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Filed:	4/01/25
180th Day:	9/28/25
Staff:	LR-LB
Staff Report:	4/25/25
Hearing Date:	5/07/25

STAFF REPORT: REGULAR CALENDAR

Application No.: **5-24-0398**

Applicant: **Orange County Transportation Authority (OCTA) and Southern California Regional Rail Authority (SCRRA)**

Agent: HDR Engineering Inc.

Project Location: OCTA Railroad Right of Way, Orange Subdivision, Mile Post 204.2 "Area 3," San Clemente, Orange County.

Project Description: Make permanent development approved by ECDP G-5-25-0013 for the demolition of the remaining portions of the Mariposa Pedestrian Bridge Structure at "Area 3," and new development consisting of removal/demolition of a 156-ft. long and 9-ft. tall temporary barrier wall applied for under ECDP G-5-24-0024, and construction of a new soldier pile catchment wall in two sections flanking the Mariposa Beach Access Point located mostly within the railroad Right-of-Way (ROW) and varying in height from 6-ft to 29-ft maximum. Section 1 a 1,180-ft length wall, averaging 20.9-ft in height, spanning from MP 204.07 to MP 204.29; and Section 2 a 180-ft length wall, averaging 16.8 ft in height, spanning from MP 204.30 to MP 204.34; and re-establishment of the City of San Clemente's Mariposa Pedestrian Trail on the seaward side of the proposed new catchment wall

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

Since 2021, the operations of the Orange subdivision of the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor in the City of San Clemente have been forced to shut down on multiple occasions because of coastal bluff erosion and catastrophic geologic landslide bluff failures. OCTA states that over the past year, they have observed additional landslides and continued bluff instability that pose imminent risk to the railroad service, life, and property. In the interest of providing safe and reliable passenger rail service, OCTA proposes new development to alleviate the existing imminent threat to railroad infrastructure and public safety caused by ongoing bluff erosion and landslides.

Landslide activity is ongoing on the hillside above the railroad tracks within the vicinity of Orange Subdivision Mile Post 204.2 with activity at this site occurring in November 2019, December 2023, and most recently January of 2024 which initiated on upslope private property and extended on City of San Clemente and OCTA's right-of-way. The January 2024 landslide caused catastrophic damage to the Mariposa Pedestrian Bridge, a part of the City of San Clemente's Coastal Trail, leading to the collapse of two bridge spans (approximately 170-ft.) and in the closure of the remaining 850-ft. bridge portion of the trail and temporary rail corridor closure due to landslide debris overtopping the railroad tracks. Efforts were made by SCRRA/Metrolink in January of 2024 to protect the tracks by grading the hillside slope. However, landslide movement remained ongoing requiring daily clean up at the toe of the slope of the uphill debris falling into the railroad area. Therefore, OCTA and SCRRA/Metrolink submitted an Emergency Coastal Development Permit (ECDP) Application #G-5-24-0024 on February 22, 2024 to build a temporary retaining wall to the east of the railroad track to protect from landslide debris falling on the railroad tracks. The temporary wall was constructed in March 2024 before the ECDP could be approved by staff and reported to the Commission. Instead, the applicants submitted this subject CDP Application 5-24-0398 on May 15, 2024 as a "follow-up" to the work applied for under ECDP G-5-24-0024, namely removal of the temporary wall and construction of a permanent larger catchment wall in a different alignment.

The scope of the proposed development in this follow-up CDP has expanded and includes 6 different components: 1) Permanently approve the demolition of the remaining 850-ft. section of the Mariposa Pedestrian Bridge structure; development approved on April 10, 2025 under ECDP G-5-25-0013; 2) Permanently approve grading (cut and fill) earth movement at the toe of the slope to remove slide material and associated with pile installation for the temporary soldier pile beam wall in March 2024; 3) Partial removal of the temporary soldier pile wall: removal of above grade 156-ft. long, 9-ft. tall wood lagging wall, and retention of the 33, 36-in. diameter below grade soldier piles; 4) Construction of a new soldier pile catchment wall that varies in height from 6-ft to 29-ft constructed in two sections (Section 1 a 1,180-ft length wall, averaging 20.9-ft in height and Section 2 a 180-ft length wall, averaging 16.8 ft in height) flanking the Mariposa Beach Access point and located on the bluff face mostly within railroad

ROW with some areas within a City of San Clemente easement; 5) Re-establishment of the City of San Clemente's Coastal Trail as a part of the new catchment wall construction along the seaward side of the wall; and 6) Re-establishment of bluff vegetation.

The primary issues raised by the proposed project is consistency with the coastal hazards policies and with biological resource protection policies of the Coastal Act and the City of San Clemente certified Land Use Plan (LUP).

Shoreline and bluff protective devices, by their very nature, tend to conflict with Chapter 3 policies because armoring can have a variety of adverse impacts on coastal resources, including sand supply, public access, coastal views, natural landforms, and overall shoreline beach dynamics on and off site. Section 30235 of the Act authorizes protective devices that are otherwise inconsistent with Chapter 3 policies if necessary to protect existing structures in danger from erosion and where impacts to shoreline sand supply have been eliminated or mitigated. Here, the railroad was originally constructed in this location in the late 1880s, well before the effective date of the Coastal Act (January 1, 1977) and is considered an "existing structure" under section 30235 of the Coastal Act. As an existing structure, the railroad is allowed to be protected in this case because railroad operations would be in danger from the active landslides. Furthermore, for the last 140 years, since the construction of the railroad at toe of the San Clemente coastal bluffs, these bluffs have not contributed to shoreline sand supply as the railroad embankment and rock revetment on the seaward side of the railroad already preclude this natural process. Therefore, the proposed coastal bluff retaining wall would not result in a significant adverse impact on shoreline sand supply. The proposed project alternative would be the least environmentally damaging feasible alternative consistent with Coastal Act Section 30235.

The proposed project would have unavoidable impacts to 0.089 acre of existing wetland formed by runoff irrigation from the blufftop residential developments and natural groundwater seeps along the face of coastal bluffs and at the bluff toe at the alignment of the proposed new catchment wall. As the proposed project is being undertaken by a public agency to serve the public, it therefore has a public service purpose. Therefore, fill in wetlands that might become necessary for the project would be for an incidental public service purpose and is an allowable use pursuant to Coastal Act section 30233(a)(4). Thus, the project is conditioned to require either submittal of a wetlands mitigation plan or payment of an in-lieu fee to compensate for wetland impacts. In-lieu fees are typically a less preferred compensatory mitigation option because they can result in significant implementation lags and relocation of the resources within the landscape, thus prolonging losses and displacing habitat values and functions from affected areas. However, in this case, given the small amount of wetlands (i.e., 0.089 acres) and likelihood that the bluff groundwater seeps sourcing the wetland also contributes to the cause of bluff slope instability, the possibility of onsite wetland mitigation may not be possible, making payment of an in-lieu fee preferable. The applicable base fee rate is $150,000 per acre of wetlands (in this case 0.089 acre) multiplied by the Commission's typically applied wetland mitigation ratio of 4:1 would require a $53,400 in-lieu fee payment. The amount of the in-lieu fee is based on looking

at the history of Commission in-lieu fee mitigation projects and published literature. The mitigation in-lieu fee here falls generally in the middle range of fees the Commission has approved over time, and for example also fits within the range of estimates for similar Caltrans wetland impacts mitigation fees.

Commission staff recommends the Commission find that with implementation and adherence to **Special Conditions 1 through 12**, the proposed project would be carried out consistent with the coastal access, coastal hazards, dredging, marine resource and water quality protection policies of the Coastal Act.

Special Condition 1 requires submittal of final plans that conform to conceptual design plans submitted but ensuring adherence to all geological and geotechnical recommendations, additional project details related to grading, drainage, construction staging, wall aesthetic treatment, revegetation, and the proposed re-establishment of the coastal trail. Additionally, **Special Condition 2** requires adherence with the proposed partial removal of the 156-ft. long temporary retaining wall constructed March 2024. **Special Condition 3** requires submittal of a Subsurface Development Exposure Plan should subsurface piers/caisson elements affixed to the above ground 156-ft. long temporary retaining wall proposed for removal become exposed identifying measures to eliminate the exposure while avoiding adverse visual impacts and impacts to possible future shoreline sand supply. **Special Condition 4** requires maintenance and monitoring of the proposed new permanent catchment wall. **Special Conditions 5** ensures unavoidable wetland impacts are properly mitigated. Acknowledging ongoing coastal hazards posed to the existing railroad tracks in their present location, **Special Conditions 6** requires the applicants develop a Long-Term Railroad Adaptation Study providing a clear long-term analysis of necessary rail service along the LOSSAN Corridor at an alternative location that is not subject to the significant coastal hazards which threaten the existing railroad alignment and the feasibility of relocation as compared to a suite of alternative strategies such as protecting, elevating, or otherwise adapting the railroad corridor in-place to ensure protection of coastal resources over the long-term (at least through 2100).). **Special Condition 7** authorizes the proposed new catchment wall/bluff protective devices to remain until the time when the currently existing railroad requiring protection is: either redeveloped in a manner that constitutes new development; is no longer present or becomes abandoned; or no longer requires a bluff protective device, whichever occurs first. **Special Condition 8** requires archeological and tribal cultural resource consultation during project grading activities **Special Condition 9** requires the applicants agree with construction-phase BMPs for the safe storage of project materials, drainage controls. **Special Condition 10** requires conformance with other agency approvals. **Special Condition 11** requires the applicant adhere to an assumption of risk, waiver of liability and indemnity and **Special Condition 12** requires applicants assume liability for costs and attorney fees in connection with the defense of any action brought by a party other than the Permittee against the Commission regarding this CDP.

Therefore, Commission staff recommends that the Commission **APPROVE** coastal development permit application 5-24-0398, as conditioned. The motion is on page 7. The standard of review is Chapter 3 of the Coastal Act.

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Exhibit 4 – Project Plan – Action 1: Removal/Demolition of Remaining Mariposa Pedestrian Bridge Structure

Exhibit 5 – Project Plan – Action 2: Approval of Removal/Demolition of Existing Soldier Pile Retaining Wall

Exhibit 6 – Project Plan – Actions 3 &4: Proposed New Soldier Pile Catchment Wall and Trail Re-Alignment Plan

Exhibit 7 – Vegetation Communities Impact/Clearing/Grubbing Footprint

Exhibit 8 – Potential Wetlands Map

Exhibit 9 – Photographic Documentation of Aquatic Resources (Wetland Areas)

Exhibit 10 – Staging Areas and Construction Access Routes

I. MOTION AND RESOLUTION

Motion:

I move that the Commission approve Coastal Development Permit No. 5-24-0398 pursuant to the staff recommendation.

Staff Recommendation of Approval:

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

Resolution to Approve the Permit:

The Commission hereby approves a coastal development permit for the proposed development and adopts the findings set forth below on grounds that the development as 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. 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 applicant 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 applicant to bind all future owners and possessors of the subject property to the terms and conditions.

III. SPECIAL CONDITIONS

This permit is granted subject to the following special conditions:

1. Submittal of Final Plans

A. **PRIOR TO COMMENCEMENT OF DEVELOPMENT**, the applicant shall submit, for the review and written approval of the Executive Director, two full-size sets of the following final plans:

I. **Geotechnical Report Recommendations.** The permittee shall submit engineering geologic soils and geotechnical reports including geologic cross-sections along the proposed wall alignment, providing recommendations for seismic criteria and site preparation, structural fills, compaction standards, seismic design parameters, foundation design, drainage, and all other necessary geologic, geotechnical, and structural engineering recommendations. The applicant shall submit evidence that an appropriate licensed professional has reviewed and approved all final design and construction plans, including foundations, grading and drainage plans, and certified that each of those final plans is consistent with all of the recommendations specified in the above referenced plan(s).

If after review of the required geological and geotechnical reports, the proposed development is not consistent with the geotechnical recommendations, a Commission amendment to this coastal development permit is required to address necessary modifications.

II. **Soldier Pile Catchment Wall** that conforms with the conceptual design plans submitted to the Commission, titled Orange County Transportation Authority, Coastal Rail Stabilization Priority Projects, Area 3 Catchment Wall dated March 31, 2025.

III. **Grading Plans.** Total site grading shall not exceed 5,745 cu. yds. of cut and fill for the construction of the catchment wall.

IV. **Construction Staging and Access Plan** that conforms with the Area 3 Site Plan submitted to the Commission and included as **Exhibit 10** of the staff report. By acceptance of this permit, the applicants agree that currently open segments of the San Clemente Coastal Trail proposed for construction access routes per **Exhibit 10** shall remain open to pedestrians throughout the construction period. If short-term temporary closure of minor trail segments are deemed necessary at some point during the estimated 8-month construction period, the Construction Staging and Access Plan shall include a Public Access Plan detailing a pedestrian detour routes, including signage and timing details. The route shall be the shortest detour possible for the shortest period of time feasible. Vertical beach access points at North Beach, El Portal, Mariposa, and Linda Lane shall remain open to the public throughout the project construction period. The permittees shall make every effort to shrink the construction staging footprint at the public North Beach parking lot commensurate with the progress of construction.

