

Appendix E
Governance Structure Approaches

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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
Luißeño 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

At a minimum, elected representatives from member agencies such as the County of Orange, City of Dana Point, City of San Clemente, Orange County Transportation Agency (OCTA), California Department of Parks and Recreation (State Parks) and representatives from local residential communities and homeowner's associations (HOAs) will need to be at the cooperative agreement "table."

The rationale for identifying the member agencies is based on underlying land ownership or land management responsibilities. "Member agencies" are the agencies likely to be the ones primarily responsible for funding coastal resiliency projects due to an underlying fiduciary responsibility and thus would be the voting members of any such regional organization.

Other non-voting stakeholders will provide valuable input on coastal resiliency project planning and development efforts and will generally include community groups, HOAs, environmental nonprofits, regulatory agencies, science advisors, and others who have an interest in projects but may not be a part of the decision-making process unless they are also a financial contributor.

The leadership would establish the preferred organizational structure and determine if they wanted to form a JPA as a new separate legal entity (similar to BEACON) or if they preferred to be a working group or subcommittee embedded within an existing established organization such as the County of Orange (similar to the SANDAG Shoreline Preservation Working Group).

Once the overall collaborative framework is agreed to, the parties would either enter into a MOA, MOU, or Joint Powers Agreement or would organize to form a wholly new entity (Joint Powers Agency or Authority). Examples of these collaborative agreements are provided as Attachment 1 of this appendix. These examples are intended to be illustrative and would need to be fine-tuned by the member agencies to outline specific goals, objectives, roles, responsibilities, and projects that the regional collaborative would commit to working on collectively as a unified regional coastal resiliency group.

The group could take on all tasks associated with implementing regional coastal resiliency shoreline protection and enhancement measures, from fundraising to project development, operations and maintenance activities and obtaining funding for project implementation, project delivery and post-project monitoring and reporting.

As previously discussed, the regional collaborative could be established to have committees or focused subgroups who would be tasked with specific aspects of coastal resiliency project implementation such as securing funding, serving as a liaison to other elected officials or technical supporting roles. Much of this would be an outgrowth of the governance structure that is ultimately selected.

The function of the group would be driven by the member agencies through an iterative process once the overall goals are fully articulated and mutually agreed upon. The group may also want to consider retaining advocacy expertise for both the state and federal levels to assist in obtaining necessary project funding from the state and federal governments.

This list is intended to be a starting point and is based largely on the list of invited groups and participating groups involved in the development of the Strategic Plan. All interested parties, individuals and groups continue to be invited and encouraged to participate in coastal resiliency planning and project implementation efforts in South Orange County.

Information on Joint Powers Authorities

The term “joint powers” is a term used to describe government agencies that have agreed to combine their powers and resources to collectively work on addressing and resolving common problems. The JPA acronym can mean multiple things, including a Joint Powers Agreement, a Joint Powers Agency, and/or a Joint Powers Authority. The Strategic Plan has used JPA to refer to Joint Powers Authority because the text of California Government Code Section 6500 uses that term. The use of joint powers as a consortium of governments and other stakeholders is intended to facilitate collaboration and resource-sharing for mutual support on common actions and goals. The government agencies that participate in JPAs are called “member agencies.”

Joint powers are exercised when the public officials of two or more agencies agree to create another legal entity or establish a joint approach to work on a common problem, fund a project or projects, or act as a representative body for a specific activity. Agencies that can exercise joint powers include federal agencies, state agencies, counties, cities, special districts (including HOAs formed as such), and Native American Tribes. Each JPA is unique, as there is no set formula for how governments should use their joint powers. One agency will typically administer the terms of the agreement, which may be short term, long term, or open ended with no sunset clause.

As noted, JPA is an acronym used for the following terms, which are explained in more detail below:

- Joint Powers Agreement (which could be in the form a MOA or MOU)
- Joint Powers Agency
- Joint Powers Authority

Joint Powers Agreement: A Joint Powers Agreement is a formal, legal agreement between two or more public agencies or entities that share a common power and want to jointly implement programs, build facilities, or deliver services. Officials from those public agencies formally approve a cooperative arrangement. With a Joint Powers Agreement, a member agency agrees to be responsible for building a project or delivering a service on behalf of the other member agencies.

This type of JPA can be established through a MOA or MOU. A sample MOA/MOU is included in Appendix E to this Strategic Plan.

Joint Powers Agency or Joint Powers Authority: An alternative way to exercise joint powers is to create a new organization or entity that is separate from the member agencies. This organization is known as a Joint Powers Agency or Joint Powers Authority and is a new, separate government organization created by the member agencies, but is legally independent from them.

Similar to a Joint Powers Agreement, a Joint Powers Agency/Authority shares powers common to the member agencies, which are outlined in a Joint Powers Agreement. As mentioned above, a sample JPA for a new entity is included as Attachment 1 to this appendix.

