

CALIFORNIA COASTAL COMMISSION

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Filed: 11/7/18
180th Day: 5/6/19
Staff: A. Llerandi-SD
Staff Report: 3/29/19
Hearing Date: 4/11/19

STAFF REPORT: AMENDMENT

Application No.: 6-16-0108-A1

Applicant: San Diego Association of Governments

Agent: Sharon Humphreys

Location: West side of Metropolitan Transit System right-of-way from south of Tecolote Creek to south of Milton Street, San Diego, San Diego County

Original Project Description: Construct new light rail line between Old Town Transit Center and University Towne Centre, with a 3.5-mile segment and portions of three stations located within the coastal zone.

Proposed Amendment: Improve approximately half mile of existing maintenance access road along west side of rail corridor by placing an approximately 12-ft. wide, 5-inch thick layer of decomposed granite, installing an 80-ft. long, 15-ft. wide bridge across Tecolote Creek, extending two below-grade culverts, and constructing a ballast curb and hi-rail crossing.

Staff Recommendation: Approval with Conditions

SUMMARY OF STAFF RECOMMENDATION

In July 2016, the Commission approved Coastal Development Permit (CDP) No. 6-16-0108 authorizing the San Diego Association of Governments (SANDAG) to construct a

3.5-mile segment of a new trolley line to serve the Mid-Coast Corridor, which is located entirely within the City of San Diego and extends from downtown San Diego in the south to the University of California San Diego (UCSD) and University Towne Center (UTC) in the north. Currently under construction, the new trolley line will parallel the existing Los Angeles-San Diego-San Luis Obispo (LOSSAN) railroad tracks operated by the North County Transit District (NCTD), with expected completion in 2021. The portion of the trolley extension within the coastal zone lies between Interstate-5 on the west and Morena Boulevard on the east, and parallels the LOSSAN railroad corridor from Interstate-8 in the south to Balboa Avenue in the north.

Currently, maintenance of the LOSSAN railroad infrastructure along the project area is conducted by maintenance vehicles utilizing an at-grade crossing near the intersection of Morena Boulevard and Littlefield Street on the east side to access the west side of the tracks where the equipment is located. When the Mid-Coast Corridor Transit Project was approved, it included the eastward extension of the aforementioned crossing to encompass the new trolley tracks to provide continued maintenance. NCTD and MTS have determined that having maintenance personnel cross four tracks operated by two different switchboard operators would substantially increase the risk of collision. Thus, to improve safety, in lieu of extending the existing at-grade crossing, SANDAG is instead proposing to improve an existing earthen access road along the west side of the rail corridor, to eliminate the need for maintenance vehicles to cross four tracks, by providing continuous access to the west side from south of Tecolote Creek through installation of a new bridge crossing.

While railroad infrastructure to be accessed by the maintenance crews is located almost a mile north of Tecolote Creek, SANDAG's biological surveys identified three vernal pools immediately adjacent to the access road between Tecolote Creek and the railroad infrastructure a mile to the north. The southernmost of these pools, Basin BB, contains the federally listed San Diego fairy shrimp and is considered an Environmentally Sensitive Habitat Area (ESHA). Due to the narrow confines of the MTS right-of-way, the existing access road encroaches into the 100-foot buffer of all three vernal pools, coming as close as a few feet.

After discussions with Commission staff, SANDAG revised the project to remove all proposed improvements north of the southern boundary of Basin BB's 100-foot buffer, except for the installation of a hi-rail pad and minor access road shoring near the intersection of Morena Boulevard and Milton Street. While SANDAG has proposed to eliminate the work within and north of the vernal pool buffers to avoid impacts to the vernal pools, the existing earthen access road still traverses the buffer areas directly adjacent to the vernal pools, and the proposed development will increase maintenance vehicle traffic along the access road to the aforementioned railroad infrastructure a mile to the north.

Vernal pools are a unique subset of wetlands, and their buffer areas serve important roles in limiting impacts from debris, encroachment, and other human activity. The traversal of maintenance vehicles through the buffer area to as close as a few feet from the vernal pools increases the risk of vehicular fluids or eroded soil entering the vernal pool, degrading water quality or gradually filling the pool to a point that it can no longer serve its habitat function,

putting the San Diego fairy shrimp at risk. While the subject vernal pools are currently degraded due to the close proximity of the rail access road and Interstate-5, as well as the presence of non-native plant species along the right-of-way, they are still wetlands containing ESHA under the Commission's regulatory criteria and have sufficient habitat value to support a federally listed species.

To address these potential adverse impacts, Commission staff is recommending amending **Special Condition No. 1** to require revised final plans that cease the majority of work within and north of the 100-ft. buffers for the three identified vernal pools. **Special Conditions Nos. 2 through 12** would remain unchanged and applicable to the additional development proposed in this amendment. Because the vernal pools will be indirectly impacted by the increased maintenance vehicle activity along the stretches of access road immediately adjacent to them, new **Special Condition No. 13** requires that a vernal pool enhancement plan be implemented to ensure that those wetland resources and the species within are protected from direct vehicle encroachment and debris that may enter them from the adjacent railroad and interstate. **Special Condition No. 14** places SANDAG on notice that only the work clearly described in this action is authorized, and that further development will require separate review by the Commission. **Special Condition No. 15** notifies SANDAG of the risk from coastal hazards to the project and requires them to accept the risk and indemnify the Commission. **Special Condition No. 16** places SANDAG and any successor in interest on notice that transfer of the development approved herein will require acknowledgement by the recipient party of the requirements of this permit amendment.

Commission staff recommends **approval** of coastal development permit application 6-16-0108-A1 as conditioned.

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APPENDICES

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EXHIBITS

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I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the proposed amendment to Coastal Development Permit Application No. 6-16-0108-A1 subject to the conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in conditional approval of the amendment and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

Resolution:

The Commission hereby approves coastal development permit amendment 6-16-0108-A1 and adopts the findings set forth below on grounds that the development as amended and conditioned will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the development on the environment.

II. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

NOTE: Appendix A, attached, includes all standard and special conditions that apply to this permit, as approved by the Commission in its original action and modified and/or supplemented by all subsequent amendments, including this amendment no. 6-16-0108-A1 . All of the Commission's adopted special conditions and any changes in the project description proposed by the applicant and approved by the Commission in this or previous actions continue to apply in their most recently approved form unless explicitly changed in this action. New conditions and modifications to existing conditions imposed in this action on amendment no. 6-16-0108-A1 are shown in the following section. Within Appendix A, changes to the previously approved special conditions are also shown in ~~strikeout~~/underline format. This will result in one set of adopted special conditions.

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final project plans for the proposed development, and where applicable, that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted by SANDAG on February 5, 2016, March 18, 2019, and March 27, 2019, except as follows:
 - a. All catenary poles on the bridge crossings over the San Diego River and Tecolote Creek shall incorporate anti-perching measures to discourage raptors from perching on them.
 - b. No road improvements shall be allowed within the 100-ft. buffers of the three vernal pools, and all improvements to the access road shall terminate upon reaching the southern boundary of the 100-ft. buffer of the vernal pool identified as Basin BB, except for the installation of a hi-rail pad within the railroad tracks by Milton Street and minor road shoring adjacent to the CP Cudahy instrument house.
 - c. Fence improvements consisting of an 18-in. tall, 1-in. galvanized chain link fence shall be installed along the east side of the existing fence on the western boundary of the Metropolitan Transit System right-of-way. The fence improvements shall be installed between Tecolote Creek and the southern boundary of Basin BB's 100-ft. buffer area, as well as in the 100-ft. buffer areas for Basins BB, CC, and HH. No new fencing shall be allowed within the vernal pools.
 - d. All construction activity related to this access road and associated improvements within the 100-ft. vernal pool buffers and their micro watersheds shall only occur during the dry season (April 16th – October 14th), and when no water is present in the vernal pools.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. [Special Condition No. 2 through 12 of CDP No. 6-18-0108 remain unchanged and in effect]

13. Final Vernal Pool Enhancement Plan

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval a Vernal Pool Enhancement Plan to enhance the three vernal pools: Basins BB, CC, and HH. The Plan shall be developed in

consultation with the U.S. Fish and Wildlife Service and shall include the following:

- i. A detailed final site plan of the three vernal pool enhancement sites and their 100-ft. buffers that the Executive Director concludes substantially conforms with the site plan submitted to the Commission on November 7, 2018, as shown generally on [Exhibit 3](#).
- ii. A baseline assessment, including photographs, of the current physical and ecological condition of the three vernal pool enhancement sites, a wetland delineation conducted according to the definitions in the Coastal Act and the Commission's Regulations, and a map showing the distribution and abundance of sensitive species that includes the footprint of the vernal pools and their 100-ft. buffer areas.
- iii. A description of the goal of the enhancement plan: the removal of all invasive plant species within the three vernal pools' 100-ft. buffer areas that are located within the MTS right-of-way and not occupied by the existing railroad or access road, and replanting of the buffer areas and vernal pools with native plantings as appropriate and feasible.
- iv. The removal of invasive plant species and replanting of native plant species described in subsection iii of this condition will be a one-time requirement that will occur concurrently with the construction of the development approved by this permit amendment.
- iv. A description of planned site preparation and invasive plant removal. Only herbicides approved for use in aquatic environments shall be utilized in the course of plant removal;
- v. An enhancement plan including the planting palette (seed mix and container plants), planting design, source of plant material, methods and timing of plant installation, and erosion control measures. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used.
- vi. The reporting of the physical and biological "as built" condition of the enhancement sites within thirty days of completion of the enhancement activities. This shall be a brief report describing the field implementation of the approved Enhancement Plan in narrative and photographs, and reporting any problems in the implementation and their resolution. The "as built" assessment and report shall be completed by a qualified biologist who is independent of the installation contractor.