V. **Drainage Plan.** The drainage plan shall demonstrate how drainage from the upper bluff runoff and/or natural bluff groundwater seeps will be directed away from the bluff and conveyed through the proposed catchment wall and discharged in a non-erosive manner.

VI. **Erosion and Runoff Control Plan.** The erosion and runoff control plan shall, at minimum, demonstrate that:

1. The erosion control plan shall demonstrate that:
    a. During construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties.
    b. Grading shall be phased to minimize the area of bare soil exposed at one time.
    c. Only areas essential for construction shall be cleared.
    d. Bare soils shall be stabilized with non-vegetative BMPs within five days of clearing or inactivity in construction.
    e. The following temporary erosion control measures shall be used during construction: sand bags, a desilting basin and silt fences.
    f. Following construction, erosion on the site shall be controlled to avoid adverse impacts on adjacent properties and public streets.
    g. The following permanent erosion control measures shall be installed: roof downspouts and a drain to direct roof and front yard runoff to the street; no drainage shall be directed to rear yard slope; no drainage shall be retained in the front yard.
2. The plan shall include, at a minimum, the following components:
    a. A narrative report describing all temporary run-off and erosion control measures to be used during construction and all permanent erosion control measures to be installed for permanent erosion control.
    b. A site plan showing the location of all temporary erosion control measures.

c. A schedule for installation and removal of the temporary erosion control measures.
d. A site plan showing the location of all permanent erosion control measures.
e. A schedule for installation and maintenance of the permanent erosion control measures.

VII. **Bluff Slope Landscaping Plan – Drought Tolerant, Non-Invasive Plans.** The landscape plan shall demonstrate that all bluff and bluff toe areas of the project site disturbed during construction shall be re-vegetated to avoid erosion and shall only consist of plants native to coastal Orange County and appropriate to the habitat type. Native plants shall be from local stock wherever possible. No permanent in-ground irrigation systems shall be installed on the coastal bluff portion of the site. Temporary above ground irrigation is allowed to establish plantings. No plant species with any rank on the California Invasive Plant Council (Cal-IPC, http://www.cal-ipc.org/) Inventory, or as may be 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 a "noxious weed" by the State of California or the U.S. Federal Government shall be utilized within the property. All plants shall be low or very low water use plants in the South Coastal region as identified by the California Center for Urban Horticulture (https://ccuh.ucdavis.edu/wucols). The plan shall include a planting schedule that indicates that the planting plan shall be implemented within sixty (60) days of completion of construction.

Within ninety (90) days of completion of construction, the Permittee shall submit for the review and written approval of the Executive Director a landscaping implementation report, prepared by a licensed Landscape Architect or qualified resource specialist that certifies whether the on-site landscaping is in conformance with the landscape plan approved pursuant to this special condition. The implantation report shall include photographic documentation of plant species and plant coverage.

All cut and fill slopes shall be stabilized with planting at the completion of final grading. Such planting shall be adequate to provide 90 percent coverage within two (2) years, and this requirement shall apply to all disturbed soils.

VIII. **Wall Aesthetic Treatment Plan.** The applicant shall submit, for the review and approval of the Executive Director, a plan demonstrating use of wood and earth-toned natural materials (e.g. wood and earth-toned stones), vegetation screening, or color and texture the structure to be compatible with the visual character of the adjacent bluff, or use of a combination of aesthetic treatments. The plan shall include sufficient detail regarding the wall materials, construction method, coloring, vegetation screening, or technology utilized for aesthetically treating the structure. The plan shall demonstrate that:

1. the entire face of the proposed wall structure (both above and below finished grades) will receive the aesthetic treatment should the underground components become exposed by future erosion,

2. the wall structure be colored/constructed with material that has been colored with earth tones that are compatible with the adjacent bluff,

3. the color will be maintained throughout the life of the structure,

4. native vegetation appropriate to the habitat type may also be used if feasible to cover and camouflage the structure.

IX. **Trail Plan.** The applicant shall submit, for the review and written approval of the Executive Director, a detailed final trail plan, including a site plan that shows the alignment of the trail in conformance with the alignment shown in **Exhibit 6**. The permittee shall submit for review and written approval of the Executive Director, evidence that the trail segment has been constructed and implemented in conformance with the approved Final Trail Plan, and that they are complete and ready for public use (this evidence shall be submitted upon completion of trail construction). The final trails plan shall include a topographic map with 2-ft contours, show existing vegetation including sensitive habitat areas, and show all development including grading, staging, signage, structures, drainage facilities, landscaping, and shall be consistent with the following criteria:

1. Grading – Final grading plans shall be appropriately scaled (e.g. 1:1200 or one inch to 100 feet).

2. Trail Description (Trail Use, Alignment, Width, and Extents) – Trails Plan shall include a detailed description that includes intended use (e.g., pedestrian, bicycle, multi-use, ADA-compliant, provides shoreline access) and how that use will be indicated and enforced, alignment (e.g., x-feet seaward of catchment wall and x-feet landward of railroad centerline, trail width (i.e., x foot wide trail in an xx foot wide trail corridor), and trail extents (i.e. runs for length of xx feet, and extends from xx and to xx). The Trails Plan shall also identify connections to trails or accessways on adjacent properties. Trail alignment shall be in substantial conformance with that shown in **Exhibit 6**.

3. Development Restrictions – No development, as defined in Section 30106 of the Coastal Act, shall occur within the trail corridor(s) identified on the final plans except for the following development: grading and construction necessary to construct and maintain the trail(s) and other development approved by this permit; maintenance of public access facilities and appurtenances (e.g., signs, interpretive facilities, safety fencing), planting and removal of vegetation consistent with the special conditions of this permit, any permitted underground utilities, drainage devices, and erosion control and

repair provided that the development that diminishes public access through any trail corridor shall be prohibited), or other such development subject to review and written approval by the Executive Director or as may be authorized by the Commission through an amendment to this CDP as described in subpart B of this condition.

4. Construction and Surfacing Materials – New trail surface material shall match existing San Clemente Coastal Trail surface material. No trail surface materials known to have adverse water quality impacts may be utilized.

5. Signage – Final Trails Plan shall identify the content and location of new signs and any other project elements that will be used to educate, facilitate, manage and provide public access to and along this segment of the San Clemente Beach Trail, if any. Signs shall be sited and designed so as to provide clear information without impacting public views and site character. Signage shall acknowledge the California Coastal Commission's role in providing public access at this location by including the agency name and logo. For any trail that is a component or segment of the California Coastal Trail, trail signage shall identify it as part of the California Coastal Trail and also include the California Coastal Trail logo.

6. Fencing – Any new fencing along the trail aimed to protect pedestrians from railroad activities shall match and connect to existing San Clemente Coastal Trail fencing in height, material, and style, as the existing type of fencing also minimizes adverse impacts to coastal view.

7. Water Quality Protection - The trail shall be constructed using standard Best Management Practices (BMPs) and building techniques that grade the surface to avoid concentration of drainage flows. Where concentrated flows cannot be avoided, appropriate energy dissipation shall be used that favors bio-engineering over hard solutions, including by incorporating Low Impact Development (LID) features to the maximum extent feasible.

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

2. **Conformance with the Submitted Partial Removal Plan.** By acceptance of this permit, the applicants agree to comply with the plan submitted to the Commission, titled "Attachment A: OCTA/SCRRA Mile Post 204.2 Temporary Soldier Pile Wall Removal Plan" submitted May 21, 2024 (**Exhibit 5**), which details the complete removal of above ground 156-ft. long temporary soldier pile wall and partial removal

of 33, 36-inch diameter soldier piles to 3 ft. below grade. The permittees shall undertake development in conformance with the approved final plan unless the Commission amends this permit or the Executive Director determines that no amendment is legally required for any proposed minor deviations.

3. **Subsurface Development Exposure.** Within 60 days of foundation and/or subsurface piers/caisson elements affixed to the above ground 156-ft. long retaining wall proposed for removal per **Special Condition 2** becoming exposed, the permittee shall submit a CDP amendment application to the Commission identifying measures to eliminate the exposure while avoiding adverse visual impacts and impacts to possible future shoreline sand supply. Such measures shall be implemented in the time and manner, and subject to the terms and conditions, of the approved CDP amendment.

4. **Catchment Wall Monitoring and Maintenance**. The permittees shall maintain the retaining/catchment wall within its approved configuration. Maintenance other than exempt maintenance, as defined in Section 13252 of Title 14 of the California Code of Regulations, shall require a CDP or a CDP amendment. Further, all soil excavated from behind the catchment walls shall be evaluated for beach placement and placed at a suitable location on nearby beaches per a separate CDP unless otherwise deemed infeasible by the Executive Director. In all cases, if after inspection, it is determined that repair and maintenance is necessary, the permittees shall contact the Executive Director to determine whether a CDP or a CDP amendment is legally required, and, if required, shall subsequently apply for a CDP or a CDP amendment for the required maintenance.

5. **Wetland Mitigation and Monitoring Plan**. **PRIOR TO COMMENCEMENT OF DEVELOPMENT**, the Permittee shall submit for review and written approval of the Executive Director a Wetland Mitigation Plan to mitigate for all wetland impacts associated with the proposed project. The Plan shall be developed in consultation with the California Department of Fish & Wildlife and U.S. Fish & Wildlife Service and at a minimum shall include:

    a. A detailed final site plan of the mitigation site
        i. The final plan must delineate all impact areas (on a map that shows elevations, surrounding landforms, etc.), the types of impact (both permanent and temporary), and the exact acreage of each impact so identified.
        ii. The mitigation site shall include both the restoration area and the buffer surrounding the restoration area.
        iii. The final mitigation site plan shall include: existing and proposed hydrologic, soil and vegetative conditions of the mitigation site(s); engineering/grading plans and schedule; erosion control plans and schedule; weeding plans and schedule; planting plans and

schedule; short- and long-term irrigation needs; on-going maintenance and management plans; and a monitoring plan consistent.

b. 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 and the Commission's Regulations, a detailed site description and map showing the area and distribution of vegetation types and site topography, and a map showing the distribution and abundance of sensitive species that includes the footprint of the proposed restoration.

c. A description of the goals of the restoration plan and any applicable mitigation ratios. The goals should also include, as appropriate, any changes to site topography, hydrology, vegetation types, presence or abundance of sensitive species, and wildlife usage, and any anticipated measures for adaptive management in response to sea level rise or other climatic changes

d. A description of planned site preparation and invasive plant removal;

e. A restoration plan including the planting palette (seed mix and container plants), planting design, source of plant material, methods and timing of plant installation, erosion control measures, duration and use of irrigation, and measures for remediation if success criteria (performance standards) are not met. 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.

f. A plan for documenting and reporting the physical and biological "as built" condition of the restoration or mitigation site within 30 days of completion of the initial restoration activities. This is a simple report describing the field implementation of the approved Restoration or Mitigation Plan in narrative and photographs, and reporting any problems in the implementation and their resolution, and any recommendations for future adaptive management. The "as built" assessment and report shall be completed by a qualified biologist, who is independent of the installation contractor.

g. Provisions for submittal of a wetland delineation of the mitigation site at the end of 5 years to confirm total acreage mitigated

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. More minor changes to restoration plans may be approved in writing by the Executive Director if it is determined by the Executive Director that no amendment is legally required.

C. The Permittee may otherwise mitigate for all project-related wetland impacts identified pre- or post-construction, through payment of an in-lieu fee. The payment shall equal the amount of $150,000 per acre of impacts at a ratio of 4:1 for wetlands. In this case, the project would impact 0.089 acres of wetlands, resulting in a mitigation requirement of 0.356 acres (4:1 mitigation ratio) at $150,000 per acre, with a total in-lieu fee of $53,400 to be adjusted based on final post-project wetland impact. The in-lieu fee shall be paid to the in-lieu fee program established between the Coastal Commission and the State Coastal Conservancy for the Southern Region Coastal Trust Fund regional account for habitat mitigation projects under an existing Memorandum of Understanding (MOU) dated August 2018, or paid into an interest-bearing account established and managed by a government or non-governmental organization as approved by the Executive Director. The fee shall be for the sole purpose of financing wetland restoration projects in Orange County or San Diego County (or as close to the area as possible) that ensure long-term protection of benefiting resource(s) via recordation or other tools. The in-lieu fee funds shall be paid by no later than 180 days from the commencement of construction of the catchment wall, unless otherwise extended by the Executive Director. If in-lieu funds are to be paid to the Coastal Conservancy, the permittee shall provide the Conservancy with any documentation necessary to the Conservancy, including information needed to effectuate transfer of the funds to the Conservancy, no later than 90 days from the commencement of construction unless the permittee receives a written waiver of this requirement in writing from the Conservancy's Executive Officer.