If an agreement's terms are complex or if one member agency cannot act on behalf of all members, forming a new government agency may be the best path forward. This new agency would typically be made up of officials from the member agencies on its governing board. Sometimes public officials establish JPAs specifically to arrange financing by selling bonds. These bonds are then sold to the public as an investment opportunity to create the capital needed to finance the construction of public infrastructure and/or public facilities.

Benefits of Joint Exercise of Powers

A public agency would enter into a Joint Powers Agreement or form a Joint Powers Authority to formally enable the sharing of resources and combining services with the intended goal that the member agencies, and their taxpayers, would save time and money. Officials create these collaborative agreements to reduce costs, be more operationally efficient, and reduce or eliminate overlapping or redundant planning efforts or services.

When public officials create a Joint Powers Agency, the new organization does not necessarily need to include "joint powers" or "JPA" in its name. However, if a public organization relies on a Joint Powers Agreement, the organization is a JPA, regardless of its title. JPAs are distinct and separate from special districts and/or nonprofit organizations, which are described below.

History and Context of Joint Exercise of Powers

In California, the concept of allowing public agencies to share powers started in the 1920s (California State Legislature 2007). The following is a brief overview of the history of JPAs in California as excerpted from a 2007 reference document prepared by the California State Legislature, Senate Local Government Committee (California State Legislature 2007):

- 1921: Senate Bill 18 is approved, which allows any two cities or counties to enter into agreements and provide funds to exercise a power common to each.
- 1941: Legislature authorizes special districts to form JPAs.

- 1943: Legislature allows the federal government and state agencies to enter into JPAs with California counties, cities, and special districts.
- 1947: Legislature approves the formation of a separate government agency—a Joint Powers Agency—to operate independently of its member agencies.
- 1949: Legislature gives JPAs the ability to incur debt and sell bonds to support public facility construction.
- 1985: Legislature passes the Marks-Roos Local Bond Pooling Act, which allows local agencies to form JPAs and sell bonds, then loan the money to local agencies. This practice, known as bond pooling, saves money on interest rates and finance charges.
- 2000: Legislature formally establishes the Joint Exercise of Powers Act.

Governments get their authority to work together from the Joint Exercise of Powers Act (see California Government Code Section 6500, et seq.). JPAs can exercise only those powers that are common to their member agencies. Joint Powers Agencies' meetings are open to the public and subject to the Ralph M. Brown Act. Further, JPAs must follow the Public Records Act, the Political Reform Act, and other public interest laws that ensure political transparency. Special legislation allows some nongovernmental organizations to participate in Joint Powers Agreements, and specific Tribal governments have special statutory authority to enter Joint Powers Agreements.

JPAs differ from other forms of government because they are the only type of government formed by mutual agreement. Unlike other governments, JPAs are not formed by signatures on petitions, and they are not approved by a vote of the people. Public agencies create JPAs on a voluntary basis.

The formation of a JPA begins when public officials negotiate a formal agreement that spells out the member agencies' intentions, the powers that they will share, and other mutually acceptable conditions that define the intergovernmental arrangement. Each member agency's governing body then approves the Joint Powers Agreement, which is, in effect, a mutually negotiated document that governs and guides the resulting arrangement. Each JPA is unique, reflecting a mutually acceptable agreement among public agencies that have joined together for a common purpose, which in this instance is to develop coastal resiliency projects that benefit residents, businesses, and visitors to South Orange County.

If a Joint Powers Agreement creates a new Joint Powers Agency, the JPA must file a Notice of a Joint Powers Agreement with the secretary of state. Until public officials file those documents, a JPA cannot exercise any of its powers or incur any debts, liabilities, or obligations.

An agreement that creates a wholly new Joint Powers Agency describes the size, structure, and membership of the JPA's governing board and documents the JPA's powers and functions. As a legally separate public agency, the JPA can sue or be sued, hire staff, obtain financing to build public

facilities, and manage property. Joint Powers Agreements usually protect their member agencies from a JPA's debts or other liabilities.

An example of a JPA that created a new legal entity for the purpose of coastal resiliency is the BEACON located in Ventura County. Since its formation, BEACON has shifted away from an implementation-focused mission toward a research- and study-focused mission, which differs from the goal of this Strategic Plan.

JPAs differ from other local governments in another important way. Before counties, cities, and/or special districts can issue revenue bonds, they need majority-voter approval. However, a JPA can issue revenue bonds without holding an election. State law allows a JPA to issue revenue bonds without voter approval, provided that each of the JPA's member agencies adopts a separate local ordinance.

Key Value of a Joint Exercise of Powers: Developing Unified Solutions to Common Problems

A joint exercise of powers can allow multiple agencies to collectively solve common problems and secure federal and state grants to aid in project completion. A joint exercise of powers allows local officials to deliver enhanced services and to deliver them more efficiently by combining resources, talents, and funds.