- vii. A site plan indicating the specifications and location of minimal-footprint north-south physical barriers (e.g. post-and-rope fence, bollards, etc.) paralleling the access road along the length of the vernal pools and their 100-foot buffer areas, with the physical barriers located as far eastward of the vernal pools as feasible while still allowing adequate width for the passage of maintenance vehicles on the access road.
- viii. A plan for maintaining the vernal pools and their buffers free from trash, debris, and pollutants. The vernal pools shall be checked and maintained as part of all standard maintenance for this segment of railway, but trash removal shall occur no less than once per month during the rainy season (October 15th – April 15th). The least disruptive and intrusive method of debris removal shall be used, avoiding directly entering the vernal pools, and removing trash and debris with hand tools from outside the vernal pools.
- ix. An agreement that the permittee shall, to the greatest extent feasible, coordinate their trash and debris removal program with the California Department of Transportation's (Caltrans), trash removal program for the segment of Interstate-5 paralleling the project area, with coordination focused on debris removal during the rainy season (October 15th – April 15th).
- x. Should changes in regulations and rail operations subsequent to the approval of this permit make utilization of existing rail crossings by maintenance vehicles feasible, the permittee shall modify maintenance operations accordingly to utilize the crossings and reduce vehicular traffic within the vernal pool buffer areas.

b. The permittee shall undertake development in conformance with the approved final plans. Any substantial changes to the plan require a permit amendment from the Commission. Minor changes to enhancement plans may be approved in writing by the Executive Director if it is determined by the Executive Director that no amendment is legally required.

14. Future Development. This permit is only for the development described in coastal development permit (CDP) no. 6-16-0108-A1. Except as provided in Public Resources Code section 30610 and applicable regulations, for any future development as defined in PRC section 30106, including, but not limited to, any other change to the approved or existing maintenance access road, the applicant shall apply for an amendment to CDP no. 6-16-0108 from the California Coastal Commission, unless the Executive Director determines that an amendment is not legally required.

15. Assumption of Risk, Waiver of Liability and Indemnity.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to storms, flooding,

erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. Transfer of Long-Term Management Responsibilities.

Prior to the transfer of responsibility of any of the special conditions required in this permit, the permittee shall provide to the Executive Director for review and written approval, a signed statement from an authorized representative of the new party (transferee) acknowledging and accepting the requirements of all special conditions, including the Vernal Pool Enhancement Plan. The transferee shall undertake responsibility of compliance with approved plans.

III. FINDINGS AND DECLARATIONS

A. AMENDMENT DESCRIPTION

SANDAG proposes to improve an approximately half-mile segment of an existing earthen access road along the west side of the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor located within the Metropolitan Transit System (MTS) railroad right-of-way from a point south of Tecolote Creek northward to the 100-ft. buffer of a vernal pool identified as Basin BB in biological surveys. The improvements consist of placing a twelve-ft. wide, five-in. thick layer of (decomposed granite) over ninety-percent compacted subgrade, resulting in a permeable road, and constructing a new fifteen-ft. wide, eighty-ft. long single-span bridge crossing over Tecolote Creek that will not have any piers within the creek channel, but will instead be supported by abutments and retaining walls at both ends up to thirty feet long and six feet high. The project will also involve extending two existing under-rail existing box culverts westward under the improved access road, installing a two-ft. tall by twenty-ft. long ballast curb adjacent to the signal house, and installing an approximately eighty-ft. long hi-rail pad (a crossing platform at grade with the rails) within the existing railroad tracks approximately half a mile north of the proposed improvements to facilitate maintenance vehicle maneuvering. The above improvements will require the placement of approximately 4,400 cubic yards of fill at various locations along the improved road to support the bridge crossing and extended culverts.

B. PROJECT HISTORY

At the July 2016 hearing, the Coastal Commission approved Coastal Development Permit (CDP) No. 6-16-0108 for the Mid-Coast Corridor Transit Project, an extension of the existing trolley system serving San Diego County to provide service between the Old Town Transit Center and the University City community of San Diego. The Mid-Coast Corridor is currently under construction, with expected completion in 2021. The portion of the trolley extension within the coastal zone lies between Interstate-5 on the west and Morena Boulevard on the east, and parallels the LOSSAN railroad corridor from Interstate-8 in the south to Balboa Avenue in the north.

Along the LOSSAN railroad corridor, forty-eight Coaster commuter and Amtrak Surfliner intercity passenger trains and four freight trains operate daily. North County Transit District (NCTD), maintains access to the railroad infrastructure from Morena Boulevard via an existing private at-grade crossing at Littlefield Street. Railroad infrastructure has been installed at that location, referred to as “CP Cudahy,” and consists of four track switches and two overhead cantilever signals controlled by an equipment enclosure. Pursuant to federal regulations, periodic inspections of this infrastructure are required.

When the Mid-Coast Corridor Transit Project was approved, it included the eastward extension of the aforementioned crossing to encompass the new trolley tracks to provide continued maintenance access to CP Cudahy at Littlefield Street. However, subsequent

discussions between MTS and NCTD and safety analysis determined that crossing four tracks – two trolley and two train – operated by two separate systems would increase the risk of collision to unacceptable levels.

In lieu of extending the existing at-grade crossing, SANDAG is instead proposing to install a new bridge across Tecolote Creek and improve an existing earthen access road along the west side of the rail corridor to eliminate the need for maintenance vehicles to cross four tracks by providing continuous access to the west side from south of Tecolote Creek where access has already been acquired through an industrial property located west of the rail corridor through installation of a new bridge crossing.

C. BIOLOGICAL RESOURCES

Section 30230 of the Coastal Act states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the maritime environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy population of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effect of waste water discharges and entrainments, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30240 of the Coastal Act states:

- (a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The proposed improvements would be located entirely within previously disturbed or developed areas in the MTS right-of-way. As documented in the 2014 Mid-Coast

Corridor Transit Project Biological Resources Technical Report conducted for the underlying project, the majority of the area surrounding the access road is mapped as disturbed habitat, with stands of eucalyptus trees and other non-native vegetation running along the western boundary of the MTS right-of-way, adjacent to Interstate-5 (I-5). However, coastal wetlands are located in the vicinity of the proposed improvements, including Tecolote Creek and three vernal pools totaling 0.09-acre along the western boundary of the MTS right-of-way.

At the location of the proposed bridge, Tecolote Creek is a concrete channel that transitions to an ungrouted armored channel approximately twenty feet downstream to the west of the MTS right-of-way [[Exhibit 5](#)]. The creek then continues approximately 620 feet to the west under Interstate-5 and Mission Bay Drive before emptying into Mission Bay Park. As part of the original permit, the Commission approved a separate bridge over Tecolote Creek seventy-five feet to the east of the proposed access road bridge to serve the forthcoming trolley. Due to the need to support trolley cars on a daily basis, the previously approved trolley bridge includes piers located within the concrete channel. Because the proposed access road bridge will only need to support maintenance vehicles on a less frequent basis, the proposed bridge will not require piers within the creeks and instead be supported by upland abutments and retaining walls at its northern and southern ends. Additionally, no in-creek construction activity will be needed, as the proposed bridge will be installed as a pre-cast structure lowered into place using cranes. Finally, while water is present in Tecolote Creek year-round, the perennial flows are limited to urban runoff from upstream areas which, coupled with the concrete lining and lack of vegetation, means that shading from the proposed bridge span will not have adverse impacts on coastal habitat.

Between Tecolote Creek and the proposed hi-rail pad approximately one mile to the north, there are three degraded vernal pools located along the western edge of the MTS-right-of-way. Two pools are located together approximately 0.3 mile north of Tecolote Creek (Basins BB and CC), and one pool is located approximately 0.8 mile north of Tecolote Creek (Basin HH). Due to their close proximity, the Basin BB micro watershed encompasses the entire Basin CC micro watershed. The vernal pools are periodically inundated by runoff from the adjacent I-5, the rail corridor, and Morena Boulevard during rain events.

