation Plan shall be consistent with the (1) Temporary Erosion Control Plan; (2) Removal Plan; (3) Remedial Grading Plan; and (4) Monitoring Plan and follow the same deadlines as required therein.
- B. The Mitigation Plan shall contain a map overlain with the dimensions of the area impacted during the course of the project outside the Coastal Zone and the dimensions of each proposed area of mitigation. This map shall distinguish the areas where Respondent created new roads, otherwise known as "Spur Roads," and the areas where Respondent expanded the width of the existing Temescal Ridge Trail.
- C. For the Revegetation of the Spur Roads, Respondent shall follow all the requirements of Section 3.0, including the Revegetation Plan element found in Section 3.5, above. For the revegetation of the areas

where Temescal Ridge was expanded in width, Respondent shall also follow all the elements of Section 3.0 with the exception that the revegetation element will be accomplished by using a passive approach where the area will be fenced and then non-native weeding will occur per Section 3.5.G, above, throughout the monitoring period to support natural recruitment of native vegetation. Respondent shall include success criteria for both the Spur Road and Temescal Ridge trail Mitigation Areas to establish the goals of the mitigation, consistent with 3.5.F.

### **3.7 Monitoring Plan**

- A. Respondent shall submit, as part of the Restoration Plan, a Monitoring Plan prepared by a qualified Specialist approved pursuant to Section 3.1.C, above, that will provide for monitoring the Restoration Area over a period of, at a minimum, five (5) years from the completion and full implementation of the Restoration Plan to ensure successful restoration.
- B. The Monitoring Plan shall describe the monitoring and maintenance methodology, including sampling procedures, sampling frequency, and contingency plans to address potential problems with restoration activities or unsuccessful restoration of the Properties.
- C. The Monitoring Plan shall specify that the Specialist shall conduct at least four (4) site visits annually for the duration of the monitoring period, for the purposes of inspecting and maintaining: all erosion control measures; non-native species eradication; trash and debris removal; the health and abundance of existing vegetation and/or vegetation planted pursuant to these Consent Orders; and any other activities undertaken through the Restoration Plan.
- D. Respondent shall submit, on an annual basis and during the same one-month period of each year (no later than December 31st of the first year after full implementation of the Restoration Plan), for five (5) years starting from the completion of the revegetation phase of the Restoration Plan, a written report, for the review and approval of the Executive Director, prepared by the Specialist, evaluating compliance with the Restoration Plan.
  1. These reports shall include photographs taken during the periodic site inspections at the same time of year indicating the progress of recovery in the Restoration Area. The photographs will be taken from the same pre-designated locations (as identified on the map submitted pursuant to 3.1.D, above). The locations from which the photographs are taken shall not change over the course of the monitoring period unless the Specialist requests changes that are approved by the Executive Director.

- E. If periodic inspections or the monitoring reports indicate that the restoration project or a portion thereof is not in conformance with the Restoration Plan or these Consent Orders, or is failing to meet the goals and/or performance standards specified in the Restoration Plan, Respondent shall submit a revised or supplemental Restoration Plan (“Revised Restoration Plan”) for review and approval of the Executive Director.
1. The Revised Restoration Plan shall be prepared by a qualified Specialist, approved by the Executive Director pursuant to Section 3.1.C, above, and shall specify measures to correct those portions of the restoration that have failed or are not in conformance with the original, approved Restoration Plan or these Consent Orders. The Executive Director will then determine whether the Revised Restoration Plan must be processed as a modification of these Consent Orders or a new Restoration Order.
  2. After the Executive Director approves the Revised Restoration Plan, Respondent shall undertake all necessary measures of these Consent Orders to meet the goals of the original, approved Restoration Plan until the Executive Director is satisfied that Respondent has met those goals. Following Respondent completion of the Revised Restoration Plan’s implementation, the duration of the monitoring period shall be extended for at least a period of time equal to that during which the project remained out of compliance, but in no case less than two (2) annual reporting periods.
- F. At the end of the five (5) year monitoring period, or any other monitoring duration required by a Revised Restoration Plan, Respondent shall submit for the review and approval of the Executive Director a final, detailed report prepared by the Specialist that documents the successful restoration of the Properties.
1. If the Executive Director determines from this final report that the restoration has in part, or in whole, been unsuccessful, based on the requirements of the approved Restoration Plan, Respondent shall submit a Revised Restoration Plan, in accordance with the requirements of these Consent Orders, and the monitoring program shall be revised accordingly.

