

Appendix E

Governance Structure Approaches

DRAFT

Governance Structure Approaches

March 4, 2024

Introduction, Background, and History

The *South Orange County Coastal Resiliency Strategic Plan* (Strategic Plan) was first envisioned in the *Orange County Coastal Regional Sediment Management Plan* (OC CRSMP; USACE 2013). Section 4 of the OC CRSMP contains the core activities targeted for implementation. Activities were ranked as high, medium, and low priority based on a combination of stakeholder interests, perceived needs, recreational benefits, shore protection benefits, funding availability, costs, impacts, regulatory requirements, and ability to be permitted. OC CRSMP activities were designed to ensure implementation of the OC CRSMP.

One of the key recommended activities was the development of a governance structure to facilitate OC CRSMP implementation. The OC CRSMP outlined various types of governance structures that could be used to promote regional collaboration and coastal resiliency project implementation. A governance structure provides a framework for the Strategic Plan to be used, including interpretations, updates, and implementation of particular activities. The governance structure represents a coordinated implementation approach that provides a framework for input from citizens, as well as federal, state, regional, and local entities. Any governance structure to be adopted would require extensive consideration and discussion among coastal public agencies.

This Strategic Plan builds on the efforts started in the OC CRSMP and recommends further collaborative discussions among the many local and regional agencies to consider entering into an Memorandum of Agreement (MOA)/Memorandum of Understanding (MOU) or starting a new Joint Powers Agreement or Joint Power Agency/Authority. Draft/example cooperative agreements are included in Attachment 1 of this appendix and are intended to serve as a reference point for formalizing the relationships, roles, and responsibilities to best support Strategic Plan implementation.

The OC CRSMP recommended developing a new Joint Powers Authority (JPA) following the model laid out by Beach Erosion Authority for Clean Oceans and Nourishment (BEACON). Using the Southern California Association of Governments (SCAG) as the governance structure was not recommended because the SCAG region covers all of Southern California, whereas the focus was on a much smaller geographic subregion.

It was recommended that the JPA would act as the lead planning and coordinating agency that, if adopted, seeks funds, administers grants and studies, assists with implementation activities as deemed necessary by the local implementing agencies, facilitates collaboration on coastal issues, works to fill data gaps, and maintains and updates the OC CRSMP.

The JPA would receive funds, complete environmental documentation, acquire regional permits as appropriate, and plan coastal projects as appropriate. Local land-use decision-making and implementation would remain with the local agencies. The JPA would be defined as the lead planning agency for coastal regional sediment management (RSM) issues and other erosion control measures. Examples of other erosion control measures include seawalls, sand retention reefs, perched beaches, groins, revetments, breakwaters, and headland enhancement.

The OC CRSMP recommended that the JPA hire a dedicated staff member to assist the executive director to specifically manage coastal RSM issues and coordinate with other staff. The executive director would be advised and guided on RSM issues by a committee comprising representatives from regional and local governments, academic institutions, industry, and nonprofit organizations. The executive director would then report to a board of directors.

A governance structure provides a framework for the Strategic Plan to be used, including interpretations, updates, and implementation of particular activities. The governance structure represents a coordinated implementation approach through an entity with appropriate jurisdictional authorities that provides for input from citizens, as well as federal, state, regional, and local entities.

Thus, a fundamental goal of this Strategic Plan is the formulation of the preferred governance infrastructure and cost-sharing framework to ensure coordinated regional coastal resiliency collaboration that will be required for successful coastal resiliency project implementation. To support this outcome, several examples are provided as alternatives for reference and to lay out the types of collaborative arrangements that can be forged among the stakeholders to support the regional goals of coastal resiliency project implementation.

Potential Member Entities and Organizations

The comprehensive listing of agencies, entities, and organizations presented in Table 1 have been identified as the key participants whose involvement is essential to the establishment, function, and success of a regional coastal resiliency alliance regardless of the method of organization or collaborative framework ultimately selected.

Table 1
Matrix of Potential Member Agencies and Other Stakeholders

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
Federal Agencies						
USACE			X	X		USACE maintains both a Civil Works Branch that directly develops projects in the public interest, as well as a Regulatory Branch that provides permits (Section 10 and Section 404) for project applicants.
USGS		X				Modeling data and science contributions
NOAA, NMFS		X	X	X		Essential Fish Habitat evaluation once a project is identified
USFWS			X			Implements the federal Endangered Species Act in coordination with USACE and other federal agencies once a project is identified
FRA		X	X			FRA's Office of Railroad Safety promotes and regulates safety throughout the nation's railroad industry.
Native American Tribes						
Juaneño (Acjachemen) Tribe of Native American Indians		X				Sovereign Nation/land stewardship, AB 52 consultation once a project is identified
Luiseño Tribe of Native American Indians		X				Sovereign Nation/land stewardship, AB 52 consultation once a project is identified