The three vernal pools are located outside of the footprint of the existing earthen access road and the proposed improvements. Of the three vernal pools, the southernmost pool, Basin BB, is designated as ESHA due to its occupation by the federally endangered San Diego fairy shrimp (*branchinecta sandiegonensis*). Hydrology in Basin BB is supported by an approximately 4.5-acre micro watershed. The micro watershed includes portions of the adjacent I-5 and the disturbed area between I-5 and the railroad. While the proposed road would be located within the footprint of the existing earthen access road, due to the tight confines arising from the close proximity of these major transportation corridors, the existing access road traverses the micro watershed of the pools.

As described earlier, while an existing earthen access road is located along the western extent of the rail corridor, the bulk of the rail infrastructure is located almost a mile north

of Tecolote Creek, and access by maintenance vehicles to that CP Cudahy infrastructure occurs at the existing crossing by Littlefield Street, in close proximity to the infrastructure. As a result, maintenance vehicles rarely need to traverse the entire length of the earthen access road, and avoid the portions of the road within the 100-foot buffers of the three vernal pools. However, the stated goal of the proposed project is to remove the need to cross the tracks at Littlefield by installing a bridge over Tecolote Creek and improving the access road, so that direct access to the west side of the rail corridor can be obtained from an access point south of Tecolote Creek to CP Cudahy to the north, which will increase the volume of vehicles that drive through the buffer of the ESHA and other vernal pools, with vehicles coming as close as a few feet to the vernal pools. Although SANDAG has revised the project to remove all proposed road improvements within and north of the 100-foot buffer of the southernmost vernal pool, the increased traffic and close proximity of the existing access road to the vernal pools are likely to indirectly impact the vernal pools. Increased vehicle traffic would increase the chance of vehicular fluids and soil eroded from the unpaved access road traveling the short distance into the pools themselves, either contaminating them or slowing filling them up.

Site photos of the vernal pools a few days after a storm event show that they are already adversely impacted by the close proximity of the transit corridors and presence of non-native vegetation [[Exhibit 4](#)]. Runoff from I-5 flows into the vernal pools, and trash from I-5 and the MTS right-of-way migrates into the pool area and gets caught by the chain link fence dividing the interstate and MTS rights-of-ways. The increased vehicular traffic through their buffer areas and micro watersheds will exacerbate these impacts.

In order to avoid impacts to the vernal pools, SANDAG evaluated alternative project alignments, namely providing access to the CP Cudahy infrastructure from the north at the forthcoming Balboa Avenue trolley station. However, a biological survey identified eight additional vernal pools between the station and CP Cudahy infrastructure. Furthermore, unlike the three vernal pools in the proposed project alignment, some of the vernal pools are located partly or wholly within the access road, meaning road improvements would directly impact them.

To address the indirect impacts from the proposed access road improvement and better protect the viability of the vernal pools for endangered species such as the San Diego fairy shrimp, the Commission's staff ecologist has recommended that an enhancement plan be developed and implemented, which shall include the removal of trash and debris that may accumulate in the vernal pools over time, as well as the one-time removal of non-native plant species within the vernal pool and buffer area and replacement with native plants during the course of the construction of the development approved in this amendment. Native plants will improve the quality of the vernal pool habitat and help capture trash that may enter the vernal pool. To remove the risk of accidental encroachment by maintenance vehicles into the pools, a physical barrier that does not alter drainage patterns, such as a post-and-rope or bollard system, will be installed along the length of the vernal pools areas, as far eastward as possible while still allowing sufficient width on the access road for maintenance vehicle passage.

Regarding the construction of the access road improvements, it is important that construction activity that may occur in the micro-watersheds of the vernal pools only occur during the dry seasons (April 16 – October 14) when no water is present in the pools. During construction, SANDAG will delineate the pools with orange construction fencing to prevent physical intrusion.

To minimize impacts to Tecolote Creek and the vernal pools from construction of the proposed improvements, **Special Condition No. 4** requires the implementation of temporary Best Management Practices (BMP) to capture and treat runoff that may occur at the construction site. **Special Condition No. 5** requires a debris removal plan to prevent construction debris from accumulating in areas where it may be introduced into surrounding habitat or impact water quality. **Special Condition No. 13** requires that a vernal pool enhancement plan be implemented during and after construction to protect and maintain the vernal pools, with measures including physical barriers, restoration of native vegetation, and debris removal. **Special Condition No. 16** requires that as part of any transfer of this development to another party, an agreement shall be required of the receiving entity acknowledging the requirements of this permit amendment and agreement to adhere to them. Thus, as conditioned, the Commission finds that the proposed development can be found consistent with the habitat protection policies of Chapter 3 of the Coastal Act.

D. WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Section 30232 of the Coastal Act states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Three existing drainage structures – a six-foot by four-foot concrete box culvert, a six-foot by six-foot concrete box culvert, and a 24-inch drainage pipe – are located under the railroad tracks adjacent to the proposed half-mile segment of road improvements. These structures drain water from the railroad right-of-way westward into an earthen swale that parallels the tracks and I-5 to the west. The two box culverts are proposed to be extended

westward under the improved access road with rip rap energy dissipaters placed at their outfalls. The 24-inch pipe is located at the northern terminus of the proposed improvements, just outside of the 100-ft. buffer of a vernal pool (Basin BB). Despite its proximity, SANDAG determined that runoff from the pipe entering the swale does not drain north into the micro watershed feeding Basin BB, but rather the stretch of existing access road that SANDAG is proposing to improve is located south of Basin BB and does not drain into its micro watershed, instead flowing to the south and into Tecolote Creek. Because of its proximity to the 100-foot buffer, SANDAG will not be extending the 24-inch pipe but will instead place a concrete basin around its outfall to ensure that its runoff continues to flow to the south.

The goal in designing the proposed drainage systems was to utilize the existing systems, to the maximum extent practicable, in order to minimize impacts to existing drainage facilities, and to eliminate the increase in discharge flow rates downstream of the project area. The proposed storm drainage network has been designed to safely and efficiently convey the anticipated runoff from a 100-year storm event through the project area. The project would employ, but not be limited to, post-construction BMPs, low impact development (LID) design features, and hydro modification measures to minimize increases in surface runoff caused by the project.

However, while the proposed improvements to the access road would substantially maintain the existing topography, the installation of the bridge, compaction of the existing road, and extension of the culverts will require the importation of substantial amounts of fill. The bridge will require approximately 1,171 cubic yards of fill, the culverts will require 1,835 cubic yards, the road will require 830 cubic yards of fill, and the hi-rail pad will require 571 cubic yards of fill. The surface of the improved access road will be compacted, but still permeable, decomposed granite, though it should be noted that decomposed granite is not completely impermeable and can still have some impact on the infiltration of runoff. However, due to the narrow configuration of the proposed improvements and the rail corridor in general, the access road would have similar hydrologic runoff conditions as the existing disturbed compacted dirt and is not anticipated to substantially alter the overall hydrology (e.g., runoff patterns, rates, volumes, and water quality) of the micro watershed or general project vicinity because of the presence of the elevated rail road tracks immediately adjacent to and east of the access road, which direct all runoff to the west into the swale between the railroad and I-5. To minimize potential adverse impacts to water quality, Best Management Practices (BMPs) including hydro-seeding areas west of the access road will be implemented. Construction-stage BMPs in accordance with current requirements of the underlying CDP will also be adhered to.

SANDAG has minimized potential adverse effects to water quality by incorporating design pollution prevention BMPs during and post construction that would control runoff, prevent substantial interference with surface water flow, and minimize alteration of natural streams. Proposed design pollution prevention BMPs for downstream effects related to potentially increased flow include outlet energy dissipation devices, which would minimize sediment discharges and reduce velocities in peak flows discharged to receiving water bodies and revegetation. Construction BMPs include, but are not limited

to, retention and treatment of storm water on site, avoidance of construction materials contacting or entering storm water, soil stabilization to minimize erosion, watering for dust control, and installation of perimeter controls.

Special Conditions Nos. 4 and 5 require debris removal and construction BMP measures to be implemented to protect water quality from construction activity along the project alignment. To ensure long-term minimization of potential water quality impacts, **Special Condition No. 6** requires implementation of post-construction BMP measures. Therefore, the Commission finds the proposed development, as conditioned, consistent with the water quality policies of Chapter 3 of the Coastal Act.

E. COASTAL HAZARDS

Section 30253 of the Coastal Act states in relevant part:

New development shall do all of the following:

(a) Minimize risks to life and property in areas of high geologic, flood, and fire hazard.

(b) Assure stability and structural integrity, and neither create nor contribute significantly to erosion, geologic instability, or destruction of the site or surrounding area or in any way require the construction of protective devices that would substantially alter natural landforms along bluffs and cliffs.

Portions of the project alignment would be located within the 100-year flood zone, thus increasing obstructed or exacerbated floodwaters during a major storm event. The Federal Emergency Management Agency (FEMA) designates the Tecolote Creek flood zone as “high risk,” with Tecolote Creek having a one percent or greater chance of shallow flooding each year, usually in the form of sheet flow, with an average depth of one to three feet.