6. Long-Term Railroad Adaptation Study. No later than January 1st, 2034, the permittees shall submit, for review and written approval of the Executive Director, a Long-Term Railroad Adaptation Study (LTRAS), which shall 1) provide a clear long-term analysis of providing necessary rail service along the LOSSAN Corridor at an alternative location that is not subject to the significant coastal hazards threatening the existing railroad alignment, and 2) identify the feasibility of relocation as compared to a suite of alternative strategies such as protecting, elevating, or otherwise adapting the railroad corridor in-place as necessary to maintain safety from flooding and other coastal hazards in order to minimize risk and assure stability and structural integrity and to ensure protection of coastal resources over the long-term (at least through 2100). The final specifications for areas of study in the LTRAS shall be consistent with requirements of pending OCTA CDP applications and Commission actions within the south Orange County rail corridor along the shoreline. The LTRAS shall build on previous relocation studies and shall reflect the ongoing long-term sea level rise adaptation planning efforts by the City of San Clemente, any relevant long-term planning and regional coordination with the County of Orange and neighboring local jurisdictions, and outreach and coordination

with other relevant agencies, Native American tribes, and stakeholders including, but not limited to, the Federal Railroad Authority, U.S. Department of Transportation, California Department of Transportation, National Railroad Passenger Corporation (Amtrak), San Diego Association of Governments (SANDAG), California State Lands Commission, U.S. Army Corps of Engineers, and Burlington Northern and Santa Fe (BNSF) Railway.

7. Duration of Protective Device Approval

A. **Authorization Expiration.** This coastal development permit authorizes the bluff protective devices – including the catchment/soldier pile walls and associated foundations (hereafter referred to as 'retaining walls')- to remain until the time when the currently existing railroad requiring protection is: A) redeveloped in a manner that constitutes new development; B) is no longer present or becomes abandoned; or C) no longer requires a bluff protective device, whichever occurs first. Prior to the anticipated expiration of the permit and/or in conjunction with redevelopment of the property, the Permittee shall apply for a permit amendment to remove the retaining walls or to modify the terms of authorization.

B. **Modifications.** If, during the term of this authorization, the Permittee desires to expand or alter the retaining walls, the Permittee shall apply for an amendment to this coastal development permit. If approved, additional mitigation requirements for the impacts of the enlarged or reconstructed walls on landform alteration, geologic and shoreline processes, and all other affected coastal resources that have not already been mitigated through this permit will be addressed and required at that time.

8. Protection of Archaeological and Tribal Cultural Resources. The permittee shall undertake development in compliance with the following mitigation measures to protect archaeological, including tribal cultural resources:

A. **AT LEAST ONE MONTH PRIOR TO COMMENCEMENT OF ANY GROUND-DISTURBING CONSTRUCTION ACTIVITIES**, the permittee shall (i) notify in writing, email, and/or phone calls, as necessary, the representatives of Juaneño (Acjachemen) Native American Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area; (ii) invite all affiliated Tribal representatives on that list to be present and to monitor ground-disturbing activities; and (iii) arrange for any invited Tribal representative that requests to monitor and a qualified archaeological monitor to be present to observe project activities with the potential to impact archaeological and/or tribal cultural resources. A qualified archaeologist means an individual who meets the Secretary of the Interior's Professional Standards for an Archaeological Principal Investigator and/or is listed as Registered Professional Archaeologist. The archaeological monitor(s) shall have experience monitoring for archaeological resources of the local area during

excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures for the inadvertent discovery of archaeological resources and human remains. Evidence of written notification shall be made available to the Executive Director upon request.

B. If an area of archaeological resources is discovered during ground-disturbing activities, all construction shall cease and shall not recommence except as provided in subsection (D) hereof, and the permittee shall retain a qualified archaeologist and a tribal cultural resource specialist qualified to analyze the significance of the find in consultation with the Juaneño (Acjachemen) Native American Tribes listed on the NAHC list. Significance testing may be carried out only if acceptable to the affected Native American Tribe(s), in accordance with a Significance Testing Plan. The specialist(s) shall immediately notify the affiliated Tribes on the NAHC list. An "exclusion zone" where unauthorized equipment and personnel are not permitted shall be established (e.g., taped off) around the discovery area that includes a reasonable buffer zone recommended by the monitor(s). Project activities may continue outside of the exclusion zone.

C. Should human remains be discovered on-site during the course of the project, immediately after such discovery, the on-site archaeologist and Native American monitor(s) shall notify the County Coroner within 24 hours of such discovery, and all construction activities shall be temporarily halted until the remains can be identified. An "exclusion zone" may be established around the discovery area. If the county coroner determines that the human remains are those of a Native American, the coroner shall contact the NAHC within 24 hours, pursuant to Health and Safety Code Section 7050.5. The NAHC shall deem the Native American most likely descendant (MLD) to be invited to participate in the identification process pursuant to Public Resources Code Section 5097.98. The permittee shall comply with the requirements of Section 5097.98 and work with the MLD person(s) to preserve the remains in place, move the remains elsewhere onsite, relinquish the remains to the descendants for treatment, or determine other culturally appropriate treatment. Within five (5) calendar days of notification to NAHC, the permittee shall notify the Coastal Commission's Executive Director of the discovery of human remains and identify any changes to the proposed development or mitigation measures that may be needed related to the inadvertent discovery. The Executive Director shall maintain confidentiality regarding the presence of human remains on the project site. The Executive Director shall determine whether the identified changes are de minimis in nature and scope.

D. A permittee seeking to recommence construction within an exclusion zone (excluding the discovery of human remains, which shall follow Section 5097.98 as noted in (C) above), following discovery of the archaeological resources shall submit a Supplementary Archaeological Plan (SAP) prepared by the project archaeologist in

consultation with the Juaneño (Acjachemen) Native American Tribes listed on the NAHC list for the review and written approval of the Executive Director. If the Executive Director approves the SAP and determines that the SAP's recommended changes to the proposed development or mitigation measures are de minimis in nature and scope, construction may recommence after this determination is made by the Executive Director in writing. If the Executive Director approves the SAP but determines that the changes therein are not de minimis, construction may not recommence until after an amendment to this permit is approved by the Commission.

9. **Construction Best Management Practices.** BY ACCEPTANCE OF THIS PERMIT, the permittee agrees to comply with the following construction phase-related requirements**:**

    a. No construction materials, debris, or waste shall be placed or stored where it may enter the storm drain system leading to the Pacific Ocean;
    b. Any and all debris resulting from construction activities shall be removed from the project site within 24 hours of completion of the project;
    c. Erosion control/sedimentation Best Management Practices (BMP's) shall be used to control sedimentation impacts to coastal waters during construction. BMPs shall include, but are not limited to placement of sand bags around drainage inlets to prevent runoff/sediment transport into the storm drain system and a pre-construction meeting to review procedural and BMP guidelines;
    d. Construction debris and sediment shall be removed from construction areas each day that construction occurs to prevent the accumulation of sediment and other debris which may be discharged into coastal waters. Debris shall be disposed of outside the coastal zone, as proposed by the applicant.
    e. Concrete trucks and tools used for construction of the approved development shall be rinsed off-site;
    f. Staging and storage of construction machinery and storage of debris shall not take place on public beach sands or on open segments of the public Coastal Trail.

10. **Other Agency Approvals. PRIOR TO COMMENCEMENT OF DEVELOPMENT**, the applicant shall provide to the Executive Director a copy of any required permits from the U. S. Army Corps of Engineers, CA Department of Fish and Wildlife, CA State Lands Commission, and the San Diego Regional Water Quality Control Board, or letter of permission, or evidence that no permit or permission is required. The applicant shall inform the Executive Director of any changes to the project required by the resource 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 issues a written determination that no amendment is legally required.

11. **Assumption of Risk, Waiver of Liability and Indemnity.** By acceptance of this CDP, the Permittee acknowledges and agrees, on behalf of itself and all successors and assigns: (i) that the site is subject to hazards from episodic and long-term bluff retreat, landslide, erosion earth movement, shoreline retreat and coastal erosion, high seas, ocean waves, storms, tsunami, and tidal scour, 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 CDP 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; (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 due to such hazards), expenses, and amounts paid in settlement arising from any injury or damage; (v) that sea level rise could render it difficult or impossible to provide services to the site (e.g., maintenance of roadways, utilities, sewage or water systems), thereby constraining allowed uses of the site; (vi) that the boundary between public land (tidelands) and private land may shift with rising seas, the development approved by this permit may eventually be located on public trust lands, and the development approval does not permit encroachment onto public trust land; (vii) any future encroachment must be removed unless the Coastal Commission determines that the encroachment is legally permissible pursuant to the Coastal Act and authorizes it to remain, and any future encroachment would also be subject to the State Lands Commission's (or other trustee agency's) leasing approval; and (viii) that the development may be required to be removed or relocated and the site restored if it becomes unsafe or if removal is required pursuant to the Coastal Act.

12. **Liability for Costs and Attorney's Fees.** The Permittee shall reimburse the Commission in full for all Commission costs and attorneys' fees (including but not limited to such costs/fees that are: (a) charged by the Office of the Attorney General; and/or (b) required by a court) that the Commission incurs in connection with the defense of any action brought by a party other than the Permittee against the Commission, its officers, employees, agents, successors and/or assigns challenging the approval or issuance of this coastal development permit (CDP), the interpretation and/or enforcement of CDP terms and conditions, or any other matter related to this CDP. The Permittee shall reimburse the Commission within 60 days of being informed by the Executive Director of the amount of such costs/fees. The Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission, its officers, employees, agents, successors and/or assigns.

IV. FINDINGS AND DECLARATIONS

A. Project Location, Description, and Background

Project Location

The proposed project is located in the City of San Clemente within the OCTA Railroad Right-of-Way (ROW) between milepost (MP) 204.07 and MP 204.34; 33°25'36.54" N, 117°37'39.93" W to 33°25'26.75" N, 117°37'28.64" W. The railroad alignment is located at the toe of coastal bluffs adjacent to the Pacific Ocean (**Exhibit 1**). The railroad tracks were originally constructed in the late 1880s.

The subject site is located entirely within the City of San Clemente's coastal zone. The City of San Clemente Land Use Plan designates the land use as OS1 – Open Space Public. The railroad ROW runs parallel and adjacent to coastal bluffs and the Pacific Ocean through the southernmost section of the Southern California Regional Rail Authority (SCRRA) Orange Subdivision. Coastal bluffs and development are located to the north and east, and by the Pacific Ocean and public beaches to the south and west. The San Clemente Coastal Trail, a part of the California Coastal Trail is located within the railroad ROW. The co-applicants, Orange County Transportation Authority (OCTA) and SCRRA/ Metrolink, are governmental entities developed to provide public transportation for Southern California, including Orange County. OCTA is the owner of the ROW and SCRRA/Metrolink is the operator and maintainer of the ROW. Metrolink and Amtrak operate passenger rail service through this corridor. The Burlington Northern Santa Fe (BNSF) freight line also operates here. According to the applicants, this corridor is key to interregional travel between San Diego County, Orange County, and Los Angeles County, and is also a strategic rail line for national defense.

Existing public access along the San Clemente Coastal Trail is currently restricted within the project site due to slope failures during the winter of 2023-2024 that resulted in damage to the Mariposa Pedestrian Bridge portion of the coastal trail. Per the lease agreement between OCTA and the City of San Clemente, OCTA is responsible for maintenance of the railroad ROW, while the City of San Clemente is responsible for maintaining public access along the Coastal Trail located within the railroad ROW, including upkeep of the Mariposa Pedestrian Bridge situated within the railroad ROW at the subject project site. The City of San Clemente coordinated with OCTA and Metrolink to remove two spans of the pedestrian bridge at the location of the January 2024 landslide. Though the City is the responsible party for the Coastal Trail, the applicants propose to re-establish the Coastal Trail as part of the proposed development.

Background

Landslides along the coastal bluff above the railroad tracks within the vicinity of Orange Subdivision Mile Post 204.2 just north of the Mariposa coastal access point occurred in November of 2019, December of 2023, and January of 2024. Landslide movement initiated on upslope private property but the landslide debris extended onto City property

mid-bluff and OCTA right-of-way at the toe of the bluff. The January 2024 landslide caused catastrophic damage to the Mariposa Pedestrian Bridge, a part of the City of San Clemente's Coastal Trail, leading to the collapse of two bridge spans (approximately 170-ft.) and in the closure of the remaining 850-ft. bridge portion of the trail and temporary rail corridor closure due to landslide debris overtopping the railroad tracks. Efforts were made by Metrolink in January of 2024 to protect the tracks by grading the hillside slope. However, landslide movement remained ongoing requiring daily clean up at the toe of the slope of the uphill debris falling into the railroad area. Therefore, OCTA and SCRRA submitted an Emergency Coastal Development Permit (ECDP) Application #G-5-24-0024 on February 22, 2024 to build a temporary retaining wall to the east of the railroad track to protect from landslide debris falling on the railroad tracks. The temporary wall was constructed in March 2024 before the ECDP could be approved and issued by staff. Instead, the applicant submitted this subject CDP Application 5-24-0398 on May 15, 2024 as a "follow-up" to the work applied for under ECDP G-5-24-0024, namely removal of the temporary wall and construction of a permanent larger catchment wall in a different alignment.