### **3.8 Implementation and Completion of Restoration Plan**

- A. Upon the Executive Director’s approval of the Restoration Plan (including the Temporary Erosion Control, Removal, Remedial Grading, Revegetation, Mitigation and Monitoring plan components). Respondent shall fully implement each phase of the Restoration Plan consistent with all of its terms and the terms set forth herein.

Respondent shall complete all work described in the Restoration Plan, with the exception of the Monitoring requirements, above, no later than 160 days after the Respondent completes the Remedial Grading Plan or at a later date if the Executive Director grants an extension under Section 14.0. If Section 3.7.F.1, above, requires Respondent to complete a Revised Restoration Plan, Respondent shall also implement the approved version of that Revised Restoration Plan and complete that work within 90 days of approval of that plan, or by the deadlines established in the approved Revised Restoration Plan, if deadlines differ from this 90-day period.

- B. Within fifteen (15) days of Respondent completing all the work described within each component of the Restoration Plan - the Temporary Erosion Control, Removal, Remedial Grading, Mitigation, and Revegetation Plan, Respondent shall submit a written report, prepared by the specific Specialist overseeing each specific element as listed, above, for the review and approval of the Executive Director, documenting all restoration work performed on the Properties pursuant to the Restoration Plan. This 15-day deadline may be extended pursuant to Section 14.0. This report shall include a summary of dates when work was performed and photographs taken from the pre-designated locations documenting implementation of the respective components of the Restoration Plan, as well as photographs of the Properties before the work commenced and after completion.

#### **4.0 After-the-Fact Permit Application**

- 4.1** Within **90** days of the effective date of these Consent Orders, if Respondent has not already, Respondent shall finalize CDP application No. 5-20-0197, and thereafter (i.e., once it is “filed”) shall not withdraw, or impede the final action by the Commission on, said application.
- 4.2** Respondent shall comply with the terms and conditions of any permit issued pursuant to the application submitted under Section 4.1, above, within one (1) year of final action on the permit, except to the extent that any individual term or condition of the permit requires compliance on a different schedule.
- 4.3** After the Commission acts on CDP application No. 5-20-0197, Respondent shall submit, for the review and approval of the Commission’s Executive Director, a Removal, Erosion Control, Restoration, Revegetation, Mitigation, and Monitoring Plan for the protection and restoration of any area where Unpermitted Development , as that term is defined in Section 7.2, below, has occurred and either (a) the Commission did not authorize that development after-the-fact; or (b) Respondent did not apply to retain it. This restoration plan shall be submitted within sixty (60) days of final action on said denial or within sixty (60) days of Respondent choosing not to apply for after-the-fact authorization and shall

be consistent with the provisions set forth in Section 3.0, above, including the timing for implementing and completing such restoration efforts.

**PROVISIONS COMMON TO BOTH ORDERS**

**5.0 Entities Subject to these Consent Orders**

**5.1** The Los Angeles Department of Water and Power; all of its assigns, employees, agents, and contractors; and anyone acting in concert with the foregoing, are jointly and severally subject to all requirements of these Consent Orders. Respondent agrees to undertake the work required herein and agrees to cause its employees and agents, and any contractors performing any of the work required herein, and any persons acting in concert with any of these entities to comply with the obligations of these Consent Orders, and to notify any future owners of the property currently owned by California State Parks in Topanga State Park Los Angeles County Assessors' Parcel Number ("APN") 4431-023-901; APN 4432-002-922; APN 4432-002-923; APN 4432-002-920; APN 4432-002-919 and three adjacent privately-owned properties: APN 4431-023-028; APN 4431-039-010; APN 4431-040-012, of Respondent's duty to comply with the terms and conditions of these Consent Orders. Respondent shall provide notice to all its successors, assigns, and potential purchasers of the above-listed properties of any remaining restrictions or obligations under these Consent Orders.