The proposed bridge would be a single-span structure and would not involve the placement of any piers or other structures within the Tecolote Creek. Additionally, retaining walls up to six feet high would be required at several locations to support the access road. A hydraulic study was performed regarding the presence of the bridge; the resulting 100-year water surface elevation at the bridge location is thirteen feet NAV88. The top of the bridge will be constructed 6.25 feet above the 100-year water elevation, while the low chord elevation – the lowest portion of a superstructure – will be fifteen feet, granting two feet of clearance and avoiding obstruction of floodwaters.

In relation to anticipated sea level rise, changes to the 100-year water surface elevation are not expected to significantly impact the bridge. Pursuant to the 2018 Ocean Protection Council Guidance, sea level rise of up to 3.6 feet by 2100 under the likely range for high emissions sea level rise scenario will not place the bridge within the future flood zone of

a 100-year coastal storm. It is anticipated that 3.6 feet of sea level rise would raise the 100-year water surface elevation by approximately 0.01 foot at the site of the bridge.

Regarding tsunami risk, direct impacts of a tsunami include water inundation and soil erosion, which consists of loss of support and nutrients necessary for plant growth; downstream damage from sediments generated by erosion; and, depletion of water storage capacity because of soil loss and sedimentation of streams and reservoirs, which results in reduced natural stream flow regulation. Tsunami hazards are considered low to moderate at the proposed bridge over Tecolote Creek because it is located near the edge of the State of California Tsunami Inundation Map (California Emergency Management Agency, 2009). However, the flood level caused by a tsunami would be less than the flooding caused by a 100-year storm event. Although there is a potential for additional structures to be exposed as a result of a tsunami, the potential for severe inundation caused by a tsunami at the Tecolote Creek bridge location would be low and the exposure of structures and people to the consequences of a tsunami would not be an adverse impact.

A seiche is an oscillatory wave that develops in an enclosed or partially enclosed body of water, such as a bay or lake, in response to seismic shaking from an earthquake. The only nearby source for a seiche is Mission Bay, which is 350 to 1,300 feet from the project alignment. Implementation of the project would result in a potential for additional structures to be exposed to a seiche. However, because of the distance between the alignment and Mission Bay, inundation and resulting damage or destruction of structures and harm to people would be very unlikely. The potential for a seiche therefore would be low, and the exposure of structures and people to the consequences of a seiche would not be an adverse impact.

However, because the project site crosses a waterway that experience tidal influence and periodic flooding, **Special Condition No. 15** requires the applicant to assume the risks inherent in developing in such a location. Therefore, the Commission finds the proposed project, as conditioned, is consistent with Section 30253 of the Coastal Act.

F. PUBLIC ACCESS

Section 30210 of the Coastal Act states:

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30212(a) of the Coastal Act states:

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where: (1) it is

inconsistent with public safety, military security needs, or the protection of fragile resources, (2) adequate access exists nearby, or, (3) agriculture would be adversely affected. Dedicated accessway shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway.

Section 30252 of the Coastal Act states in part:

The location and amount of new development should maintain and enhance public access to the coast by (1) facilitating the provision or extension of transit service, (2) providing commercial facilities within or adjoining residential development or in other areas that will minimize the use of coastal access roads, (3) providing nonautomobile circulation within the development, (4) providing adequate parking facilities or providing substitute means of serving the development with public transportation, (5) assuring the potential for public transit for high intensity uses such as high-rise office buildings, and by (6) assuring that the recreational needs of new residents will not overload nearby coastal recreation areas by correlating the amount of development with local park acquisitions and development plans with the provision of onsite recreational facilities to serve the new development.

Section 30253 of the Coastal Act state, in part

New development shall do all of the following:

[...]

(d) Minimize energy consumption and vehicle miles traveled.

The LOSSAN rail corridor serves dozens of intercity passenger rail trains every day, constituting an important part of California's alternative transportation network. SANDAG is proposing the improvements to the access road to allow maintenance vehicles to avoid having to cross four tracks simultaneously once the trolley extension is complete. The risk of collision from such a crossing was deemed to be sufficiently high to warrant an alternative design, as a collision would cause substantial damage to the rail infrastructure and likely cause a closure of both the railroad and trolley for a period of time, substantially impacting the thousands of members of the public who utilize alternate transit for intra- and inter-city travel. By decreasing the risk of collision and providing safe access from the west side of the railroad, public access along this segment of the coast will be protected.

Construction would occur intermittently over approximately eighteen months, Mondays through Fridays from 7:00 AM to 5:00 PM, with occasional weekend or night work if necessary. Construction activity will not cause temporary road closures and would occur outside of the public right-of-way, public parking spaces, and public park lands. The MTS right-of-way is not open to the public due to the presence of the aforementioned rail infrastructure; the only entities permitted within the right-of-way are maintenance

personnel or construction crews. Because the proposed improvements would be located entirely within the MTS right-of-way, the construction activity and final development will not encroach into existing public access ways or coastal access corridors. While the MTS right-of-way provides sufficient space for the staging and storage related to the proposed work, due to its proximity to important coastal access corridors such as Tecolote Road, **Special Condition No. 3** prohibits the staging, storage, or parking of construction material or vehicles in the public right of way. Thus, as conditioned, the Commission finds proposed development can be found consistent with the public access policies of Chapter 3 of the Coastal Act.

G. LOCAL COASTAL PLANNING

Section 30604(a) also requires that a coastal development permit shall be issued only if the Commission finds that the permitted development will not prejudice the ability of the local government to prepare a Local Coastal Program (LCP) in conformity with the provisions of Chapter 3 of the Coastal Act. In this case, such a finding can be made.

The project is located east of Mission Bay Park, Interstate-5, and west of the LOSSAN rail tracks. Mission Bay Park, located adjacent and west of the project site, has a certified Mission Bay Park Master Plan; however, the project site is located within the City of San Diego in an area of deferred certification, where the Commission retains permit authority and Chapter 3 of the Coastal Act remains the legal standard of review. As conditioned, the proposed development is consistent with Chapter 3 of the Coastal Act, and thus, approval of the development, as conditioned, will not prejudice the ability of the City of San Diego to implement a certified LCP for the deferred area.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment. SANDAG certified a Final Supplemental Environmental Impact Statement No. 2010051001 and Subsequent Environmental Impact Report dated July 2014 for the original Mid-Coast Corridor project and determined that the proposed access road improvements are covered by that environmental document.

The proposed project has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing habitat enhancement, staging and storage, water quality treatment, and assumption of flood risk will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may

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have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and can be found consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A – Conditions of Approval

Conditions of Approval for CDP No. 6-16-0108

This permit is granted subject to the following standard conditions:

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the permittee to bind all future owners and possessors of the subject property to the terms and conditions.

This permit is granted subject to the following special conditions:

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, final project plans for the proposed development, and where applicable, that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted by SANDAG on February 5, 2016, except as follows:
 - a. All catenary poles on the bridge crossings over the San Diego River and Tecolote Creek shall incorporate anti-perching measures to discourage raptors from perching on them.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. **Final Landscape Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval final landscaping and fencing plans approved by the City of San Diego, where applicable. The plans shall be in substantial conformance with the landscape plans prepared by SANDAG and submitted on February 5, 2016, and shall include the following:

- a. All landscaping shall be drought tolerant and native species. No plant species listed as invasive by the California Native Plant Society, the California Exotic Pest Plant Council, or identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as “noxious weed” by the State of California or the U.S. Federal Government shall be utilized within the project area.
- b. Equipment areas shall be screened from public view. Any fencing, walls, or landscaping used for screening shall be subordinate to and compatible with the surrounding environment.
- c. If using potable water for irrigation, drip or microspray irrigation systems shall be used.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission-approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Construction Staging and Storage Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director, for review and written approval, a Construction Staging and Storage Plan that shall include, at a minimum, the following:

- a. No construction staging or storage is allowed in public right-of-ways, public park space, public parking spaces, or other location where such use would restrict public access to the coast at any time.
- b. No public parking spaces may be used for worker parking.
- c. The Ocean Beach Bicycle Path shall remain open, either in its current alignment or through minimal detouring, throughout the duration of construction.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-

approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

4. **Construction-Phase Water Quality Protection Plan. PRIOR TO COMMENCEMENT OF CONSTRUCTION**, the applicant shall submit, for the review and written approval of the Executive Director, a water quality protection plan for the construction phase of the project, designed by a licensed engineer or other qualified licensed professional. The plan shall incorporate the following Best Management Practices (BMPs) and other requirements:
- a. **Minimize Erosion and Sediment Discharge.** During construction, erosion and the discharge of sediment off-site or to coastal waters shall be minimized through the use of appropriate Best Management Practices (BMPs), including:
 - i. Land disturbance during construction (e.g., clearing, grading, and cut-and-fill) shall be minimized, and grading activities shall be phased, to avoid erosion and sedimentation as feasible.
 - ii. Erosion control BMPs (such as mulch, soil binders, geotextile blankets or mats, or temporary seeding) shall be installed as needed to prevent soil from being transported by water or wind. Temporary BMPs shall be implemented to stabilize soil on graded or disturbed areas as soon as feasible during construction, where there is a potential for soil erosion to cause discharge of sediment off-site or to coastal waters.
 - iii. Sediment control BMPs (such as silt fences, fiber rolls, sediment basins, inlet protection, sand bag barriers, or straw bale barriers) shall be installed as needed to trap and remove eroded sediment from runoff, to prevent sedimentation of coastal waters.
 - iv. Tracking control BMPs (such as a stabilized construction entrance/exit, and street sweeping) shall be installed or implemented as needed to prevent tracking sediment off-site by vehicles leaving the construction area.
 - v. Grading shall be avoided as feasible during the rainy season, from November 1 to March 31, of any year.
 - vi. All erosion and sediment controls shall be in place prior to the commencement of construction, as well as at the end of each workday. At a minimum, if grading is taking place, sediment control BMPs shall be installed at the perimeter of the construction site to prevent construction-related sediment and debris from entering coastal waters, drainage swales, and the storm drain system.
 - b. **Minimize Discharge of Construction Pollutants.** The discharge of other pollutants resulting from construction activities (such as chemicals, paints, vehicle fluids, petroleum products, asphalt and cement compounds, debris,

and trash) into runoff or coastal waters shall be minimized through the use of appropriate BMPs, including:

- i. Materials management and waste management BMPs (such as stockpile management, spill prevention, and good housekeeping practices) shall be installed or implemented as needed to minimize pollutant discharge and polluted runoff resulting from staging, storage, and disposal of construction chemicals and materials. BMPs shall include, at a minimum:
 - A. Stockpiles of construction materials, debris, soil, and other excavated materials shall be covered to prevent contact with rain, and shall be protected from storm water runoff using temporary perimeter barriers. Stockpiles shall be located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible.
 - B. Staging and storage of construction equipment shall be located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible.
 - C. All leaks, drips, and spills shall be cleaned up immediately. A written plan shall be in place for the prevention and clean-up of spills and leaks, and an inventory of products and chemicals used on site shall be maintained.
 - D. All trash and debris shall be disposed of in the proper trash and recycling receptacles at the end of every construction day. Open trash receptacles shall be covered during wet weather.
 - E. All construction debris shall be promptly removed from the creek and river channels.
 - F. Runoff shall be detained, infiltrated, or treated, if needed, prior to conveyance off-site during construction.
- ii. Fueling and maintenance of construction equipment and vehicles shall be conducted off site if feasible. Any fueling and maintenance of mobile equipment conducted on site shall take place at a designated area located at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible, except inlets that are blocked to protect against fuel spills. The fueling and maintenance area shall be designed to fully contain any spills of fuel, oil, or other contaminants. Equipment that cannot be feasibly relocated to a designated fueling and maintenance area (such as cranes) may be fueled and maintained in other areas of the site, provided that procedures are implemented to fully contain any potential spills.
- iii. Machinery and equipment shall be washed in confined areas specifically designed to control runoff.

- iv. Concrete work shall employ methods to prevent the placement of cement products, cement-laden wash water, or concrete debris where it could enter coastal waters, unless the concrete is of a type registered for in-water curing. All other concrete shall be fully cured, and concrete debris and construction materials shall be completely removed prior to re-watering the construction site. No concrete work shall take place when rain is likely to occur.

- v. If pressure-treated wood is used in bridge construction, appropriate BMPs shall be implemented that meet industry standards for the selection, storage, and construction practices for use of pressure-treated wood in aquatic environments; at a minimum, those standards identified by the Western Wood Preservers Institute, et al. in *Treated Wood in Aquatic Environments: A Specification and Environmental Guide to Selecting, Installing and Managing Wood Preservation Systems in Aquatic and Wetland Environments* (2012) or current revision thereof.¹ BMPs shall include, but are not limited to:
 - A. All pressure-treated wood shall be certified by a third party inspection program, as indicated by the presence of a BMP Quality Mark or Certificate of Compliance, to have been produced in accordance with industry BMP standards specifically designed to minimize adverse impacts in aquatic environments.
 - B. A type of wood preservative shall be used that minimizes the risk of adverse impacts to the site's aquatic environment, selected in the following order of preference: Chromated Copper Arsenate, Micronized Copper Azole or Micronized Alkaline Copper Quaternary, Ammoniacal Copper Zinc Arsenate, Alkaline Copper Quaternary, or Copper Azole.
 - C. All pressure-treated wood shall be labeled for the appropriate Use Category for the intended use, as specified by the American Wood Protection Association Standard U1. To minimize the amount of preservative present in the pressure-treated wood that may subsequently leach into the aquatic environment, wood treated to the standards for a higher Use Category (i.e., with a higher preservative retention level) than is necessary for the project component may not be used.
 - D. A penetrating coating (such as a semi-transparent stain) shall be applied, prior to installation, to treated wood used

¹ <http://www.wwpinstitute.org/documents/TWInAquaticEnvironments-withLinks12.20.12.pdf>

in bridge construction, to reduce leaching and surface dislodgment of the preservative chemicals.

- c. **Construction In, Over, or Adjacent to Coastal Waters.** Construction taking place in, over, or adjacent to coastal waters shall protect the coastal waters and adjacent habitat by implementing additional BMPs, including:
 - i. Pile driving operations shall be conducted so as to minimize disturbance to benthic substrates.
 - ii. Machinery or construction materials not essential for project activities within the creek and river channels are prohibited at all times within the creek and river channels.
 - iii. Tarps or other devices shall be used to capture debris, dust, oil, grease, rust, dirt, fine particles, and spills during construction taking place in, over, or adjacent to coastal waters, to protect the quality of coastal waters.
 - iv. Any debris discharged to coastal waters in association with construction activities shall be immediately retrieved and removed from the water. The permittee shall ensure that sufficient staff and equipment are available to accomplish immediate collection of debris as needed. Non-buoyant debris discharged into coastal waters shall be removed immediately.
 - v. Reasonable and prudent measures shall be taken to prevent any discharge of fuel or oily waste from heavy machinery or construction equipment into coastal waters. The permittee shall have adequate equipment available to contain any such spill immediately.
- d. **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
 - i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 - ii. Soil compaction due to construction activities shall be minimized, to retain the natural storm water infiltration capacity of the soil.
 - iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided as much as feasible, to minimize wildlife entanglement and plastic debris pollution.

- e. **Manage Construction-Phase BMPs.** Appropriate protocols shall be implemented to manage all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training), to protect coastal water quality.
- f. **Construction Site Map and Narrative Description.** The Construction-Phase Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
 - i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - ii. The areas to be disturbed by construction activities, including any temporary access roads, staging areas, and stockpile areas, shall be delineated on a map.
 - iii. A detailed description of the phasing and scheduling of construction activities, including staging of equipment and materials.
 - iv. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the construction footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - v. A description of the BMPs that will be implemented to minimize erosion and sedimentation, and to minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper scale of BMPs.
 - vi. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit, unless the Executive Director determines that no such amendment is legally required.

- 5. **Construction Debris Removal.** PRIOR TO COMMENCEMENT OF CONSTRUCTION, the applicant shall submit, for the review and written approval of the Executive Director, a debris removal plan for the construction phase of the project, prepared by a licensed engineer or other qualified licensed professional. The plan shall incorporate the following Best Management Practices (BMPs) and other requirements:

- a. For activities that may result in substantial debris discharge, the applicant shall deploy a surface boom around the work area to facilitate capture and removal of debris. Non-buoyant debris discharged into coastal waters shall be removed immediately.
 - b. All construction trestles, piles, falsework, and related staging material shall be completely removed at the end of bridge construction.
 - c. All debris resulting from construction activities shall be removed from the project site within 24 hours of completion of construction.
 - d. At the end of each day of construction activity, the permittee shall conduct a visual inspection of the project area to ensure that no construction materials debris, trash, or waste material of any kind has been placed or stored where it may be subject to entering coastal waters.
 - e. The permittee shall dispose of all construction debris outside of the coastal zone or at a site within the coastal zone permitted to receive the debris from the proposed project. **PRIOR TO CONSTRUCTION**, the permittee shall provide evidence to the Executive Director of the location of the disposal site. Should the disposal site be located in the coastal zone, the permittee shall confer with the Executive Director and shall accept the Executive Director's determination as to whether a separate coastal development permit or notice of impending development is required.
6. **Post-Construction Water Quality Protection Plan.** **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT**, the applicant shall submit, for the review and written approval of the Executive Director, a final water quality protection plan for the post-construction phase of the project that substantially conforms with the plan submitted to the Commission titled "Mid-Coast Corridor Transit Project Preliminary Storm Water Data Report" dated March 6, 2013 and grading and drainage plans submitted on February 5, 2016. The final plan shall demonstrate that the project complies with the following requirements:
- a. **Prepare Plan by a Licensed Professional.** A California-licensed professional (e.g., Registered Professional Civil Engineer, Geotechnical Engineer, Geologist, Engineering Geologist, Hydrogeologist, or Landscape Architect) qualified to complete this work shall be responsible for preparing the plan.
 - b. **Size BMPs Using Design Storm Standard.** Any Low Impact Development (LID), Runoff Control, and Treatment Control BMP (or suite of BMPs) implemented to comply with the plan requirements shall be sized, designed, and managed to infiltrate, retain, or treat, at a minimum, the runoff produced by the 85th percentile 24-hour storm event

for volume-based BMPs, or two times the 85th percentile 1-hour storm event for flow-based BMPs.