Additionally, the complete removal/demolition of the remaining Mariposa Pedestrian Bridge (**Exhibit 4**) bridge spans undamaged by the January 2024 landslide but currently still unconnected to the rest of the San Clemente Coastal Trail was approved as part of work proposed by G-5-25-0013 and approved on April 10, 2025 in an effort to expedite the development proposed by this subject CDP to address landslide impacts in Area 3. Thus, this subject CDP 5-24-0398 also serves as the follow-up CDP to make permanent the complete demolition of the Mariposa Pedestrian Bridge and requesting approval for the re-construction of this section of the San Clemente Coastal Trail at-grade adjacent to the proposed new catchment wall.

Project Description

The proposed project includes 6 different components:

1) Permanently approve the demolition of the remaining 850-ft. section of the Mariposa Pedestrian Bridge structure; development approved on April 10, 2025 under ECDP G-5-25-0013 (**Exhibit 4**)

2) Permanently approve grading (cut and fill) earth movement at the toe of the slope to remove slide material and associated with pile installation for the temporary soldier pile beam wall (**Exhibit 5**).

3) Partial removal of the temporary soldier pile wall: removal of above grade 156-ft. long, 9-ft. tall wood lagging wall, and retention of the 33, 36-in. diameter below grade soldier piles set at pile depths varying from 31-35 ft. deep into the ground and within bedrock (**Exhibit 5**).

4) Construction of a new soldier pile catchment wall that varies in height from 6-ft (minimum) to 29-ft (maximum) constructed in two sections that flank the Mariposa Beach Access point and located on the bluff face mostly within railroad

ROW with some areas within a City of San Clemente easement. Section 1 - a 1,180-ft length wall, averaging 20.9-ft in height, spanning from MP 204.07 to MP 204.29. Section 2 - a 180-ft. length wall, averaging 16.8 ft in height, spanning from MP 204.30 to MP 204.34 (**Exhibit 6**).

5) Re-establishment of the City of San Clemente's Coastal Trail as a part of the barrier wall construction (on the seaward side of the wall) (**Exhibit 6**).

6) Re-establishment of bluff vegetation

Construction is proposed to occur mainly within the railroad ROW with construction staging at the North Beach parking lot and along the railroad ROW. Construction access is proposed to occur mainly within the railroad ROW and the San Clemente Beach Trail from both the North Beach at the north end of the project site and from Linda Lane at the south end of the project site (**Exhibit 10**). Construction is anticipated to occur over an 8-month period.

Demolition of Mariposa Pedestrian Bridge and Re-establishment of an On-Grade San Clemente Coastal Trail

The applicant seeks permanent approval of the demolition of the remaining 850-feet of the Mariposa Pedestrian Bridge, that was approved on April 10, 2025 under ECDP G-5-25-0013 in order to facilitate site preparation for the construction of the proposed permanent bluff protection device in response to the threat of ongoing upper bluff landslides, see **Exhibit 4**.

The Mariposa Pedestrian Bridge was constructed in 2006 as part of the overall San Clemente Coastal Trail between the OCTA tracks and the coastal bluff between North Beach MP 203.75 to Calafia Mile Post 206.00. The Mariposa Pedestrian Bridge is located between MP 204.1 and MP 204.35 and consists of an elevated boardwalk supported by cast in drilled holes (CIDH) pile bents that is located inboard of the tracks and crosses the lower most portion of the bluff slope. At the north and south ends of the elevated boardwalk, approach spans provide access from grade to the elevated section. The original bridge spanned approximately 1,020 feet, however, the January 2024 landslide caused catastrophic damage leading to the collapse of two bridge spans (approximately 170-ft.) and in the closure of the remaining 850-ft. bridge portion of the trail (**Exhibit 2**). The applicant proposes to replace the Mariposa Pedestrian Bridge with an on-grade trail in the railroad ROW between the proposed new catchment wall and the railroad tracks (**Exhibit 6**), thus re-establishing public access along this segment of the San Clemente Coastal Trail that has been closed in January 2024.

Partial Demolition of Temporary Soldier Pile Wall

The temporary emergency soldier pile wall was constructed in February and March of 2024 using steel H-pile sections that were placed in large-diameter boreholes drilled to 32 feet below ground surface. The contractor placed concrete surrounding the steel H-piles in the drilled boreholes. Timber lagging was placed between piles to complete the wall. Pile drilling generated approximately 220 cu. yds. of spoils. Above ground, the wall is 156 ft. in length and 9-ft. tall with Douglas fir timber lagging (see as-built plans

included as **Exhibit 5)**. The applicant proposes to remove the 9-ft. high wood lagging in its entirety and only remove the piles to a depth of 3-ft. below the ground surface. In the immediate vicinity of each pile, hand excavation or slot trenching to access 3-ft. below the top of tie for pile cutoff, requiring approximately 1.5 cu. yds. of temporary excavation per each of the 33 piles (49.5 cu. yds. total) and immediately backfilling with the temporary excavation soils after the pile has been removed. The applicant has indicated that it is infeasible to remove the deeper portion of the piles as there is no equipment/crane that can pull the weight of the entire pile out of the ground. The skin friction of the soil and bedrock is great enough to resist removal with conventional equipment. Typical auger drilling methods would likely be stymied by the steel and concrete piles. Additionally, large-scale excavation to remove the piles would prove impractical due to the groundwater, soil type, and bedrock. Therefore, the applicant deemed pulling the piles out, drilling the piles out, or excavating the piles out infeasible; and instead proposes removal of the piles where they can be accessed by equipment and cut off just below the ground surface.

Landslide Debris Removal/Grading

The applicant seeks authorization of grading associated with the January 2024 landslide debris removal and grading for construction of the temporary retaining wall, see **Exhibit 5** grading cross-sections. Minor excavation occurred at the toe of slope to remove slide material for pile installation of the temporary retaining wall in the amount of approximately 16 cu. yds.

Construction of New Catchment Wall

The applicant provided conceptual design plans for the proposed Area 3 catchment wall included as **Exhibit 6**. Based on information provided by the applicant, the proposed footprint of the catchment wall is deemed necessary to prevent debris from blocking the railroad track and thus address the ongoing geologic hazards posed by the adjacent steep coastal bluffs. The applicant has preliminarily estimated the proposed wall height based on a potential future landslide catchment volume basis. This volume assumes that the bluffs above the wall have the potential to fail and settle at an eventual 2 Horizontal:1 Vertical (H:V) geometry. This assumption is based on historically observed re-settled geometry, particularly at the MP 204.2 (Mariposa Trail) and MP 204.6 slides (Casa Romantica) which occurred in similar geologic settings. In those locations, slide debris was observed in each case to continue to move when generally steeper than 2:1 and reached equilibrium around this 2:1 geometry. Volumetric assumptions also include a 10 percent bulking factor between intact bluff and landslide debris. A 2-ft. buffer was added to wall heights to account for local irregularities and additional minor catchment area. A final design volume of future landslide has not yet been established. The lateral extent of required wall construction was estimated by extrapolating this 2:1 potential slide geometry at periodic intervals, until sufficient space existed such that a slide reaching this geometry did not disturb rail operations. It also considers the existence of mapped historical slides on the north and south sides of the existing Mariposa Pedestrian Underpass (MP 204.35). Approximate cross sections indicating the 2:1 slide extents described in this section are provided in **Exhibit 5.** It should be noted that the 2:1 angle of repose geometry represents a broad generalization regarding landslides

and slopes in this area. It is not based on detailed investigation of these slopes which are located on adjacent private property. There is considerable uncertainty in estimated quantities of landslide debris from future slope failures. Landslide debris could exceed the capacity behind the wall and spill onto the adjacent trail and tracks.

B. Standard of Review

The project is located in the City of San Clemente, an uncertified jurisdiction. The standard of review for development is Chapter 3 of the Coastal Act with the certified LUP serving as guidance.

C. Consultations and Other Agency Approvals

Tribal Governments

The California coastal zone has been home to native populations since time immemorial. The project site is located in a region historically occupied by the Juaneño (Acjachemen) peoples. Currently, there are three Juaneño groups that are recognized by the State as California Native American Tribes (as indicated by the Native American Heritage Commission, NAHC): the Juaneño Band of Mission Indians, the Juaneño Band of Mission Indians, Acjachemen Nation, and the Juaneño Band of Mission Indians, Acjachemen Nation - Belardes. These Tribes are living communities who are the actively participate in the preservation of their culture and protection of tribal cultural resources, for which they are experts.

The Commission's Tribal Consultation Policy (adopted on August 8, 2018) recognizes the importance of State efforts to protect Tribal Cultural Resources and improve communication and coordination with Tribes, and it sets out a tribal consultation process that is fully consistent with, and complementary to the nature of, the Commission's goals, policies (including Section 30244), and mission statement. Commission staff has consulted with tribal representatives regarding this and other projects at along the San Clemente rail corridor with representatives of the Juaneño Band of Mission Indians, Acjachemen Nation and the Juaneño Band of Mission Indians, Acjachemen Nation – Belardes. Staff notified all three Tribes of the proposed development on May 22, 2024. Commission staff corresponded with Joyce Perry of the Juaneño Band of Mission Indians, Acjachemen Nation - Belardes in response. Additionally, upon receipt of OCTA's emergency CDP application (G-5-25-0013), Commission staff notified these Tribes of the proposed emergency on April 4, 2025, and had a consultation with Chair Banda of the Juaneño Band of Mission Indians, Acjachemen Nation on April 7, 2025.

Other Agency Approvals

There are three aquatic resources that intersect the emergency work area, including a 1-parameter wetland within the existing earthen and compacted coastal access trail (Coastal Act wetland), an isolated 3-paramater wetland (Clean Water Act Section 401

wetland water of the State; Coastal Act wetland), and an intermittent tributary (Section 401 non-wetland water of the State; Coastal Act wetland). Therefore, no waters of the United States would be impacted by the action or subject to regulations under Sections 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act. Waters of the State would be subject to Section 401 by the Regional Water Quality Control Board and the Coastal Act by California Coastal Commission. Additionally, OCTA is coordinating with the California State Lands Commission (SLC) to obtain the applicable jurisdictional determination for the action; however, it is likely that this 'Area 3' location would currently be outside of the SLC's jurisdiction since the work location is inland of the railroad tracks and well above the Mean High-Water Line (MHWL).

D. Minimization of Adverse Impacts

Section 30251 of the Coastal Act states in part:

> **Section 30251**. The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize alteration of natural landforms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Section 30253 of the Coastal Act states in part:

> **Section 30253**. 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.

Section 30235 of the Coastal Act states in part:

> **Section 30235**. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion, and when designed to eliminate or mitigate adverse impacts on local shoreline sand supply.

Section 30270 of the Coastal Act states:

> The commission shall take into account the effects of sea level rise in coastal resources planning and management policies and activities in order to identify,

assess, and, to the extent feasible, avoid and mitigate the adverse effects of sea level rise.

City of San Clemente Land Use Plan Policies:

HAZ-14 Ongoing Study. Support efforts by other local, state, and federal agencies to study the potential impacts of continued and accelerated sea level rise and flooding of waterways on existing or proposed structures within all development zones, including impacts to traffic flow, public access, natural areas including beaches, water quality, transportation, and infrastructure, such as roads and sewers.

HAZ-21 Restrict Bluff/Canyon/Shoreline Retention Devices. When consistent with Policy GEN-8, the construction, reconstruction, expansion, and/or replacement of a bluff/canyon/ shoreline protective device, (i.e. revetments, breakwaters, groins, seawalls, bluff protective devices, deep piers/caissons, or other artificial structures as defined in Chapter 7 that alter natural landforms or alter bluff/canyon/shoreline processes), for coastal erosion control and hazards protection, are prohibited, except pursuant to a CDP where it can be shown that either the device fully complies with all relevant LCP policies and the coastal access and recreation policies of the Coastal Act, or all of the following are met:

a. The bluff, canyon or shoreline protective device is required for the protection of coastal-dependent uses, existing structure(s) (including a principal structures or residence or public beaches in danger from erosion,
b. Where there is no less environmentally damaging alternative to the bluff, canyon or shoreline protective device,
c. The device is sited to avoid sensitive resources,
d. The device is designed to eliminate or mitigate adverse impacts on local shoreline sand supply and public access and to avoid or, where avoidance is infeasible, to minimize and mitigate the encroachment on the public beach, and
e. The device is designed to minimize adverse visual impacts to the maximum extent feasible.