**6.0 Nature of Orders and of Consent**

**6.1** Respondent agrees that the jurisdictional requirements for issuance and enforcement of these Consent Orders have been met, and agrees not to contest the issuance or enforcement of these Consent Orders. Through the execution of these Consent Orders, Respondent agrees to comply with the terms and conditions of these Consent Orders. These Consent Orders order and authorize the removal, restoration, and mitigation activities, among other activities, outlined in these Consent Orders. Nothing in these Consent Orders conveys any right to development on the Properties other than the work expressly authorized by these Consent Orders. Any development subject to Coastal Act requirements that is not specifically authorized under these Consent Orders requires authorization or determination of exemption under the Coastal Act. Through the execution of these Consent Orders, Respondent agrees to comply with these Consent Orders.

**6.2** Respondent further agrees to condition any contracts for work related to these Consent Orders upon an agreement that any employees, agents, and contractors, and any persons acting in concert with any of the foregoing, comply with the terms and conditions set forth herein.

**6.3** By executing these Consent Orders, Respondent attests that it has the authority to conduct the work on the Properties required by these Consent



Orders, and agrees to obtain all necessary permissions (access, etc.) to conduct and complete the work required to resolve the violations addressed herein, and obtain all other necessary government approvals. While Respondent does not hold fee title to the Properties, it shall ensure that the Restoration Area and Mitigation Area are successfully restored pursuant to these Consent Orders and that such restoration meets all performance standards and success criteria required herein. Respondent shall not be responsible for new acts of unpermitted development that may occur on the Properties conducted by others not hired by or affiliated with Respondent.

- 6.4** Respondent does not acknowledge any wrongdoing with respect to the allegations regarding the Unpermitted Development, and these Consent Orders shall not be construed to suggest or imply any such wrongdoing with respect to those allegations. Respondent’s agreement to enter into these Consent Orders, including any payment made pursuant to these Consent Orders shall not be construed as Respondent acknowledging any liability with respect to the Unpermitted Development, nor shall such agreement be construed as Respondent admitting to a violation of any law, rule, or regulation. Nonetheless, Respondent agrees that the jurisdictional requirements for issuance and enforcement of these Consent Orders have been met and agrees to not contest the issuance or enforcement of these Consent Orders.

**7.0 Definitions**

**7.1 “Consent Orders”**

Refers collectively to Coastal Commission Cease and Desist Order No. CCC-20-CD-02 and Restoration Order No. CCC-20-RO-03.

**7.2 “Unpermitted Development”**

All “development” as that term is defined in the Coastal Act (PRC section 30106) that occurred on the Properties, as defined in Section 7.3, without the authorizations required under the Coastal Act that specifically includes: grading/creating new roads, in some cases known as spur roads; grading and expansion of Temescal Ridge Trail; depositing graded material; creating earthen berms; and removing major vegetation; all located within Environmentally Sensitive Habitat Areas.

**7.3 “Properties”**

The properties that are the subject of these Consent Orders, which are property currently owned by California State Parks in Topanga State Park, designated by the following Los Angeles County Assessor Parcel Numbers: APN 4431-023-901; APN 4432-002-922; APN 4432-002-923; APN 4432-002-920; and APN 4432-002-919, and three adjacent privately-owned properties designated with Los Angeles County Assessor Parcel Numbers: APN 4431-023-028; APN 4431-039-010; and APN 4431-040-012.