- c. **Use an LID Approach to Retain Design Storm Runoff.** An LID approach to storm water management shall be implemented that will retain on-site (by means of infiltration, evapotranspiration, or harvesting), at a minimum, the runoff produced by the 85th percentile 24-hour design storm (see subsection (b) of this Special Condition), to the extent feasible. Ballasted tracks shall be implemented as an infiltration BMP to retain the design storm runoff on-site, to the extent feasible. Ballasted tracks shall be implemented as an infiltration BMP to retain the design storm runoff on-site, to the extent feasible.
- d. **Give Priority to Earthen-Based BMPs.** Where feasible, direct storm water runoff from impervious surfaces to, in order of priority, 1) landscaped areas or open spaces capable of infiltration; 2) earthen-based infiltration BMPs (such as an infiltration basin); 3) flow-through biofiltration BMPs (such as a vegetated swale); 4), manufactured infiltration BMPs (such as a permeable pavement system); and if infiltration is not feasible, 5) proprietary filtration systems (such as an inlet filter).
- e. **Conduct an Alternatives Analysis.** If the proposed development will not retain on-site the runoff produced by the 85th percentile 24-hour design storm (see subsection (b) of this Special Condition) using an LID approach, an alternatives analysis shall be conducted. The alternatives analysis shall demonstrate that:
 - i. There are no appropriate and feasible alternative project designs (such as a reduced project footprint) that would retain on-site the runoff produced by the 85th percentile 24-hour design storm, giving precedence to an LID approach.
 - ii. On-site runoff retention is maximized to the extent appropriate and feasible, giving precedence to an LID approach.
 - iii. If (i) and (ii), are demonstrated to the satisfaction of the Executive Director, some or all of the runoff produced by the 85th percentile 24-hour design storm may be retained off-site, if it is demonstrated that off-site options will feasibly contribute to meeting the development's runoff retention and treatment requirements.
- f. **Implement a Treatment Control BMP if Necessary.** A Treatment Control BMP (e.g., vegetated swale, detention basin, or storm drain inlet filter) shall be implemented, if necessary and feasible, to remove pollutants of concern (such as metals and trash) from runoff. The project shall comply with the following applicability and performance standards for Treatment Control BMPs:

- i. A Treatment Control BMP (or suite of BMPs) shall be implemented, if feasible, to remove pollutants of concern from any portion of the runoff produced by the 85th percentile 24-hour design storm (see subsection (b) of this Special Condition) that will not be retained on-site.
 - ii. Where infiltration BMPs are not adequate to remove a specific pollutant attributed to the development, an effective Treatment Control BMP (or suite of BMPs) shall be implemented, if feasible, prior to infiltration of runoff. Alternatively, the permittee may propose another BMP for Executive Director approval.
 - iii. Where a Treatment Control BMP is required, a BMP (or suite of BMPs) shall be selected that has been shown to be effective in reducing the pollutants generated by the proposed land use.
- g. **Implement a Runoff Control BMP.** If the project will add a net total of more than 15,000 square feet of impervious surface area, a Runoff Control BMP shall be implemented, if feasible, to capture and retain a portion of the anticipated increase in runoff volume after the a site is developed. Runoff Control BMPs shall be sized for the appropriate design storm (as specified below). For purposes of this subsection, a Runoff Control BMP is defined as a structural system designed to minimize post-development changes in runoff flow characteristics, such as a basin, pond, topographic depression, or storm water vault. The project shall comply with the following applicability and performance standards for Runoff Control BMPs:
 - i. If feasible, implement a Runoff Control BMP that uses Flow Retention techniques, sized to capture and retain any portion of the runoff volume produced by the 85th percentile 24-hour design storm (see subsection (c) of this Special Condition) that will not be retained on-site using an LID approach. Flow Retention techniques shall optimize infiltration, and shall use storm water storage, harvesting for later on-site use, or evapotranspiration to address all of the required runoff flow retention volume that cannot be infiltrated.
 - ii. In addition to using Flow Retention techniques, if the development will add a net total of more than 22,500 square feet of impervious surface area, a Runoff Control BMP that uses Peak Management techniques shall also be implemented, if feasible, and shall be sized to prevent post-development runoff peak flows discharged from the site from exceeding pre-project peak flows for the 2-year through 10-year storm events.
- h. **Give Precedence to Low Impact Development.** The permittee shall give precedence to the use of a Low Impact Development (LID) approach to storm water management. LID emphasizes preventive site design strategies that minimize post-development changes in the site's storm

water runoff flows, integrated with small-scale, distributed BMPs to retain runoff on site through infiltration, evapotranspiration, harvesting for later on-site use, detention, or retention of storm water close to the source. The project shall comply with the following Low Impact Development standards:

- i. Minimize disturbance of coastal waters and natural drainage features such as stream corridors, rivers, wetlands, natural drainage patterns, drainage swales, groundwater recharge areas, floodplains, and topographical depressions.
- ii. Minimize removal of native vegetation, and plant additional non-invasive vegetation, particularly native plants, which provide water quality benefits such as transpiration, interception of rainfall, pollutant uptake, shading of waterways to maintain water temperature, and erosion control.
- iii. Maintain or enhance on-site infiltration of runoff to the greatest extent appropriate and feasible. Use strategies such as avoiding building impervious surfaces on highly permeable soils; amending soil if needed to enhance infiltration; and installing an infiltration BMP (e.g., a vegetated swale, rain garden, or bioretention system).
- iv. Minimize the addition of impervious surfaces, and where feasible increase the area of pervious surfaces in re-development. Use strategies such as minimizing the footprint of impervious pavement, and installing a permeable pavement system where pavement is required. Lining earthen drainage ditches with concrete shall be avoided to the extent feasible.
- v. Disconnect impervious surface areas from the storm drain system, by interposing permeable areas between impervious surfaces and the storm drain system. Design curbs, berms, and similar structures to avoid isolation of vegetative landscaping and other permeable areas, and allow runoff to flow from impervious pavement to permeable areas for infiltration. Use strategies such as directing roof-top runoff into permeable landscaped areas; directing runoff from impervious pavement into distributed permeable areas (e.g., turf, medians, or parking islands); installing a vegetated swale or filter strip to intercept runoff sheet flow from impervious surfaces; and installing a rain barrel or cistern to capture and store roof-top runoff for later use in on-site irrigation.
- vi. Where on-site infiltration is not appropriate or feasible, use alternative BMPs to minimize post-development changes in runoff flows, such as installing an evapotranspiration BMP that does not infiltrate into the ground but uses evapotranspiration to reduce runoff (e.g., a vegetated “green roof,” flow-through planter, or retention pond); directing runoff to an off-site infiltration facility; or

implementing BMPs to reduce runoff volume, velocity, and flow rate before directing runoff to the storm drain system.

- i. **Implement Source Control BMPs.** Appropriate and feasible long-term Source Control BMPs, which may be structural features or operational practices, shall be implemented to minimize the transport of pollutants in runoff from the development by controlling pollutant sources and keeping pollutants segregated from runoff. Use strategies such as covering outdoor storage areas; efficient irrigation; proper application and clean-up of potentially harmful chemicals and fertilizers; and proper disposal of waste.

Gross solids removal devices to remove litter from storm water runoff shall be used to prevent litter from entering coastal waters, whether or not a Total Maximum Daily Load (TMDL) is in place for trash or litter in the receiving waterbody.

- j. **Avoid Adverse Impacts from Storm water and Dry Weather Discharges.** The adverse impacts of discharging storm water or dry weather runoff flows to coastal waters shall be avoided to the extent feasible. The project shall comply with the following requirements:

- i. Runoff shall be conveyed off-site or to drainage systems in a non-erosive manner. If runoff flows to a natural stream channel or drainage course, determine whether the added volume of runoff is large enough to trigger erosion.
- ii. Protective measures shall be used to prevent erosion from concentrated runoff flows at storm water outlets (including outlets of pipes, drains, culverts, ditches, swales, or channels), if the discharge velocity will be sufficient to potentially cause erosion. The type of measures selected for outlet erosion prevention shall be prioritized in the following order, depending on the characteristics of the site and the discharge velocity: (1) vegetative bioengineered measures (such as plant wattles); (2) a hardened structure consisting of loose materials (such as a rip-rap apron or rock slope protection); or (3) a fixed energy dissipation structure (such as a concrete apron, grouted rip-rap, or baffles).
- iii. The discharge of dry weather runoff to coastal waters shall be minimized, to the greatest extent feasible. Use strategies such as efficient irrigation techniques that minimize off-site runoff.