HAZ-22 CDP Application for New Bluff or Shoreline Protective Devices or Repair, Maintenance, or Expansion of Existing Shoreline Protective Devices. Any CDP application for a bluff, canyon or shoreline protective device constructed pursuant to policy HAZ-21 shall include:

a. A re-assessment of the need for the device, the need for any repair or maintenance of the device, and the potential for the device's removal based on changed conditions,
b. An evaluation of the age, condition, and economic life of the existing principal structure,
c. An analysis of changed geologic site conditions, including but not limited to, changes relative to sea level rise, implementation of a long-term large scale sand replenishment or shoreline restoration program,
d. An analysis of any impact to coastal resources, including but not limited to public access and recreation, and

e. A geologic analysis that: (1) describes the condition of the existing protective device, (2) identifies any impacts on public access and recreation, scenic views, sand supply and other coastal resources, (3) evaluates options to mitigate any previously unmitigated impacts of the structure or to modify, replace, or remove the existing protective device in a manner that would eliminate or reduce those impacts. In addition, any significant alteration or improvement to the principal existing structure shall trigger such review (i.e., the analysis of the bluff/canyon/shoreline protective device) and any unavoidable impacts shall be mitigated.

HAZ-24 Design of Bluff / Shoreline Protective Devices. Bluff / shoreline protective devices permitted pursuant to policies HAZ-21 through HAZ-23 shall be designed to be compatible with the surrounding vegetation and natural landforms. The design plan approved pursuant to the CDP shall demonstrate that:

a. The device will be colored/constructed with concrete or other approved material that has been colored with earth tones that are compatible with the adjacent area, and the color shall be maintained throughout the life of the structure;
b. The device will be textured for a natural look to blend with the surrounding soil and/or vegetation, as applicable.
c. Drought tolerant, non-invasive vegetation shall be used to cover and camouflage the structure, where such planting is feasible;
d. Mitigation measures shall be utilized to offset all unavoidable impacts to coastal resources on or adjacent to the development site.
e. Minimize and mitigate for the impairment and interference with shoreline sand supply and coastal waters;
f. Any geologic hazards presented by construction in or near earthquake or landslide hazard zones shall be addressed;
g. Public recreational access shall be protected and enhanced where feasible, including by minimizing the displacement of beach;
h. The device shall be, if necessary, designed to combine with drainage improvements to control erosion from surface and groundwater flows; and
i. The device shall incorporate soft structures and designs that mimic natural shoreline features, where feasible.

HAZ-26 Devices on Public Lands. Construction, reconstruction, expansion, and/or replacement of bluff, or shoreline protective devices on land in public ownership or control for the purpose of protecting existing development on private property or protecting development on public land shall be discouraged. However, where approvable pursuant to policies HAZ-21 through HAZ-23, such construction shall avoid siting on public land to the maximum extent feasible and shall protect public lands for general public use. To avoid impacts on public lands, consultation with other appropriate agencies, such as the Coastal Commission and State Lands Commission, shall be required during the

permitting process.

HAZ-27 Monitoring. The CDP for any bluff, or shoreline protective device shall require the protective device to be regularly monitored by an engineer or engineering geologist familiar and experienced with coastal structures and processes. Monitoring reports to the City shall be required every five years for the life of the device, which monitoring shall, at the least, evaluate whether or not the The device is still required to protect the structure it was designed to protect. The evaluation shall include items a-i under policy HAZ-23 as well as an assessment of the structural stability of the protective device, its need for maintenance and its ability to continue to perform the functions for which it was permitted.

HAZ-33 Development on Hillsides, Canyons and Bluffs. New development shall be designed and sited to maintain the natural topographic characteristics of the City's natural landforms by minimizing the area and height of cut and fill, minimizing pad sizes, siting and designing structures to reflect natural contours, clustering development on lesser slopes, restricting development within setbacks consistent with HAZ-41 and HAZ-47, and/or other techniques. Any landform alteration proposed shall be minimized to the maximum extent feasible. Development partially or wholly located in a coastal canyon or bluff or along the shoreline shall minimize the disturbance to the natural topographic characteristics of the natural landforms.

Existing Structure / Danger from Bluff Erosion

The applicant provided a "Coastal Rail Stabilization Priority Projects, Technical Memorandum on Geotechnical Setting for Area 3, San Clemente, CA" and an "Analysis Report – Area 3" both by HDR Consultants and dated April 2025 in which the coastal bluffs at the subject 'Area 3' (MP 204.00 to 204.50) are characterized as containing several areas that are over-steepened, susceptible to additional degradation, and requiring immediate reinforcement. Area of coastal bluff erosion on the inland side of the railroad ROW vulnerable to steep bluffs and landslides that threaten the railroad ROW. Because the railroad tracks are located along existing coastal bluffs that have experienced historical landslide events, the potential for landslides is considered high along Area 3 (the project site).

Area 3 is described as having a history of coastal bluff erosion and landslide failures, **Exhibit 3** depicts the locations of recent landslides. Two separate failure modes are evident, one affecting the upper steeper bluff, and the other affecting the flatter lower bluff. The failure of the upper bluff involves failure of the steep face of terrace deposits, sometimes resulting in large blocks detaching and falling onto the lower bluff. This material tends to break up, forming silty sand debris that forms the lower bluff. The failures on the lower bluff tend to be surficial failures that are on the order of a few feet in thickness. These surficial failures appear to result from saturation of the silty sand debris resulting in shallow slow-moving failures. Significant seepage and pooling near the base of bluff was noted along Area 3. Other signs of seepage were

also noted including salt crust on exposed soil and hydrophilic plants within the Mariposa Landslide limits and in various locations near the bottom of the steep upper bluff.

Subsurface information for Area 3 is based on the in-progress geotechnical investigation provided by HDR, the applicant's technical consultant, as well as observations made during the emergency repairs for the Mariposa Landslide and after the emergency repair. The site includes the present beach terrace, the railway embankment, a fan of colluvium made up of landslide debris, a steep upper bluff, and an upper near approximately level terrace. The subsurface conditions at the explored areas consisted of landslide debris and native soils. A fan of silty to clayey sand colluvial debris mantles the lower portions of the bluff. This colluvial fan is landslide material derived from material that has fallen from the upper bluff face. A fill embankment runs along the base of slope carrying the OCTA rail line with riprap placed along the oceanward side, which is underlain by beach sands. Beach sands extend under the lower portions of the colluvial fan and westward under the rail embankment forming the beach that covers the wave-cut surface. Cobbles were commonly encountered at the bottom of the beach sands in excavations made for the Mariposa Trail Landslide emergency repair. The subsurface soils consisted of trace amounts of fill in the upper 5 feet where the pedestrian path is located. Underlying the upper fill zone is medium dense to dense beach sand deposits to depths ranging from 15-20 feet below ground surface. Intermittent cobble layers were also encountered within this layer. Below the beach deposits, very stiff to hard silt and clay (Capistrano Formation) was encountered to the maximum depths explored of approximately 95 feet below ground surface.

Coastal Act Section 30235 acknowledges that retaining walls and other such structural or "hard" methods designed to forestall erosion also alter natural landforms and natural shoreline processes. Accordingly, Section 30235 limits the construction of bluff protection to those required to serve coastal-dependent uses, or to protect existing structures or public beaches in danger from erosion, provided they are designed to eliminate or mitigate adverse impacts on shoreline sand supply. The Coastal Act provides these limitations because bluff retaining walls can have a variety of negative impacts on coastal resources including adverse effects on sand supply, public access, coastal views, natural landforms, adjacent properties, and overall shoreline dynamics. The Commission must always consider the specifics of each individual project, but under the standards established by Section 30235 of the Coastal Act, it prefers alternatives that avoid the need for armoring. In addition, the Commission has generally interpreted Section 30235 to require the Commission to approve protective devices for existing principal structures in danger from erosion. In this case, the railroad tracks built in the late 1880's are a pre-Coastal Act structure and, the Commission is not aware of evidence at this time that the railroad has been redeveloped.

Feasible Alternatives

The first Section 30235 "test" that must be met before a bluff retaining protective device can be approved is whether the proposed armoring is "required" to serve coastal-

dependent uses or to protect existing threatened structures. In other words, bluff retaining walls shall be permitted if it is the only feasible alternative capable of protecting the structure. Other alternatives typically considered include: the “no project” alternative; drainage and vegetation measures on the bluff face itself; abandonment or relocation of the threatened structures; sand replenishment programs; other less damaging structural alternatives; and combinations of some or all of these options. The applicant considered the following alternatives in a document titled “Coastal Rail Stabilization Priority Projects, Technical Memorandum on Geotechnical Setting for Area 3, San Clemente, California” dated April 2024 prepared by HDR Engineering, Inc:

- No Project Alternative – Based on current conditions, the no-project alternative presented the highest risk to the railroad track infrastructure, rail corridor traffic, and to general public access.

- Alternative 2 – Energy Dissipator Catchment (not selected): Feasibility of this option was considered questionable due to the large deflections required, which requires installation higher upslope and resulting in high barrier heights and because it would be difficult to construct.

- Alternative 3 – Soldier Pile Wall (preferred alternative): This is the preferred alternative due to longevity/performance of concept (performing as designed at 10 years); impacts to the beach (temporary construction blockages but improved access); grade crossing impacts (requires maintenance, but enhances stability and safety at grade crossings); service disruptions during construction (minimal impact to rail operations); and ROW requirements (concept is within OCTA ROW).

- Alternative 4 – Cast-in-Place Wall (not selected): This is not a preferred alternative due to restricted alignments, extensive shoring needed for construction, and lengthy construction period.

- Alternative 5 –Precast/Prefabricated Wall (not selected): This is not a preferred alternative due to location outside of the OCTA easement, extensive shoring needed for construction, and large area of impact.

- Alternative 6 – Catchment/Grading Geometry (not selected): The feasibility of this option is considered questionable due reduction in slope stability resulting from the required cuts, the removal of residences required, remaining risk to public safety and rail traffic, and lack of available space to construct required catchment geometries.

- Alternative 7 – Global Grading/Slope Flattening (not selected): This option is considered infeasible due to the large impacts to environmental resources and adjacent residences.

- Alternative 8 – Tiebacks/Soil Nails (not selected): Feasibility of this option is considered questionable due to the high number of potential conflicts, location outside of the OCTA property, and large area of impact.

- Alternative 9 – Buttress Walkway (not selected): This is not a preferred alternative due to the large import fill requirement, placement of large amounts of fill over existing utilities, and potential removal or burial of utilities.

- Relocation of Threatened Structures – Another alternative to protection devices is to relocate the threatened structures outside of harm's way. The applicant did not consider this alternative at this time.

Because there are no feasible non-structural alternatives, protection is needed along the lower bluff in order to protect the existing principal structure at the toe of the bluff. The applicant contends that the proposed project represents the least environmentally damaging alternative.

The Commission staff geologist conducted a site visit to San Clemente on April 5, 2024 and based on field observations agrees that the need for the proposed work is indeed urgent and concurs that the proposed project alternative is the least environmentally damaging alternative as it has a minimal footprint thereby entailing a minimum amount of work on the coastal bluff, however, additional geological investigation is still necessary. The applicant has sited the proposed caissons as close to the existing structure (i.e., railroad tracks) as is feasible given the needs to accommodate existing utilities and for construction equipment and access. Compared to the other structural options, and as conditioned to address impacts to coastal resources, the proposed project is the least environmentally damaging structural alternative.

Sand Supply Impacts

The coastal bluffs in this part of San Clemente have not contributed beach sand supplies for at least the past 140 years due to the placement of the railroad tracks embankment between the base of the bluff and the ocean protected by a rock revetment. The railroad embankment protected by rock is a functional barrier that prevents bluff material from reaching the active littoral zone. Therefore, the impact to sand supply by the proposed retaining wall inland of the railroad tracks and rock revetment is not a factor in this case. However, should the railroad ever be relocated, **Special Condition 7** requires the subject retaining wall be removed and bluff restored such that natural supply of bluff material to the littoral cell can be restored. Furthermore, **Special Condition 4** requires that any excavated material behind the catchment wall be placed at a suitable location on the beach where feasible to facilitate what have otherwise (without the railroad) supply of beach sand to San Clemente beaches.

Conformance with Geotechnical Recommendations

The applicant has provided geologic consultant recommendations for work undertaken in response to the January 2024 landslide: grading (cut and fill) at the toe of the slope to remove landslide debris material; construction of temporary soldier pile barrier wall and associated pile installation; and for the partial removal of the temporary soldier pile

beam wall (i.e., removal of above grade tall wood lagging wall and retention of the below grade soldier piles). The applicant has not provided geotechnical reports or geologic consultant recommendations for the design of the proposed two permanent sections of soldier pile catchment wall (i.e., Section 1 - a 1,180-ft. length wall, averaging 20.9-ft in height, spanning from MP 204.07 to MP 204.29. Section 2 - a 180-ft. length wall, averaging 16.8 ft in height, spanning from MP 204.30 to MP 204.34).