#### **7.4 “Restoration Area”**

The area of the Properties that has been impacted by the Unpermitted Development, as detailed in Section 7.2, above, as well as any areas that may be impacted during the course of the removal and restoration activities required by these Consent Orders, in which the restoration and revegetation activities specified in Section 3.0, above, will occur.

#### **7.5 “Mitigation Area”**

The area proposed to be restored in areas that were impacted by Respondent outside the Coastal Zone to address some of the temporal loss of habitat caused by the Unpermitted Development that occurred inside the Coastal Zone.

### **8.0 Submittal of documents**

All plans, reports, photographs, and other materials required by these Consent Orders shall be sent to:

California Coastal Commission  
Attn: Logan Tillema  
455 Market Street Suite 300  
San Francisco, CA 94105  
(415) 904-5220

With a copy to: California Coastal Commission  
Attn: Jordan Sanchez  
301 E. Ocean Blvd, Suite 300  
Long Beach, CA 90802  
(562) 590-5071

In addition, those submittals shall also be sent via electronic mail to [Logan.Tillema@coastal.ca.gov](mailto:Logan.Tillema@coastal.ca.gov).

### **9.0 Site Access**

Respondent shall give notice to and coordinate with each parcel owner regarding the schedule and activities of the Restoration Plan. Within fifteen (15) days of the effective date of these Consent Orders, Respondent shall provide to the Executive Director written confirmation providing documentation that Respondent and other parties, including Commission staff, have permission to access, perform, and/or inspect restoration activities as set forth in these Consent Orders. These activities include, but are not limited to: viewing the areas where development is being performed pursuant to the requirements of these Consent Orders; inspecting records, operating logs and contracts relating to the work or obligations required by these Consent Orders; and overseeing, inspecting and reviewing the progress of Respondent’s implementation of the Restoration Plan and compliance with these Consent Orders. Respondent shall forward all parcel owners’ written response to the Executive Director within five (5) days of Respondent’s receipt thereof. If at any point prior to Respondent’s completion of

the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform restoration activities in any part of the Restoration or Mitigation Area, the obligation to resolve the violations described in these Consent Orders shall remain in effect. Respondent shall notify the Executive Director, and Respondent shall utilize all efforts in a timely fashion to re-secure permission to access and complete restoration work upon the Properties. Nothing in these Consent Orders is intended to limit in any way the right of entry or inspection that any agency may otherwise have by operation of any law.

**9.1** If at any point prior to Respondent's completion of the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform restoration activities in any part of the Restoration Area, the following shall occur:

- A. Respondent shall refrain from accessing or performing work on that property and notify the Executive Director immediately.
- B. The obligation to resolve the violations described in these Consent Orders shall remain in effect and Respondent shall utilize all reasonable efforts in a timely fashion to re-secure permission to access and complete restoration work upon the Properties.
- C. Respondent shall continue to promptly complete removal and restoration activities in all other areas of the Restoration Area in accordance with all deadlines in these Consent Orders.

**9.2** If at any point prior to Respondent's completion of the obligations set forth in these Consent Orders, Respondent is denied permission to access or perform restoration activities in any part of the Restoration Area on the Properties and is unable to complete restoration activities under Section 3.0, above, and has made all required efforts described in Section 9.1, above, Respondent shall submit a request for the Executive Director's approval to substitute for that unrestored portion of the Restoration Area by providing habitat enhancement at a ratio of 1:1 (area of additional habitat enhancement: Restoration Area left unrestored).

- A. Within thirty (30) days of the approval required by Section 3.1.C, but in no case later than ninety (90) days after Respondent notifies the Executive Director of being denied permission to access or perform restoration activities in any part of the Restoration Area and is unable to complete restoration activities under Section 3.0, above, Respondent shall submit, for the review and approval of the Commission's Executive Director, a plan to enhance native habitat ("Supplemental Habitat Enhancement Plan"). The Supplemental Habitat Enhancement Plan shall be implemented consistent with all the terms of the Restoration Plan. Prior to the expiration of the deadline for

submittal of the Supplemental Habitat Enhancement Plan, Respondent may request from the Executive Director an extension of the deadline pursuant to Section 14.0.