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
Kumeyaay Tribe of Native American Indians		X				Sovereign Nation/land stewardship, AB 52 consultation once a project is identified
Tongva Tribe of Native American Indians		X				Sovereign Nation/land stewardship, AB 52 consultation once a project is identified
State Agencies						
CCC		X	X	X		Key permitting agency (Coastal Development Permit) for any coastal resiliency project unless USACE involved, then potentially a federal Consistency Determination instead of a Coastal Development Permit
Santa Ana Regional Water Quality Control Board			X			Key permitting agency for any coastal resiliency project, Clean Water Act 401 Water Quality Certification
State Parks	X		X	X		There are several state parks and beaches located in South Orange County, including Doheny State Beach, San Clemente State Beach, Calafia State Park, and San Onofre State Beach. A right of entry permit may be needed for project construction.
Caltrans			X			This agency maintains El Camino Real, located east of the railroad tracks in the north part of the project area and west of the bluffs/along the beach in the southern part of the City of San Clemente.
California State Lands Commission			X			Key permitting agency (lease of state lands) for any coastal resiliency project

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
California Department of Fish and Wildlife		X	X			Key regulatory coordination agency for any coastal resiliency project, implements the California Endangered Species Act in conjunction with the USFWS and NOAA/NMFS
California State Coastal Conservancy				X		State agency actively supporting projects along the coast; potential funding partner
California State Association of Counties		X			X	Membership of California Counties
League of California Cities, Coastal Cities Group		X			X	Membership of California Cities
Regional Agencies						
County of Orange	X					County of Orange Parks Department owns and operates beaches and public facilities along the shoreline in South Orange County (Poche Beach, Capistrano Beach, and Dana Point Harbor). Orange County Public Works maintains roads, bridges and flood control channels.
OCTA	X			X		OCTA owns and operates the railroad corridor (including revetment and ROW) in South Orange County along with Metrolink and Amtrak. Metrolink operates railroad operations in South Orange County along with OCTA and Amtrak.

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
Local Agencies						
City of Dana Point	X		X	X		Local city government responsible for managing public works, zoning, and building regulations under a Local Coastal Program
City of San Clemente	X		X	X		Local city government responsible for managing public beach, recreational amenities and public safety under a Local Coastal Program. The city council, staff and the Beaches, Parks, and Recreation Commission will continue to be involved with the development of the Strategic Plan.
Special Districts and Public Utilities						
SCAG					X	MPO for the greater Los Angeles Region and includes Orange County
Orange County Council of Governments					X	Subregional MPO for Orange County
Capistrano Bay District				X	X	Special district that owns/manages a beach front residential community in Dana Point
Santa Margarita Water District		X				Special district that provides water supply and related infrastructure in the coastal zone
South Coast Water District		X				Special district that provides water supply and related infrastructure in the coastal zone
San Diego Gas & Electric		X				Responsible for delivering electricity and natural gas services in South Orange County

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
Southern California Edison		X		X		Owns and operates San Onofre Nuclear Generating Station and 375-acre Wheeler North Reef (offshore mitigation reef network)
Private Entities						
Capistrano Shores					X	Manufactured home residential community located on the shoreline in San Clemente
Dana Point Harbor Partners, LLC					X	Operates Dana Point Harbor
Cyprus Shores Community Association/HOA					X	Private coastal residential HOA and has formed Save Our Beaches. Located along the shoreline, east of the railroad, in southern San Clemente
Shorecliffs HOA					X	Blufftop private residential community in San Clemente east of the railroad and Pacific Coast Highway; private beachfront property with clubhouse
Cotton's Point HOA					X	Private bluff top residential community in southern San Clemente
Academic Institutions						
Scripps Institution of Oceanography, University of California, San Diego		X				Science advisors in various disciplines, including coastal processes, sea level rise, and shoreline monitoring
University of California, Irvine		X				Science advisors in various disciplines, including coastal processes, shoreline monitoring and economics
NGOs and Not-for-Profit Corporations						
Beach Cities Preservation Alliance					X	Public outreach to members

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
Bring Back our Beaches				X	X	Community interest group promoting regional beach nourishment
Coastwalk/California Coastal Trail Association					X	Public outreach to members
Chamber of Commerce					X	Public outreach to members
Dana Point Historical Society					X	Public outreach to members
Doheny State Beach Foundation					X	Public outreach to members
Making Young Lives Count					X	Public outreach to members
Orange County Bike Coalition					X	Public outreach to members
Pier Pride					X	Public outreach to members
Save Our Beaches					X	Nonprofit entity of San Clemente residents
Surfrider Foundation					X	Public outreach to members
World Surfing League					X	Public outreach to members
Transportation Entities						
Amtrak					X	National passenger railroad company of the United States. It operates intercity rail service in 46 of the 48 contiguous U.S. states and 3 Canadian provinces.
BNSF						BNSF is one of North America's leading freight transportation companies, operating a rail network of 32,500 route miles in 28 states and 3 Canadian provinces.