This project component is currently being proposed as Design-Build (DB) and the DB contractor has not yet been acquired by the applicants. The DB contractor will provide a final construction plan, geotechnical report, and calculations supporting the proposed design to OCTA for review and approval before commencement of development. The designer should determine, at periodic intervals, the potential maximum retained height which would satisfy 'permanent' loading conditions and above which maintenance or removals would be required for the wall to remain safely in service. Structural sizing should be based on a design landslide and impact event and then analyzed for maximum permanent retention height. For example, for a wall location with estimated maximum retained height of 20 feet for a full catchment event, it is unlikely to be suitable to retain this height indefinitely and satisfy seismic or permanent static loading conditions. However, it may be determined that for retention at this location under 12 feet of the 20-foot wall height (or another value), the wall may remain in service with no required remediations and maintains suitable permanent factors of safety. In addition to an independent evaluation of wall heights, the final plans will provide evaluation of potential slope failures, earth pressures, impact and seismic forces, geotechnical parameters, design life, corrosion, structural capacity, drainage and hydrology, and aesthetic wall treatments.

Since the proposed wall will substantially alter the topography along the coastal bluffs in the project area, the DB contractor will need to design a drainage system to allow runoff to flow downslope to appropriate ocean outlets and, where infiltrated, prevent groundwater from being obstructed and allow for adequate drainage of soils behind the catchment wall. This is typically achieved through gravel and geotextile filters which allow groundwater to drain from the soils and outlet through engineered openings in the wall (e.g., weep holes) to prevent a buildup of groundwater pressures behind the wall. Given the coastal setting, drainage features should also be designed to withstand corrosion

Adherence to recommendations contained in geotechnical investigations is necessary to ensure that final project plans assure stability and structural integrity, and neither creates nor contributes significantly to erosion, geologic instability, or destruction of the site or surrounding area. Therefore, **Special Condition 1** requires that the applicants submit final soldier pile catchment wall plans, geotechnical report, final grading plans, drainage plan, and trail construction plan conforming to the submitted conceptual design plan and all geotechnical investigation report recommendations. Furthermore, if after staff review of required geotechnical reports, the proposed development is not consistent with the geotechnical recommendations, a Commission amendment to this coastal development permit is required to address necessary modifications.

Special Condition 4 requires applicants to maintain the retaining/catchment wall within its approved configuration. As the required geotechnical analysis is yet to be undertaken it is unclear whether the catchment area behind the proposed soldier pile wall is adequate for the volume of each of the landslides shown in **Exhibit 3** if the landslides do not fail at the same time or if the soldier pile wall is adequate if multiple landslides fail within a short period of time as occurred in 2024. Additionally, information regarding the frequency that debris will need to be removed from the catchment area, or even how the applicants will access the area behind the wall to remove debris has not yet been provided or analyzed. Therefore, per **Special Condition 4,** maintenance other than exempt maintenance, as defined in Section 13252 of Title 14 of the California Code of Regulations, will require a CDP or a CDP amendment.

Sea Level Rise (SLR) Considerations

The applicants did not rely on a site-specific wave runup or coastal hazards report to analyze the effects of sea level rise (SLR) on the subject development. The effects of sea level rise have been considered at a high level through a prior study by the applicant (OCTA Rail Defense Against Climate Change Plan, 2021) which looked at the threats of slope failure, coastal erosion, and coastal flooding among other climate change-related threats which was an important initial step in understanding risks to the coastal rail corridor and identified potential adaptation strategies. Commission staff sent a robust comment letter in response to the 2021 study highlighting information gaps and opportunities to advance adaptation planning for the corridor. However, the subject work is entirely landward of the railroad and the effects of sea level rise on the proposed work are entirely reliant on what happens to the railroad at this location including what adaptation pathways are ultimately pursued for the corridor. Given this uncertainty for the longer-term management of the coastal rail corridor, **Special Condition 6** requires that a Long-Term Railroad Adaptation Study (LTRAS) be developed by January 1, 2034 which will evaluate potential adaptation options for the coastal rail corridor, including relocation for their feasibility and impacts to coastal resources. The Commission's intent is to require similar Special Conditions for developing an LTRAS for other pending CDP applications and so the condition includes language that the plan be developed consistent with the requirements of those potential future CDPs.

Assumption of Risk

In terms of recognizing and assuming the risks and hazards associated with shoreline development, the Commission's experience in evaluating proposed development in areas subject to hazards has been that permittees continue to pursue development despite periodic episodes of heavy storm damage and other such occurrences. Development in such dynamic environments is susceptible to damage due to such long-term and episodic processes. Past occurrences statewide have resulted in public costs (through low-interest loans, grants, subsidies, direct assistance, etc.) in the multiple millions of dollars. As a means of allowing continued development in areas subject to these hazards while avoiding placing the economic burden for damages onto the people of the State of California, applicants are regularly required to acknowledge site hazards and agree to waive any claims of liability on the part of the Commission for allowing the development to proceed. Accordingly, **Special Condition 11** requires the applicants

assume all risks and indemnify the Commission against all liability due to such hazards associated with developing at this location.

Although adherence to the geotechnical consultant's recommendations will minimize the risk of damage from erosion, the risk is not eliminated entirely. The site is an oceanfront bluff top site, which is inherently hazardous. Given that the applicant has chosen to implement the project despite potential risks from natural ongoing bluff erosion and potential for additional future landslides, the applicant must assume the risks. Therefore, the Commission imposes **Special Condition 11** requiring the applicant to assume the risk of the development. In this way, the applicant is notified that the Commission is not liable for damage as a result of approving the permit for development. The condition also requires the applicant to indemnify the Commission in the event that third parties bring an action against the Commission as a result of the failure of the development to withstand the hazards.

Visual Resources

The proposed 15-21-ft. tall catchment wall would result in adverse impacts to views looking inland to the coastal bluff from the public beach and looking inland from the Coastal Trail. In order to address those visual impacts, **Special Condition 1** requires the applicant provide an aesthetic treatment plan as part of the required final project plans that will blend the retaining wall in with the natural bluff face, thereby mitigating the visual impact of the retaining wall from the public beach trail, from the train passenger view, and public beach below. Additionally, the proposed project includes the partial removal of the 156-ft. long temporary retaining wall between the railroad tracks and the toe of the bluff. As proposed, only the above ground 9-ft. high wood lagging would be entirely removed and the underground supporting piles would only be removed to a depth of 3-ft. below the ground surface due to the apparent infeasibility of removing the deeper portion of the piles as there is no equipment/crane that can pull the weight of the entire pile out of the ground and impracticality of large-scale excavation to remove the piles would due to the groundwater, soil type, and bedrock. Overtime, natural erosional processes may expose these remaining subsurface elements. Should this potentially occur sometime in the future, **Special Condition 3** requires the applicants apply for a CDP amendment within 60 days of exposure identifying measures to eliminate the exposure and thus avoiding adverse visual impacts and impacts to possible future shoreline sand supply or a possible aesthetic treatment similar to those required in **Special Condition 1.** Any aesthetic treatment shall provide that exposed materials match the surrounding terrain to the extent feasible and minimize visual impact of the exposed features.

Conclusion

The Commission finds that only as conditioned as described above, can the proposed development be found consistent with Sections 30235, 30251 and 30253 of the Coastal Act which require that landform alteration be minimized, scenic coastal views be protected, and geologic stability be assured.

E. Biological Resources, Water Quality, and Wetlands

The Coastal Act also includes a suite of protections for sensitive habitats including aquatic habitats and the water quality needed to support their health. Coastal Act Sections 30230 and 30231 protect marine and inland watercourse biological resources stating:

> **Section 30230.** 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 marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.
>
> **Section 30231.** 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 30233 states, in relevant part:

> **Section 30233(a).** The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:
>
> [...]
>
> (4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.
>
> […]
>
> (b) Dredging and spoils disposal shall be planned and carried out to avoid significant disruption to marine and wildlife habitats and water circulation. Dredge

spoils suitable for beach replenishment should be transported for these purposes to appropriate beaches or into suitable longshore current systems.

(c) In addition to the other provision of this section, diking, filling, or dredging in existing estuaries and wetlands shall maintain or enhance the functional capacity of the wetland or estuary...

Section 30240.

(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.

City of San Clemente LUP Policies:

RES-36 Minimization of Water Quality Impacts During Construction. Development shall minimize water quality impacts during construction by minimizing land disturbance and soil compaction, minimizing erosion and sedimentation, and minimizing the discharge of other pollutants resulting from construction activities.

a. Minimize Land Disturbance During Construction. Development shall minimize the land disturbance activities of construction (e.g., clearing, grading, cut-and-fill, and soil compaction), especially in erosive areas (including steep slopes, unstable areas, and erosive soils), to avoid detrimental water quality impacts caused by increased erosion or sedimentation.

b. Minimize Erosion and Sedimentation During Construction. Construction shall be conducted using measures to minimize soil erosion and off-site transport of sediment and debris originating at the construction site, including as follows:

1. For necessary grading operations, the smallest practical area of land shall be exposed at any one time during development, and the length of exposure shall be kept to the shortest practical amount of time.
2. The clearing of land shall be avoided during the winter rainy season, whenever feasible, and all measures for removing sediments and stabilizing slopes shall be in place before the beginning of the rainy season, whenever feasible.
3. Sediment control measures shall be installed with the initial grading operations and maintained through the development process to remove sediment from runoff to the maximum extent practicable. All captured

sediment shall be retained on site unless removed to an approved disposal location.
4. Erosion control measures such as temporary vegetation, seeding, mulching, or other suitable stabilization methods shall be used to protect soil subject to erosion that has been disturbed during grading or development. All disturbed soil areas that are inactive shall be stabilized with suitable stabilization measures as soon as feasible, no later than 14 days after inactivity. At project completion, all disturbed soil areas shall be planted to provide permanent soil stabilization/erosion control. Primarily native, drought-tolerant, non-invasive landscaping species shall be used (only California native species shall be used in areas adjacent to coastal canyons and bluffs).
5. Construction runoff control BMPs, (such as a dewatering tank, detention basin, and dedicated vehicle wash area) shall be implemented, where necessary, to either retain or infiltrate stormwater and non-storm water runoff, or to treat runoff prior to conveyance off-site during construction.

c. Minimize Discharge of Construction Pollutants. Development shall minimize pollution of runoff and coastal waters by construction chemicals and materials.

1. Materials management and waste management BMPs (such as stockpile management BMPs and debris disposal plan) shall be implemented to minimize the discharge of pollutants from staging, storage, and disposal of construction chemicals and materials.
2. Site management “good housekeeping” BMPs (such as maintaining an inventory of chemicals used on site, and having a written plan for the clean-up of spills and leaks) shall be implemented to minimize the discharge of pollutants from construction activities.

d. Avoid Construction Staging on the Beach. Construction on or adjacent to the sandy beach shall avoid staging/material storage on sandy beaches or within any other biological resource area.

RES-37 Timing of Grading. In high erosion areas (such as development adjacent to canyon or bluff slopes), the City in approving development projects, shall minimize non-emergency earth-moving operations during the rainy season (extending from October 1 to April 30), whenever feasible. If the City approves grading during the rainy season appropriate BMPs shall be implemented.

RES-41 Wetlands. Recognize and protect wetlands for their scenic, recreational, water quality, and habitat values. The biological productivity and the quality of wetlands shall be protected and, where feasible, restored.

RES-42 Definition of Wetlands. Wetlands include lands within the coastal zone which may be covered periodically or permanently with shallow water and include saltwater marshes, freshwater marshes, open or closed brackish water marshes,

swamps, mudflats, and fens. Wetlands, as detailed by Section 13577 (b)(l) of Title 14 of the California Code of Regulations, also include land where the water table is at, near, or above the land surface long enough to promote the formation of hydric soils or to support the growth of hydrophytes, and shall also include those types of wetlands where vegetation is lacking and soil is poorly developed or absent as a result of frequent and drastic fluctuations of surface water levels, wave action, water flow, turbidity or high concentrations of salts or other substances in the substrate. Such wetlands can be recognized by the presence of surface water or saturated substrate at some time during each year and their location within, or adjacent to vegetated wetlands or deep-water habitats. Any unmapped areas that meet the above wetlands criteria are deemed wetlands and shall be accorded all of the protections provided for wetlands in the LCP.

RES-48 Wetland Mitigation. Where the diking, filling, or dredging of wetlands is permitted in accordance with the Coastal Act and any applicable LCP policies, mitigation measures shall include, at a minimum, creation or substantial restoration of in-kind wetlands. Adverse impacts will be mitigated at a ratio of 4:1 for all wetlands. Mitigation for riparian areas shall be 3:1. Vernal pools shall be mitigated at a 4:1 ratio. Lower mitigation ratios may be allowed for mitigation completed in advance of the project impacts. A ratio of 1:1 may be allowed if prior to the allowable wetland impact, the mitigation is empirically demonstrated to meet performance criteria that establish that the created or restored wetland is functionally equivalent or superior to un-impacted natural reference wetlands. The mitigation shall occur on-site wherever possible. Where not possible, mitigation should occur in the most proximal location available. If an appropriate mitigation site is available, the applicant shall submit a detailed plan which includes provisions for dedication of the restored or created wetland and buffer to a public agency, or permanent restriction of use of the mitigation site to open space purposes. When all other mitigation options have been exhausted, payment to a mitigation bank may be considered.