- B. Respondent shall propose that the balance of the required square footage of habitat enhancement be established in areas upon public lands within the Santa Monica Mountains. In the event that offsite habitat enhancement is necessary, Respondent shall obtain consent and will provide, as part of the submittal required in Section 6.3, written documentation from the property owner of the offsite habitat enhancement site that Respondent, and other parties including Commission staff, have permission to access and perform restoration activities on the offsite habitat enhancement site, as set forth in these Consent Orders.
- C. Respondent shall begin implementation of the Supplemental Habitat Enhancement Plan within thirty (30) days of approval of the Supplemental Habitat Enhancement Plan by the Executive Director, and shall complete all elements of the Supplemental Habitat Enhancement Plan based upon the deadlines provided in the Supplemental Habitat Enhancement Plan.

#### **10.0 Effective Date and Terms of These Consent Orders**

The effective date of these Consent Orders is the date the Commission votes to approve these Consent Orders. These Consent Orders shall remain in effect permanently unless and until rescinded by the Commission.

#### **11.0 Findings**

These Consent Orders are issued on the basis of the findings adopted by the Commission, as set forth in the document entitled "Staff Report: Recommendations and Findings for Issuance of Consent Cease and Desist Order No. CCC-20-CD-03 and Consent Restoration Order No. CCC-20-RO-02." The Commission has authorized the activities required under these Consent Orders and has determined them to be consistent with the resource protection policies set forth in Chapter 3 of the Coastal Act, if carried out in compliance with the terms of these Consent Orders.

#### **12.0 Commission Jurisdiction**

The Commission has jurisdiction over resolution of the Coastal Act violations on the Properties pursuant to PRC sections 30810 and 30811. In light of the desire of the parties to settle these matters, Respondent agrees to not, and shall not, contest the Commission's jurisdiction to issue or enforce these Consent Orders at a public hearing or any other proceeding by or before the Commission, any other governmental agency, any administrative tribunal, or a court of law.

### **13.0 Revisions of Deliverables**

The Executive Director may require revisions to deliverables required under these Consent Orders, and Respondent shall revise any such deliverables consistent with the Executive Director's specifications, and resubmit them for further review and approval within the time frame specified by the Executive Director.

### **14.0 Modification of Deadlines**

Prior to the expiration of any given deadline established by these Consent Orders, Respondent may request from the Executive Director an extension of any such unexpired deadline. Such a request shall be made in writing ten (10) days in advance of the deadline, and directed to the Executive Director of the Commission, care of Logan Tillema, at the San Francisco address identified in Section 8.0, above. In addition, the request shall also be sent electronically to Logan.Tillema@coastal.ca.gov. The Executive Director may grant an extension of deadlines upon a showing of good cause. If the after the fact permit application required by Section 4.0, above, is delayed due to no fault of the Respondent, that delay shall qualify as "good cause" for the extension of such deadlines. A violation of deadlines established pursuant to these Consent Orders will result in stipulated penalties, as provided for in Section 16.3, below.

### **15.0 Resolution of Matters Via Settlement**

In light of the intent of the parties to resolve these matters through these Consent Orders, Respondent has not submitted a "Statement of Defense" form as provided for in Section 13181 and 13191 of Title 14 of the California Code of Regulations. Respondent has agreed not to contest the legal and factual bases for, the terms of, or the issuance of these Consent Orders, including the allegations of Coastal Act violations contained in the Notice of Intent to Commence Cease and Desist and Restoration Order Proceedings dated March 3, 2020. Specifically, Respondent has agreed not to, and shall not, contest the issuance or enforcement of these Consent Orders at a public hearing or any other proceeding. Further, pursuant to the agreement of the parties as set forth in these Consent Orders, Respondent hereby agrees not to seek a stay pursuant to PRC Section 30803(b) or to challenge the issuance and enforceability of these Consent Orders in a court of law or equity.