- k. **Manage Post-Development BMPs for the Life of the Development.** Appropriate protocols shall be implemented to manage post-development BMPs (including ongoing operation, maintenance, inspection, and training) to keep the water quality provisions effective for the life of the development.

7. Assumption of Risk, Waiver or Liability, and Indemnity Agreement

By acceptance of this permit, the applicant acknowledges and agrees (1) that the site may be subject to hazards, including but not limited to waves and flooding; (2) to assume the risks to the applicant, the landowner, and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (3) to unconditionally waive any claim of damage or liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (4) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs, (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

8. Sensitive Species Monitoring.

PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES during bird nesting season (February 1st through September 15th), a qualified biologist shall conduct a site survey for active nests no more than 72 hours prior to any development. If an active nest of a special-status species or species protected by the federal Migratory Bird Treaty Act (MBTA) or the California Fish and Game Code 3503 is located, then a qualified biologist shall monitor the nest daily until project activities are no longer occurring within a distance feet of the nest appropriate to the sensitivity of the species and determined in consultation with CDFW (typically 300 feet for most species, up to 500 feet for raptors), or until the young have fledged and are independent of the adults or the nest is otherwise abandoned. Limits of construction around active nests would be established in the field with flagging, fencing, or other appropriate barriers, and construction personnel would be instructed on the sensitivity of nest areas. The monitoring biologist shall halt construction activities if he or she determines that the construction activities may be disturbing or disrupting the nesting activities. The monitoring biologist shall make practicable recommendations to reduce the noise or disturbance in the vicinity of the active nests or birds. This may include recommendations such as (1) turning off vehicle engines and other equipment whenever possible to reduce noise, (2) working in other areas until the young have fledged, and (3) utilizing alternative construction methods and technologies to reduce the noise of construction machinery. The monitoring biologist shall review and verify compliance with these avoidance boundaries and shall verify that the nesting effort has finished in a written report. Unrestricted construction activities may resume when the biologist confirms no active nests are found. The results of the site survey and any follow-up construction avoidance measures shall be documented by the monitoring biologist and submitted to the San Diego office of the California Coastal Commission.

- 9. Final Offsite Habitat Mitigation and Monitoring Plan.** PRIOR TO COMMENCEMENT OF CONSTRUCTION WITHIN THE SAN DIEGO RIVER CHANNEL OR TECOLOTE CREEK, the applicant shall submit to the Executive Director for review and written approval, final detailed offsite

mitigation and monitoring plan for all impacts to sensitive biological resources. Said plan shall include the following:

- a. Preparation of detailed site plans identifying all impacted habitat areas and clearly delineating all areas and the exact acreage of those areas. Both temporary and permanent impacts shall be part of the delineation. Site plans identifying any overlap with impacts arising from the previously approved LOSSAN double-track project (CC-0003-15) shall be provided.
- b. All impacts to wetland habitat (temporary and permanent), including ephemeral pools, shall be mitigated through restoration at not less than a 4:1 mitigation ratio. If the final habitat mitigation and monitoring plan includes enhancement as a part of the proposed mitigation, then a higher ratio shall be required for that portion of the mitigation work. In addition, a detailed site plan of the mitigation areas shall be included and shall include any proposed irrigation (temporary or permanent), as well as any proposed site modification.
- c. A Restoration and Monitoring Plan shall be prepared by a qualified restoration ecologist and shall at a minimum include the following:
 - i. A baseline assessment, including photographs, of the current physical and ecological condition of the proposed restoration site, including, as appropriate, a wetland delineation conducted according to the definitions in the Coastal Act (Pub. Resources Code, § 30121) and the Commission's Regulations (Cal. Code of Regs., tit. 14, § 13577(b)), a description and map showing the area and distribution of vegetation types, and a map showing the distribution and abundance of sensitive plant and wildlife species. Existing vegetation, wetlands, and sensitive species shall be depicted on a map that includes the footprint of the proposed restoration.
 - ii. A description of the goals of the restoration plan, including proposed alterations, as appropriate, to site topography, hydrology, vegetation types, sensitive species, and anticipated wildlife usage. Restoration goals should be identified based on sampling of an appropriate and pre-approved reference site within the same or adjacent watershed as the restoration site, and the maximum allowable difference between the restoration site and reference site(s) specified. The reference site should be representative of the vegetation present in the area and should consist of the same or similar soil type to the restoration site. A sampling plan for the reference site should be prepared and follow standard random sampling methodologies, and employ a power analysis with at least 80% power.

- iii. A description of planned site preparation and invasive plant removal, including methods of invasive plant removal, and steps to prevent the re-establishment of invasive plants, or methods for prolonged and repeated removal of invasive plants until the time when native plants exclude invasive plant re-establishment.
- iv. A restoration plan including the planting palette (seed mix (densities) and container plants (number per area), planting design, source of plant material, plant installation, erosion control methods, irrigation, and remediation. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. All seed or container plants must be derived from plants local to the immediate area to preserve local population diversity of wetland species. Horticultural varieties may not be used. The restoration plan should also include a schedule detailing timing of planting and any planned maintenance activities.
- v. A brief report and documented photo evidence on the physical and biological “as built” condition of the mitigation site, to be submitted within 30 days of completion of the initial restoration activities. The report shall describe the field implementation of the approved restoration program and any problems and resolutions, with photographs as needed, as well as recommendations for adaptive management. The “as built” assessment and report shall be completed by a qualified biologist, who is independent of the installation contractor.
- vi. A plan for interim monitoring and maintenance, including:
 - A. A schedule for monitoring, maintenance, and reporting activities.
 - B. Interim performance standards and final success criteria
 - C. A description of monitoring activities including sampling design, number of samples, sample density, and appropriate steps for maintenance if interim performance standards are not met.
 - D. A monitoring period of no less than five years with criteria for extending the period of monitoring if performance standards are not met.
 - E. Provision for submission of annual reports of monitoring results to the Executive Director for the duration of the

required monitoring period, beginning within one year after submission of the “as-built” report. Each report shall be cumulative and shall summarize all previous results. Each report shall document the condition of the restoration with photographs taken from the same fixed points in the same directions. Each report shall also include a “Performance Evaluation” section where information and results from the monitoring program are used to evaluate the status of the restoration project in relation to the interim performance standards and final success criteria. After initial success criteria are met, reports should be submitted every 10 years thereafter over the life of the development.

- vii. Final Success Criteria for each habitat type, including, as appropriate:
 - A. A measure of total plant species diversity
 - B. Total percent ground cover of all vegetation, of target vegetation species and habitats if more than one habitat type is restored, and of native vegetation.
 - C. Types and frequency of wildlife usage
 - D. Hydrology, including any changes in the hydrology introduced with the restoration.
 - E. Presence, abundance, and distribution of sensitive species or other individual target species
- viii. The method by which success will be judged, including:
 - A. Type of comparison, such as comparing a census of the restoration site to a fixed standard derived from the literature or observations of nearby natural habitats; comparing a census of the restoration site to a sample from a reference site; comparing a sample from the restoration site to a fixed standard; or comparing a sample from the restoration site to a sample from a reference site.
 - B. Identification and description, including photographs, of all reference sites that will be used.
 - C. Test of conformance to reference site criteria, as detailed in performance standards, at a minimum, determining whether the result of a census is above a predetermined

threshold (e.g. 85% native herbaceous vegetation), and a discussion of the statistical methods used to document conformity with reference site standards. The maximum allowable difference for each performance criteria between restoration and reference sites must be specified.