RES-51 ESHA Designation. Environmentally Sensitive Habitat Area (ESHA) means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could easily be disturbed or degraded by human activities and developments as defined in Section 30107.5 of the Coastal Act. Three main elements must be met for an area or habitat to be considered ESHA.

a. The presence of individual rare plants or animals or the presence of a particular rare habitat. Plant and animal communities whose designation includes, but is not limited to rare, threatened or endangered by the State or federal governments such as those in the CDFW’s California Natural Diversity Database (CNDDB). ab. Any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in

an ecosystem. ac. Areas that could be easily disturbed or degraded by human activities and developments.

RES-72 Native Landscaping. Drought-tolerant native landscaping specific to the habitat type/vegetation community is required in coastal canyon and bluff areas, to reduce erosion and maintain natural open space areas. Invasive plant species are prohibited in all landscaping.

The Coastal Act Section 30107.5 defines environmentally sensitive habitat areas (ESHAs) as areas in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activities and developments. Additionally, although not the standard of review, the City of San Clemente's LUP contains policies regarding ESHA resources that may be considered as guidance.

The City has identified the potential for ESHA along the coastal bluffs in the certified Land Use Plan. Coastal bluffs act as open space and potential wildlife habitat, as well as corridors for native fauna. Decreases in the amount of native vegetation due to displacement by non-native vegetation have resulted in cumulative adverse impacts upon the habitat value of the bluffs. As such, the quality of bluff habitat must be assessed on a site-by-site basis. The applicant provided a Biological Resources Memorandum prepared by HDR which included literature review and a site visit to determine the existing environmental conditions and the impacts of the temporary soldier pile wall constructed in February-March 2024 in the vicinity of the January 2024 bluff landslide. Most, if not all of the vegetation within the project footprint was disturbed prior to construction of the temporary soldier pile wall due to the landslide. The coastal bluff at the subject site was observed as somewhat degraded due to the presence of both native and non-native plant species. Based on the information provided by the applicant, no portion of the site contains resources that rise to the level of ESHA. No listed bird or animal species were observed in the project area (including construction and staging areas). No sensitive plant species will be directly impacted by the proposed project.

Description of Existing Habitat

The applicant also provided an "Aquatic Resources Delineation Report, Coastal Rail Stabilization Priority Projects: Area 3" by HDR Engineering, dated November 2024, and updated March 2025 identifying vegetation communities within the project area. According to the Report, the site contains ten vegetation communities and other land cover types such as disturbed areas within the railroad ROW along the proposed new catchment wall alignment. Vegetation communities identified in the area include myoporum groves, big saltbush scrub, wetland, iceplant mats, ornamental, disturbed (examples of disturbed areas include landslide areas or areas associated with the railroad ROW including the Coastal Trail). A Vegetation Community Map delineating the proposed project's area of impact within a polygon outlined in red is included as **Exhibit 7**. The proposed impact area includes several vegetation communities that may be

removed or impacted, totaling a maximum of 1.01 acre of vegetation removal. Of the 1.01 acre, approximately 0.34 acre (33%) is a native community (Big Saltbush Scrub, also called Quailbush scrub, dominated by *Atriplex lentiformis*). Big Saltbush Scrub is not on the California Department of Fish and Wildlife 'California Sensitive Natural Communities' list and therefore is not a potential Environmentally Sensitive Habitat Area (ESHA). The remaining vegetation communities (67%) are developed or highly disturbed including non-native and ornamental vegetation. Thus, all proposed project components (i.e., removal of Mariposa Pedestrian Bridge, construction and removal of the temporary caisson and grade beam retaining wall, grubbing, grading and construction of new permanent catchment wall and re-establishment of Coastal Trail) will not result in impacts to upland terrestrial ESHA.

Dredge and Fill in Wetlands

Section 30108.2 of the Coastal Act defines "fill" as "earth or any other substance or material, including pilings placed for the purposes of erecting structures thereon, placed in a submerged area." Additionally, the Commission has long found grading, excavating, and other ground-disturbing activities in coastal wetlands to be a form of dredging or fill.

The Aquatic Resources Delineation Report identified and mapped the following wetland areas: Disturbed Wetland (DW), Ponded Depression (PD), Slope Seep (SS), and five unvegetated channels. The slope seep, ponded depression, and two unvegetated channels are within the project's construction footprint, while the disturbed wetland is adjacent to the existing Coastal Trail that will be used as construction access. A perennial slope seep occurs along the east side of the ponded depression at the toe of the coastal bluff. The seep is dominated by big saltbush, rabbitsfoot grass (*Polypogon monspeliensis*), and saltgrass (*Distichlis spicata*) vegetation and observed hydrology. Soils were presumed hydric as the site supports a dominance of hydrophytic vegetation and surface indicators of hydrology (i.e., inundation, saturation at the surface and salt crust). Although field surveys were conducted during the dry season, the area was saturated with water, likely supported by artificial irrigation or a natural seep upslope of the feature. A ponded depression is located along the San Clemente Pedestrian Beach Trail within the northern end of the project area and below and directly adjacent to the slope seep. The isolated depression collects seepage from the adjacent bluffs and stormwater flows from surrounding uplands. The feature is approximately 243 feet long, 13 feet wide, and supported approximately 2-inch-deep standing water during the August 2024 aquatic resources survey. Inundation was observed during the March 2024 general biological surveys and during the August 2024 aquatic resources survey, which may indicate that the feature is at least intermittently ponded (**Exhibit 9** contains photographs of these wetland features).

The proposed project component consisting of construction of two new sections of soldier pile catchment wall on the low end of the bluff face (mostly within railroad ROW with some areas within a City of San Clemente easement) would cause direct impact to

the PD and SS areas identified as wetland by the applicant. The Commission's ecologist agrees with the applicant's assessment that the DW, PD, and SS areas meet the Commission's definition of wetlands and impacts to these wetlands if unavoidable must be mitigated. Based on the expected project impacts to the PD and SS areas, and avoidance of the DW area during construction, the Commission's ecologist anticipates permanent impacts to 0.089 acres of wetlands as a result of the project.

Coastal Act Section 30233(a) limits the fill of wetlands to specific, enumerated uses, and also requires that any project which results in fill of wetlands be the least environmentally damaging feasible alternative and provide feasible mitigation measures to minimize adverse environmental effects. A project must pass all three tests to be authorized pursuant to Section 30233(a). The relevant category of use listed under section 30233(a) in this case is incidental public service purpose. Section 30233(a)(4) authorizes wetland fill for "Incidental public service purposes." To qualify as an incidental public service purpose, the fill of coastal waters being undertaken must demonstrate that: (a) it provides a "public service" insofar as it confers benefits to the public, either at large, or to those served by the public entity; and (b) is "incidental," within the meaning of that term as it is used in the Coastal Act (i.e., is ancillary and appurtenant to an existing public service purpose). Here, the project would protect the existing railroad corridor from damage resulting in closure of the transit corridor which is a public service use. The Commission has found in multiple past actions that road improvement projects that do not increase the vehicular capacity of roadway are an incidental public service pursuant to Section 30233(a)(4). Here, the primary purpose of the project is to protect existing railroad infrastructure from damage caused by likely future landslides. The development does not add capacity or expand the railroad tracks in any way. As the proposed project is being undertaken by a public agency to serve the public, it therefore has a public service purpose. Therefore, any potential fill in wetlands that might become necessary for the project would be for an incidental public service purpose and is an allowable use pursuant to Coastal Act section 30233(a)(4). Along with being an allowable use, the wetland impacts can only be authorized if there is no feasible less damaging alternative (see project alternatives discussion in the staff report Section D: Minimization of Adverse Impacts above).

Special Condition 5 requires the applicant to prepare a wetlands mitigation plan for onsite mitigation or if onsite mitigation is not feasible, to pay an in-lieu fee to an entity determined to be appropriate and approved by the Executive Director, to compensate for wetland impacts. In-lieu fees are typically a less preferred compensatory mitigation option because they can result in significant implementation lags and relocation of the resources within the landscape, thus prolonging losses and displacing habitat values and functions from affected areas. However, in this case, given the small amount of wetlands (i.e., 0.089 acres) at the subject site are formed by runoff irrigation from the blufftop residential developments and natural water seeps along the face of coastal bluffs and the likelihood that this water source also contributes to the cause of bluff slope instability, onsite wetland mitigation may not be possible, making payment of an

in-lieu fee preferable. An in-lieu fee approach allows for a consolidation of financial resources that may be applied to a meaningful restoration effort rather than a piecemealed series of intensive but potentially tiny mitigation efforts that are a challenge to monitor, track, and ensure compliance. It is expected that a focused allocation of mitigation funds will achieve relatively more meaningful benefits to living coastal resources in this particular situation. It is also possible under **Special Condition 5** that other entities local to the project area may be appropriate fee recipients with the capacity to implement meaningful restoration work. The applicable base fee rate is $150,000 per acre of wetlands and would be multiplied by the Commission's typically applied wetland mitigation ratio of 4:1. Thus, a 0.356 acres of mitigation would require a $53,400 in-lieu fee payment. The amount of the in-lieu fee is based on looking at the history of Commission in-lieu fee mitigation projects and published literature. It also considers the circumstances of this project and the relatively small area of the project's possible impacts. The number here falls generally in the middle range of fees the Commission has approved over time, and for example also fits within the range of estimates for similar Caltrans wetland impacts mitigation fees. The in-lieu fee may be paid to the in-lieu fee program established between the Coastal Commission and the State Coastal Conservancy for the Southern Region Coastal Trust Fund regional account for habitat mitigation projects under an existing Memorandum of Understanding (MOU) dated August 2018, or paid into an interest-bearing account established and managed by a government or non-governmental organization as approved by the Executive Director. The Coastal Conservancy has agreed to accept the mitigation funds for the purpose of financing wetland restoration projects in Orange County or San Diego County (as close to the identified project impact area as possible). Multiple wetland restoration projects local to Orange and San Diego Counties could benefit from the in-lieu fee funds, such as projects that are part of the Southern California Wetlands Recovery Project's Workplan or Community Wetlands Restoration Grant Program.

With the proposed measures and those required by these Special Conditions, sensitive biological resources will be protected against any significant disruption of habitat values. In instances where impacts are necessary to restore the surrounding habitat, impacts will be minimized and the restoration project will be fully self-mitigated. Furthermore, proposed activities include sufficient measures to ensure that impacts to ESHA are avoided. Therefore, as conditioned, the Commission finds that the development conforms to the requirements of Section 30240(a) and 30240(b) of the Coastal Act regarding the protection of environmentally sensitive habitat areas and the siting of new development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas preventing impacts which would significantly degrade those areas and is compatible with the continuance of those habitat and recreation areas.

Marine Resources and Water Quality

Construction phase grading and demolition activities such as the complete demolition/removal of the Mariposa Pedestrian Bridge, grubbing and grading along the lower bluff slope, partial removal of the temporary 156-ft. long soldier pile retaining wall at the toe of a coastal bluff have the potential to adversely affect marine resources, water quality and the biological productivity of coastal waters. The most significant

water-quality related impacts associated with the proposed project are likely to stem from demolition of these structures and grading/soil movement. In order to avoid adverse construction-related impacts upon marine resources, **Special Condition 9** requires the applicant comply with construction phase best management practices (BMPs) such as restricting vehicles to pre-established staging areas and haul routes, ensuring equipment does not come into contact with any receiving waters or environmentally sensitive habitat areas, proper containment and disposal of trash and debris, ensuring waste is not placed or stored where it may enter sensitive habitat, wetlands, receiving waters, or be subject to wind, rain, or erosion and dispersion; implementation of erosion control measures to prevent sediment and potential pollutants from entering coastal waters and/or sensitive habitat during approved project grading activities, and maintenance of BMP in a functional condition throughout the duration of restoration activities to ensure protection of water quality and the biological productivity of coastal waters.

Project equipment staging and vehicle storage is proposed to occur at North Beach public parking lot (**Exhibit 10**). Construction access points are from North Beach and Linda Lane. To minimize adverse impacts, the Commission is requiring, in **Special Condition 1**, that final plans include staging and construction areas clearly demarcated and used in a manner that avoids existing nearby sensitive habitat and maintains existing levels of public access to the site.

Thus, as conditioned, the project would conform to the biological resource and water quality protection policies of the Coastal Act.