Agency/ Organization	Potential Roles					Notes
	Member Agency	Scientific or Technical Advisor	Permitting Authority	Funding Partner	Community Advisor	
Metrolink/SCRRRA						SCRRA or Metrolink (reporting mark SCAX) is a commuter rail system in Southern California, serving Los Angeles, Orange, Riverside, San Bernardino, and Ventura counties, as well as to Oceanside in San Diego County. The system consists of eight lines and 67 stations operating on 547 miles (880 kilometers) of track.
LOSSAN Corridor					X	The 351-mile LOSSAN Corridor travels through a six-county coastal region in Southern California and is the second busiest intercity passenger rail corridor in the United States and the busiest state-supported Amtrak route.

Notes:

- AB: Assembly Bill
- BNSF: BNSF Railway
- Caltrans: California Department of Transportation
- CCC: California Coastal Commission
- FRA: Federal Railroad Administration
- LOSSAN Corridor: Los Angeles-San Diego-San Luis Obispo Rail Corridor
- MPO: Metropolitan Planning Organization
- NMFS: National Marine Fisheries Service
- NOAA: National Oceanic Atmospheric Association
- ROW: right of way
- SCRRA: Southern California Regional Rail Authority
- USACE: U.S. Army Corps of Engineers
- USFWS: U.S. Fish and Wildlife Service
- USGS: U.S. Geological Service

14. Disposition of Assets Upon Termination

Upon termination of this Agreement, any money or assets in the possession of the organization after the payment of all liabilities, costs, expenses, and charges validly incurred under this Agreement shall be returned to the Member Agencies in proportion to their contributions determined as of the time of termination.

15. Accountability of Funds

The auditor and controller of the County of Orange, a Member Agency, is hereby designated as the auditor and controller of this organization. The auditor and controller shall draw warrants or check-warrants against the funds of the organization in the treasury when the demands are approved by the Board of Directors or such other persons as may be specifically designated for that purpose in the Bylaws. Said auditor and controller shall comply with all duties under Article 1, Chapter 3, Division 7, Title I of the California government code commencing with Section 6500. At the end of every second fiscal year, there shall be an audit conducted by an independent, accredited certified public Accountant covering such a two-year period. The auditor and controller of the organization shall establish and maintain such funds and accounts as may be required by good accounting practices or Bylaws passed and as adopted by this organization. The books and records of the organization in the hands of the auditor and controller shall be open to inspection at all reasonable times by representatives of the Member Agencies. The auditor and controller of this organization, within 120 days after the close of each fiscal year, shall give a complete written report of all financial activities for such fiscal year to Member Agencies.

16. Designation of Treasurer

Pursuant to the requirement of Section 6505.5 of the California Government Code, the treasurer of this organization shall be the Treasurer of the County of Orange, a Member Agency. The treasurer shall receive, have the custody of, and disburse organization funds upon the warrant or check-warrant of the auditor and controller pursuant to the accounting procedures established by the auditor and controller, and shall make the disbursements required by this Agreement or to carry out any of the provisions or purposes of this Agreement. The treasurer of this organization may invest organizational funds in accordance with general law. All interest collected on said funds shall be accounted for and posted to the account of such funds.

17. Effective Date of Agreement

This Agreement shall become effective for all purposes at such time as this Agreement has been executed by all Member Agencies.

18. Agreement Repository

A fully executed copy of this JPA and any amendments thereto shall be filed with the Board of Directors and each signatory Member Agency with notice of the Agreement or amendment prepared and filed with the Office of the Secretary of State in accordance with California Government Code Section 6503.5.

Copies of the Bylaws and Amendments thereto shall be filed with each Member Agency.

IN WITNESS WHEREOF, each of the following Member Agencies has caused this JPA to be executed by having affixed thereto the signature of the official of said Agency authorized therefore by the legislative body of that Agency.

COUNTY OF ORANGE

By:

Resolution No.:

Date:

ATTEST:

Approved as to Form

County Clerk

CITY OF DANA POINT

By:

Resolution No.:

Mayor

Date:

ATTEST:

Approved as to Form

City Clerk

DRAFT

CITY OF SAN CLEMENTE

By:

Resolution No.:

Mayor

Date:

ATTEST:

Approved as to Form

City Clerk

DRAFT

AGENCY

By:

Resolution No.:

Date:

ATTEST:

Approved as to Form

Clerk

DRAFT

AGENCY

By:

Resolution No.:

Date:

ATTEST:

Approved as to Form

Clerk

DRAFT

AGENCY

By:

Resolution No.:

Date:

ATTEST:

Approved as to Form

Clerk

DRAFT