### **16.0 Settlement Obligations**

#### **16.1 Monetary Obligation**

In light of the intent of the parties to resolve these matters in settlement, Respondent has agreed to pay, and the Commission hereby orders Respondent to pay, a monetary settlement in the amount of \$575,000. Respondent shall pay the monetary settlement within 60 days after the Commission approves the Consent Orders. The settlement monies shall be deposited in the Violation Remediation Account of the California

Coastal Conservancy Fund (see Public Resources Code Section 30823), or into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Executive Director. The settlement payments shall be submitted to the Commission's San Francisco Office, at the address provided in Section 8, to the attention of Logan Tillema of the Commission, payable to the account designated under the Coastal Act, and include a reference to these Consent Orders by number.

## **16.2 Additional Habitat Enhancement**

Additionally, and also in light of the intent of the parties to resolve these matters in settlement, Respondent has agreed to pay, and the Commission hereby orders Respondent to pay, \$1,372,500.00 to provide enhanced mitigation to address the temporal loss of habitat caused by the Unpermitted Development. This monetary component shall be made in two payments.

First, within 60 days of the effective date of these Consent Orders, Respondent shall pay \$272,500.00 to the California Department of Parks and Recreation ("Parks"). Respondent shall submit along with this payment a cover letter that will describe the required use of the funds, directing the payment to be used for Parks' non-native plant removal/habitat enhancement program in the Santa Monica Mountains. 10 days prior to submitting the payment, Respondent shall submit to the Executive Director, for his review and approval, a copy of the cover letter before the monies are sent to Parks. If the Executive Director determines that Parks cannot accept this payment or cannot ensure that such money will be used for the specific project(s) enumerated herein, the payment shall not be made as indicated in the first sentence of this paragraph, and instead, within 30 days of such determination this payment shall be transmitted into such other public account as authorized by applicable California law at the time of the payment, and as designated by the Executive Director, for the purposes of habitat restoration and conservation, property acquisition, and/or public trail improvements in the Santa Monica Mountain area of Los Angeles County. If the latter situation occurs then the \$272,500.00 shall be submitted to the Commission's San Francisco Office, at the address provided in Section 8.0, to the attention of Logan Tillema of the Commission, payable to the account designated under the Coastal Act, and include a reference to these Consent Orders by number.

Second, within 60 days of the effective date of these Consent Orders, Respondent shall pay \$1,100,000.00 to the Mountains Recreation and Conservation Authority ("MRCA") for the specific purpose of habitat restoration and land acquisition in the Santa Monica Mountains with a

preference for land that has a similar ecological value as the impacted area, or other qualified government entity or nonprofit as identified by the Executive Director for habitat acquisition purposes with the additional conditions on such entity that expenditures be approved in advance by the Executive Director and expended consistent with these Consent Orders and the Coastal Act. If, within 90 days of the effective date of these Consent Orders, MRCA and other qualified government entity or non profit is unable or unwilling to accept the \$1,100,000.00 payment, Respondent shall transmit the \$1,100,000.00 payment to the Violation Remediation Account per the above procedures for the purpose of land acquisition and/or habitat conservation in the Santa Monica Mountains.

- 16.3** Respondent's strict compliance with these Consent Orders is required. Failure to comply with any term or condition of these Consent Orders, including any deadline contained in these Consent Orders, unless the Executive Director grants an extension under Section 14.0, will constitute a violation of these Consent Orders and shall result in Respondent being liable for stipulated penalties in the amount of \$1,000 per day, per violation. Respondent shall pay stipulated penalties regardless of whether Respondent has subsequently complied. If Respondent violates these Consent Orders, nothing in this agreement shall be construed as prohibiting, altering, or in any way limiting the ability of the Commission to seek any other remedies available, including the imposition of civil penalties and other remedies pursuant to PRC Sections 30820, 30821.6, and 30822, as a result of the lack of compliance with these Consent Orders and for the underlying Coastal Act violations as described herein.