F. Public Coastal Access and Recreation

Coastal Act Sections 30210 and 302131 protect public access and recreation. Those sections relevant here are as follows:

> **Section 30210**. In carrying out the requirement 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 30213**. Lower cost visitor and recreational facilities shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred…

City of San Clemente LUP Policies:

> **PUB-36 Coastal Public Access.** Establish, protect, maintain, and, where feasible, expand and enhance a system of public coastal access to the shoreline, beaches, tidelands, and recreational facilities in a manner that achieves the following:
>
> a. Maximizes public access to and along the shoreline;

b. Is safe and feasible;
c. Includes, where appropriate, pedestrian, hiking, bicycle, and equestrian trails;
d. Provides connections to beaches, parks, and recreational facilities and trail networks with adjacent jurisdictions…

PUB-37 Preserving Public Coastal Access. Review proposals for coastal land use changes and development to ensure they do not interfere with the public's right of access to the coast by ensuring that:
a. Public transit needs are accommodated, as required by Orange County Transport Association;
b. Commercial and visitor-serving commercial uses are located near housing to encourage walking and bicycling;
c. Non-automobile mobility options are provided within new development;
d. Adequate parking facilities, or a substitute means of serving the development with public transportation, is provided;
e. Proposals are consistent with public safety and security needs;
f. Proposals protect fragile coastal resources and effectively mitigate potential impacts;
g. Public coastal access is provided on site in proportion to the impact resulting from the proposal, unless there is an adequate, convenient, and easily accessible alternative nearby;
h. Gates, guardhouses, barriers, or other structures that would inhibit public access to and along the shoreline and to beaches, coastal parks, trails, or coastal bluffs are generally not permitted, with the exception of devices associated with safe access along and across the railroad.
i. Existing public access is preserved and enhanced in perpetuity.

These overlapping Coastal Act policies and LUP policies protect public recreational access to the coast, including along the beach/shoreline and to offshore waters, for public recreational access purposes, particularly free and low-cost access. Importantly, Coastal Act Section 30210's requirement to maximize access and recreational opportunities represents a different threshold than to simply provide or protect such access, and it is fundamentally different from other like provisions in this respect. Namely, it is not enough to simply provide access to and along the coast, and not enough to simply protect access; rather such access must also be maximized. This terminology distinguishes the Coastal Act in certain respects, and it provides fundamental direction with respect to projects along the California coast that raise public access issues, like this one.

Construction is proposed to occur mainly within the railroad ROW with construction staging at the North Beach public parking lot and along the railroad ROW. Construction access is proposed to occur mainly within the railroad ROW utilizing the San Clemente Beach Trail from both the North Beach at the north end of the project site and from Linda Lane at the south end of the project site. These activities may affect public beach access to areas immediately adjacent to the construction activities. Vertical beach access in the project vicinity is available at the El Portal beach access stairway down

the bluff face at the north end of the project site and at the Mariposa 300-ft. long concrete ramp down to the beach. Lateral public access along the San Clemente Coastal Trail between El Portal and Mariposa is currently restricted due to closure of the Mariposa Pedestrian Bridge, however, lateral pedestrian access along the Coastal Trail segments proposed as construction access routes between North Beach and El Portal and between Linda Lane and Mariposa Point remains open to the public (**Exhibit 10**). It is currently estimated that the wall construction duration would take up to 34 weeks (eight months). To ensure minimization of construction phase impacts to lateral public access along the existing open segments of the Coastal Trail in the project vicinity, **Special Condition 1** requires the applicants submit a Construction Staging and Access Plan that conforms with the Area 3 Site Plan submitted to the Commission and included as **Exhibit 10** and ensuring that the applicants agree that currently open segments of the San Clemente Coastal Trail proposed for construction access routes remain open to pedestrians throughout the construction period. If short-term temporary closure of minor trail segments are deemed necessary at some point during the estimated 8-month construction period, the Construction Staging and Access Plan may include a Public Access Plan detailing pedestrian detour routes, including signage and timing details. The routes shall be the shortest detour possible for the shortest period of time feasible. **Special Condition 1** also requires vertical beach access points at North Beach, El Portal, Mariposa, and Linda Lane remain open to the public throughout the project construction period.

Post-construction phase, the project as proposed will restore public access along this approximately ¼ mile stretch of the 2.3-mile long San Clemente Coastal Trail at this site, which is currently closed due to catastrophic damage of the January 2024 bluff failure. As such, the proposed project includes the re-establishment of a significant public access and recreation amenity concurrent with the construction of the proposed new catchment wall. However, the conceptual plans provided (**Exhibit 6**) simply depict the proposed placement/alignment of the restored trail without the necessary development details. Therefore, **Special Condition 1** requires the applicant submit a final trail plan that includes construction details such as trail width, materials, signage, fencing, landscaping, etc.

In conclusion, the proposed project will improve public access at the site, maximizing public access while protecting and enhancing sensitive coastal resources. As such, with implementation of **Special Condition 1** the project would be carried out in a manner that would protect existing, and facilitate expanded coastal access and recreation opportunities at the project site. The Commission therefore finds the proposed project, as conditioned, consistent with the coastal access and recreation sections (Sections 30210 and 30213) of the Coastal Act.

G. Archaeological, Paleontological, and Tribal Cultural Resources

Section 30244 of the Coastal Act states:

> **Section 30244**. Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

Relevant San Clemente LUP Cultural Resources Protection Policies:

CUL-1 Cultural Resources. Protect cultural resources, including historical, archaeological, and paleontological features in the Coastal Zone. Where necessary to protect cultural resources, new development shall include an appropriate predevelopment investigation to determine, in the least destructive manner, whether cultural resources are present. The pre-development investigation shall include recommendations as to how the site can be developed and designed to avoid or minimize significant impacts to cultural resources. In situ preservation and avoidance are the preferred alternative over recovery and/or relocation in the protection of paleontological and archaeological resources. When in situ preservation or site capping is not feasible, recovery and/or relocation may be considered. Native American tribal groups with cultural affiliation to the project site area as identified by the Native American Heritage Commission shall have the opportunity to review and comment on the predevelopment plan as required by AB52 (2014). Archaeologists and representatives from Native American tribal groups shall provide monitoring during grading/excavation and construction activities of any approved development that has the potential to adversely impact any on-site significant cultural resources.

CUL-4 Architectural, Historical, and Cultural Resource Preservation and Restoration. Provide for the identification, preservation and restoration of the sites, structures, districts and cultural landscapes which have architectural, historical, and/or cultural significance

The Commission recognizes that the entirety of the State's Coastal Zone was originally indigenous lands continues to have cultural significance to Native American tribes today. The Commission's Tribal Consultation Policy (adopted on August 8, 2018) recognizes the importance of State efforts to protect Tribal Cultural Resources and improve communication and coordination with Tribes, and it sets out a tribal consultation process that is fully consistent with, and complementary to the nature of, the Commission's goals, policies (including Section 30244), and mission statement. Tribal Cultural Resources can be sites, features, cultural landscapes, sacred places, and objects with cultural value and can also qualify as archaeological, paleontological, visual, biological, or other resources that the Commission is tasked with protecting pursuant to the Coastal Act. This area of San Clemente was inhabited by and is ancestrally and culturally associated with the Acjachemen/Juaneño peoples. According to ethnographic evidence and past consultations, villages were concentrated near watercourses and the coast, and blufftops were and are still of cultural significance as a site for ceremonial practices. This site is comprised of a coastal bluff slope and bluff toe. The sediment includes native soil proposed to be removed/graded/excavated for drilling of a new soldier pile catchment wall caissons in two sections (Section 1 - a 1,180-ft length wall, spanning from MP 204.07 to MP 204.29 and Section 2 - a 180-ft length wall, spanning from MP 204.30 to MP 204.34 or grading/site preparation for construction of

the coastal trail); all construction aspects which have the potential to impact in-ground archaeological and tribal cultural resources that may be present within the soil.

In past permit actions near or adjacent to known tribal cultural resource sites, the Commission has required that all project grading and earth disturbing activities be monitored by both archeologists and representatives of affected Native American tribes. If cultural resources are discovered, as conditioned, the appropriate Native American representative(s) will decide as to the appropriate treatment method or if human remains are encountered, specific measures must be taken. Per the LUP, preservation in-situ is the preferred mitigation method. To ensure that the project minimizes and mitigates potential impacts to archaeological and/or Tribal Cultural Resources and is consistent with past Commission actions, the Commission imposes **Special Condition 6** requiring the applicants to notify the representatives of Juaneño (Acjachemen) Tribes listed on an updated Native American Heritage Commission (NAHC) contact list for the area, invite all Tribal representatives on that list to monitor ground-disturbing activities, and arrange for a representative of any invited Tribe that requests to monitor and a qualified archaeological monitor to be present to observe all project grading and earth disturbing activities with the potential to impact archaeological and/or tribal cultural resources. The monitor(s) shall have experience monitoring for archaeological resources of the local area during excavation projects, be competent to identify significant resource types, and be aware of recommended Tribal procedures should discovery of archaeological or Tribal Cultural Resources or human remains be discovered. The proposed project, as thus conditioned, is consistent with Coastal Act section 30244, as the development will include reasonable mitigation measures to minimize potential adverse impacts to paleontological, archaeological, and tribal cultural resources at the site.

H. Reimbursement of Costs and Fees

Coastal Act Section 30620(c)(1) authorizes the Commission to require applicants to reimburse the Commission for expenses incurred in processing CDP applications. (See also 14 C.C.R. § 13055(g).) Thus, the Commission is authorized to require reimbursement for expenses incurred in defending its action on the pending CDP application. Therefore, consistent with Section 30620(c), the Commission imposes **Special Condition 11** requiring reimbursement of any costs and attorneys' fees the Commission incurs in connection with the defense of any action brought by a party other than the permittee challenging the approval, issuance, or implementation of this permit. This will ensure that the Commission is not subject to any claims, damages, or liabilities resulting from or arising out of the applicant's implementation of the development authorized in this coastal development permit.

I. Local Coastal Program

Section 30604(a) of the Coastal Act provides that the Commission shall issue a coastal permit for development in an area with no certified Local Coastal Program ("LCP") only

if the project will not prejudice the ability of the local government having jurisdiction to prepare an LCP that conforms with Chapter 3 policies of the Coastal Act. The Commission certified the Land Use Plan (LUP) for the City of San Clemente on May 11, 1988, and certified an amendment approved in October 1995. On April 10, 1998, the Commission certified with suggested modifications the Implementation Plan (IP) portion of the Local Coastal Program. Approval of the IP with suggested modifications expired on October 10, 1998 without City adoption. The City re-submitted an IP on June 3, 1999, but withdrew the submittal on October 5, 2000. The Commission certified a comprehensive LUP update amendment on August 2, 2018. The City submitted a draft IP in December 2019 but abandoned the certification effort a year later, no formal IP submittal has been re-submitted. At this time, the City of San Clemente does not have a certified LCP.

As conditioned, the proposed development is consistent with the Chapter 3 policies of the Coastal Act and the policies contained in the certified 2018 Land Use Plan regarding coastal hazards, protection of visual resources, tribal and cultural Resources, paleontological resources, habitat, marine resources, and water quality. Approval of the proposed development will not prejudice the City's ability to prepare a Local Coastal Program for San Clemente that is consistent with the Chapter 3 policies of the Coastal Act as required by Section 30604(a).

J. California Environmental Quality Act

Section 13096(a) of the Commission’s administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (“CEQA”). The findings above are incorporated herein by reference.

OCTA is the lead for CEQA. OCTA exempted the proposed development from environmental review under CEQA citing the exemptions for emergency projects, contained in Sections 15269(b) and (c).

Under Section 15251(c) of Title 14 of the California Code of Regulations, the Commission’s CDP regulatory process has been certified as the functional equivalent to the CEQA process. As a certified regulatory program, Section 21080.5(d)(2)(A) of CEQA still applies to the Commission’s CDP regulatory process and prohibits approval of a proposed development 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, either individually or cumulatively with other past, current, or probable future projects. The proposed project has been conditioned to be consistent with the Chapter 3 policies of the Coastal Act. As conditioned, there are no feasible alternatives or additional feasible mitigation measures available that would substantially lessen any significant adverse effect that the development may have on the environment. Therefore, the Commission finds that the proposed project, as conditioned to mitigate the identified impacts, is the least environmentally damaging feasible alternative, has no remaining significant

environmental effects, either individual or cumulative, and complies with the applicable requirements of the Coastal Act to conform to CEQA.

APPENDIX A – SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application No. 5-24-0398 and associated file documents.

HDR. January 2024. Orange County Transportation Authority Coastal Rail Resiliency Study, Initial Assessment Technical Memorandum, Cities of Dana Point and San Clemente, CA, prepared by HDR, dated January 2024

ENGEO. 2024. Calculation Package Soldier Pile Wall, Metrolink Orange Subdivision Milepost 204.2, San Clemente, CA. Job No. 25157.000.001. April 1, 2024.

ENGEO. 2024. Mariposa Landslide, Milepost (MP) 204.2 Soldier Pile Wall Plans, San Clemente, California. Job No. 25157.000.001. March 14, 2024.

HDR. April 2024. Coastal Rail Stabilization Priority Projects, Technical Memorandum on Geotechnical Setting for Area 3, San Clemente, CA

HDR. April 2024. Analysis Report – Area 3

HDR. Undated. Railroad Emergency Stabilization Project – Mariposa Barrier Wall Subdivision MP 204.2, Biological Resources Memorandum

Emergency CDP No. G-5-25-0013 issued April 10, 2025 and associated file documents.

Emergency CDP Application Submittal No. G-5-24-0024