- D. The field sampling design to be employed in both restoration and reference sites, including a description of the randomized placement of sampling units and the planned sample size, number of samples, and sampling density.
 - E. Prior to field sampling, a statistical power analysis should be performed to document that the planned sample number that will provide adequate statistical power to detect the maximum allowable difference. Generally, sampling should be conducted with sufficient replication to provide 80% power with alpha set to 0.05 to detect the maximum allowable difference and beta set to 20% or lower risk for the risk of error. This analysis will require an estimate of the sample variance based on the peer-reviewed literature or a preliminary sample of a reference site. A student's one-way or two-way t-test should be performed to detect differences among sample means.
 - F. A statement that final monitoring for success will occur after at least three years with no remediation or maintenance activities other than weeding, but no sooner than five years after completion of the restoration.
- ix. Submission of a final monitoring report to the Executive Director at the end of the final monitoring period. The final report must be prepared by a qualified restoration ecologist. The report shall evaluate whether the restoration site conforms to the goals and success criteria set forth in the approved final restoration program.
 - x. Provision for possible further action. If the final report indicates that the restoration project has been unsuccessful, in part or in whole, based on the approved success criteria, the applicant shall submit within 90 days a revised or supplemental restoration program that addresses and proposes solutions to resolve the remaining problems. The revised restoration program shall be processed as an amendment to this coastal development permit unless the Executive Director determines that no permit amendment is legally required.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

10. **Timing of Offsite Mitigation Implementation.** By acceptance of this permit, the applicant acknowledges and agrees to obtain Coastal Commission approval for a coastal development permit by December 31, 2016, to implement the Final Habitat Mitigation and Monitoring Plan required by Special Condition No. 9. If a coastal development permit for the proposed mitigation work at the Tijuana River Valley Regional Park is not approved by that date, SANDAG shall develop a Habitat Mitigation and Monitoring Plan for an alternative site and submit a coastal development permit application for implementation of the Habitat Mitigation and Monitoring Plan to the Coastal Commission no later than March 1, 2017. Failure to obtain approval for a coastal development permit by that time will be a violation of this permit and shall be reported to the Executive Director.
11. **Final Lighting Plan.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director for review and written approval, a final detailed lighting plan for all lighting along the proposed rail segment and stations. Said plan shall include the following:
 - a. The lighting at the proposed stations shall use the minimum number of lighting fixtures and minimum brightness necessary to achieve adequate illumination for the platforms, pedestrian paths, and parking areas. All lighting shall be shielded and directed downward to minimize spillover into adjacent habitat areas.
12. **Other Agency Approvals.** PRIOR TO COMMENCEMENT OF CONSTRUCTION WITHIN THE SAN DIEGO RIVER CHANNEL OR TECOLOTE CREEK, the permittee shall provide to the Executive Director copies of all other required state or federal discretionary permits issued by U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Regional Water Quality Control Board, and California Department of Fish and Wildlife for the proposed project.

The applicant shall inform the Executive Director of any changes to the project required by other state or federal agencies. Such changes shall not be incorporated into the project until the applicant obtains a Commission amendment to this coastal development permit, unless the Executive Director determines that no amendment is legally required.

Conditions of approval for CDP Amendment No. 6-18-0108-A1

1. **Revised Final Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit to the Executive Director

for review and written approval, final project plans for the proposed development, and where applicable, that have been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans submitted by SANDAG on February 5, 2016, March 18, 2019, and March 27, 2019, except as follows:

- a. All catenary poles on the bridge crossings over the San Diego River and Tecolote Creek shall incorporate anti-perching measures to discourage raptors from perching on them.
- b. No road improvements shall be allowed within the 100-ft. buffers of the three vernal pools, and all improvements to the access road shall terminate upon reaching the southern boundary of the 100-ft. buffer of the vernal pool identified as Basin BB, except for the installation of a hi-rail pad within the railroad tracks by Milton Street and minor road shoring adjacent to the CP Cudahy instrument house.
- c. Fence improvements consisting of an 18-in. tall, 1-in. galvanized chain link fence shall be installed along the east side of the existing fence on the western boundary of the Metropolitan Transit System right-of-way. The fence improvements shall be installed between Tecolote Creek and the southern boundary of Basin BB's 100-ft. buffer area, as well as in the 100-ft. buffer areas for Basins BB, CC, and HH. No new fencing shall be allowed within the vernal pools.
- d. All construction activity related to this access road and associated improvements within the 100-ft. vernal pool buffers and their micro watersheds shall only occur during the dry season (April 16th – October 14th), and when no water is present in the vernal pools.

The applicant shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No change to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

2. [Special Condition No. 2 through 12 of CDP No. 6-18-0108 remain unchanged and in effect]

13. Final Vernal Pool Enhancement Plan

- a. **PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit to the Executive Director for review and written approval a Vernal Pool Enhancement Plan to enhance the three vernal pools: Basins BB, CC, and HH. The Plan shall be developed in consultation with the U.S. Fish and Wildlife Service and shall include the following:

- ii. A detailed final site plan of the three vernal pool enhancement sites and their 100-ft. buffers that the Executive Director concludes substantially conforms with the site plan submitted to the Commission on November 7, 2018, as shown generally on Exhibit 3.
- ii. A baseline assessment, including photographs, of the current physical and ecological condition of the three vernal pool enhancement sites, a wetland delineation conducted according to the definitions in the Coastal Act and the Commission's Regulations, and a map showing the distribution and abundance of sensitive species that includes the footprint of the vernal pools and their 100-ft. buffer areas.
- iii. A description of the goal of the enhancement plan: the removal of all invasive plant species within the three vernal pools' 100-ft. buffer areas that are located within the MTS right-of-way and not occupied by the existing railroad or access road, and replanting of the buffer areas and vernal pools with native plantings,
- iv. The removal of invasive plant species and replanting of native plant species described in subsection iii of this condition will be a one-time requirement that will occur concurrently with the construction of the development approved by this permit amendment.
- iv. A description of planned site preparation and invasive plant removal. Only herbicides approved for use in aquatic environments shall be utilized in the course of plant removal;
- v. An enhancement plan including the planting palette (seed mix and container plants), planting design, source of plant material, methods and timing of plant installation, and erosion control measures. The planting palette shall be made up exclusively of native plants that are appropriate to the habitat and region and that are grown from seeds or vegetative materials obtained from local natural habitats so as to protect the genetic makeup of natural populations. Horticultural varieties shall not be used.
- vi. The reporting of the physical and biological "as built" condition of the enhancement sites within thirty days of completion of the enhancement activities. This shall be a brief report describing the field implementation of the approved Enhancement Plan in narrative and photographs, and reporting any problems in the implementation and their resolution. The "as built" assessment and report shall be completed by a qualified biologist who is independent of the installation contractor.
- vii. A site plan indicating the specifications and location of minimal-footprint north-south physical barriers (e.g. post-and-rope fence, bollards, etc.) paralleling the access road along the length of the vernal pools and their 100-foot buffer areas, with the physical barriers located as far eastward of

the vernal pools as feasible while still allowing adequate width for the passage of maintenance vehicles on the access road.

- viii. A plan for maintaining the vernal pools and their buffers free from trash, debris, and pollutants. The vernal pools shall be checked and maintained as part of all standard maintenance for this segment of railway, but trash removal shall occur no less than once per month during the rainy season (October 15th – April 15th). The least disruptive and intrusive method of debris removal shall be used, avoiding directly entering the vernal pools, and removing trash and debris with hand tools from outside the vernal pools.
- ix. An agreement that the permittee shall, to the greatest extent feasible, coordinate their trash and debris removal program with the California Department of Transportation's (Caltrans), trash removal program for the segment of Interstate-5 paralleling the project area, with coordination focused on debris removal during the rainy season (October 15th – April 15th).
- x. Should changes in regulations and rail operations subsequent to the approval of this permit make utilization of existing rail crossings by maintenance vehicles feasible, the permittee shall modify maintenance operations accordingly to utilize the crossings and reduce vehicular traffic within the vernal pool buffer areas.

b. The permittee shall undertake development in conformance with the approved final plans. Any substantial changes to the plan require a permit amendment from the Commission. Minor changes to enhancement plans may be approved in writing by the Executive Director if it is determined by the Executive Director that no amendment is legally required.

14. Future Development. This permit is only for the development described in coastal development permit (CDP) no. 6-16-0108-A1. Except as provided in Public Resources Code section 30610 and applicable regulations, for any future development as defined in PRC section 30106, including, but not limited to, any other change to the approved or existing maintenance access road, the applicant shall apply for an amendment to CDP no. 6-16-0108 from the California Coastal Commission, unless the Executive Director determines that an amendment is not legally required.

15. Assumption of Risk, Waiver of Liability and Indemnity.

By acceptance of this permit, the applicant acknowledges and agrees (i) that the site may be subject to hazards, including but not limited to storms, flooding, erosion, and earth movement, many of which will worsen with future sea level rise; (ii) to assume the risks to the permittee and the property that is the subject of this permit of injury and damage from such hazards in connection with this permitted development; (iii) to unconditionally waive any claim of damage or

liability against the Commission, its officers, agents, and employees for injury or damage from such hazards; and (iv) to indemnify and hold harmless the Commission, its officers, agents, and employees with respect to the Commission's approval of the project against any and all liability, claims, demands, damages, costs (including costs and fees incurred in defense of such claims), expenses, and amounts paid in settlement arising from any injury or damage due to such hazards.

16. Transfer of Long-Term Management Responsibilities.

Prior to the transfer of responsibility of any of the special conditions required in this permit, the permittee shall provide to the Executive Director for review and written approval, a signed statement from an authorized representative of the new party (transferee) acknowledging and accepting the requirements of all special conditions, including the Vernal Pool Enhancement Plan. The transferee shall undertake responsibility of compliance with approved plans.

Appendix B – Substantive File Documents