### **17.0 Settlement of Claims**

The Commission and Respondent agree that these Consent Orders settle the Commission's monetary claims for relief from Respondent for the violations of the Coastal Act specified in Section 7.2, above, occurring prior to the date of these Consent Orders, (specifically including claims for civil penalties, fines, or damages under the Coastal Act, including under PRC Sections 30805, 30820, and 30822), provided that the requirements in Section 1.0 and the Restoration Plan discussed in Section 3.0 are fully implemented and the obligations in Section 16.0 are fully satisfied, and with the exception that, if Respondent fails to comply with any term or condition of these Consent Orders, the Commission may seek monetary or other claims for both the underlying violations of the Coastal Act and for the violation of these Consent Orders. In addition, these Consent Orders do not limit the Commission from taking enforcement action due to Coastal Act violations at the Properties or elsewhere, other than those specified herein.

### **18.0 No Limitation on Authority**

Except as expressly provided herein, nothing in these Consent Orders shall limit or restrict the exercise of the Commission's enforcement authority pursuant to

Chapter 9 of the Coastal Act (PRC Sections 30800 to 30824), including the authority to require and enforce compliance with these Consent Orders and the authority to take enforcement action regarding Coastal Act violations beyond those that are specified in Section 7.2, above. Failure to enforce any provision of these Consent Orders shall not serve as a waiver of the ability to enforce those provisions or any others at a later time.

#### **19.0 Severability**

Should any provision of these Consent Orders be found invalid, void or unenforceable, such illegality or unenforceability shall not invalidate the whole, but these Consent Orders shall be construed as if the provision(s) containing the illegal or unenforceable part were not a part hereof.

#### **20.0 Government Liabilities**

Neither the State of California, the Commission, nor its employees shall be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent in carrying out activities pursuant to these Consent Orders, nor shall the State of California, the Commission or its employees be held as a party to any contract entered into by Respondent in carrying out activities pursuant to these Consent Orders.

#### **21.0 Government Jurisdiction**

These Consent Orders shall be interpreted, construed, governed, and enforced under and pursuant to the laws of the State of California.

#### **22.0 Contractual Obligations**

These Consent Orders constitute both an administrative order issued to Respondent personally and a contractual obligation between Respondent and the Commission, and therefore shall remain in effect until all terms and conditions are fulfilled, regardless of whether Respondent have a financial interest in the Properties or any other property within the Coastal Zone.

#### **23.0 Modifications and Amendments**

Minor, non-substantive modifications to these Consent Orders may be made subject to the written agreement between the Executive Director and Respondent. Otherwise, except as provided in Section 14.0, these Consent Orders may be amended or modified only in accordance with the standards and procedures set forth in Section 13188(b) and 13191 of Title 14 of the California Code of Regulations.

#### **24.0 Integration**

These Consent Orders constitute the entire agreement between the parties and may not be amended, supplemented, or modified except as provided in these Consent Orders.



**25.0 Stipulation**


Respondent attests that they have reviewed the terms of these Consent Orders and understand that its consent is final and stipulates to its issuance by the Commission.

**26.0 Certification of Authority**

The person who signs this document on behalf of Respondent attests that they have the legal authority to bind Respondent.

IT IS SO STIPUALTED AND AGREED:

On behalf of Respondent

BY   
MARTIN L. ADAMS,  
General Manager and Chief Engineer

Date 10/6/2020

APPROVED AS TO FORM AND LEGALITY  
MICHAEL N. FEUER, CITY ATTORNEY

October 5, 2020  
BY   
TINA SHIM  
DEPUTY CITY ATTORNEY

Executed in \_\_\_\_\_ on behalf of the California Coastal Commission:

\_\_\_\_\_  
John Ainsworth, Executive Director

Date \_\_\_\_\_