Orange County and local cities can form a JPA (via agreement or establishment of an agency or authority) for coastal resiliency planning and project implementation purposes. In this instance, the JPA member entities would work together to solve regional coastal erosion problems within and beyond county lands and city limits. The JPA would bring together experts from several agencies to develop regional or subregional strategies, such as solutions for southern Orange County because they are all within the same part of the Oceanside Littoral Cell.

JPAs perform many functions, although many perform only one service. There are no official categories for the types of JPAs, but their services fall into five broad groups: public services, financial services, insurance pooling and purchasing discounts, planning services, and regulatory enforcement. Agencies create JPAs to deliver more cost-effective services, eliminate duplicative efforts, and consolidate services into a single agency/entity.

JPAs can use the Revenue Bond Act of 1941 and the Marks-Roos Local Bond Pooling Act of 1985 to generate public capital. Public officials use JPAs to finance the construction of public works, such as the types of coastal resiliency projects contemplated in this Strategic Plan. These authorities sell Marks-Roos bonds to finance public improvements, such as a new jail, local golf course, or parking lot. The California Debt and Investment Advisory Commission estimates that more than half of all

JPAs formed since 1985 issue Marks-Roos Act bonds for public improvements (California State Legislature 2007).

JPAs offering insurance-pooling and reduced-price purchasing options usually involve agencies that want to buy insurance or supplies and equipment for their member agencies, such as leasing or purchasing a regionally based dredge that has been discussed in the context of regional coastal resiliency planning efforts recently (i.e., dredge consortium to lease or buy a dredge).

Funding Needs and Strategies

A JPA will need money to operate. The two most popular funding methods are either creating a revenue stream or raising capital by issuing bonds. Although JPAs do not need voter approval before issuing bonds, each member agency must pass an ordinance. Those ordinances have a 30-day period in which voters can object by signing referendum petitions that trigger an election. If there is no referendum petition or if the petition fails to qualify, the JPA can sell the bonds and use the proceeds to build identified coastal resiliency projects or buy equipment.

JPAs that provide financing and sell bonds for multiple agencies pay for their operations by collecting fees from their member agencies for the JPA's bond services. Fees for a statewide project could potentially be decided by percentage of shoreline of the overall region that each entity owns (Table 2).

Bond transactions are complicated and require skilled financial professionals to ensure that the bond sales meet legal and market requirements. Large JPAs providing financial assistance hire financial experts and sell their services to local agencies that want to issue bonds. Marks-Roos Act bonds have the following features:

- Do not require voter approval or a referendum before a JPA can issue the bonds
- Can be issued at a public sale or privately, which provides more flexibility in finding a buyer who is best suited for the bond
- Can be sold as one large bond with the proceeds loaned to its member agencies, which reduces extra loan fees and other charges

A Joint Powers Agreement outlines the terms for ending the agreement. For JPAs that issue bonds, there would be provisions on how bonds would be repaid, regardless of whether the JPA is still operating. The assets that a JPA acquires during its operation would be divided among the member agencies, following the agreement's terms.

Like other local agencies, JPAs must follow the Ralph M. Brown Act, the California Public Records Act, the Political Reform Act, and other public interest laws. They must print agendas and permit the public to participate in their meetings.

The Joint Exercise of Powers Act does not allow a JPA to levy new taxes or assessments. However, a JPA's member agencies could levy their own taxes or benefit assessments and contribute the revenues to the JPA's operation. But the member agencies must still comply with the California Constitution and state law when levying taxes or assessments.

Table 2
Summary of Shoreline Length and Percentage by Jurisdiction/Entity

Municipal Jurisdiction	Entity (Ownership/Management Responsibility)	Shoreline Length (Miles)	Percentage of South Orange County Regional Shoreline
Dana Point	Dana Point Beaches (County)	1.22	13%
	Doheny State Beach (State Parks)	1.35	15%
	Capistrano Beach Park (County)	0.21	2%
	Capistrano Bay District (Private)	1.46	16%
	Poche Beach Park (County)	0.04	0.4%
	Poche City Beach (City)	0.2	2%
San Clemente	Shorecliffs Beach Club (Private)	0.05	1%
	Capistrano Shores Mobile Home Park (Private)	0.69	8%
	San Clemente City Beaches (City)	2.13	23%
	Calafia State Beach (State Parks)	0.27	3%
	San Clemente State Beaches (State Parks)	0.36	4%
	Cyprus Shores HOA Beach (Private)	0.3	3%
	Cyprus Cove HOA Beach (Private)	0.3	3%
	Cotton's Point Estates HOA Beach (Private)	0.25	3%
	Breakers HOA Beach (Private)	0.25	3%
OCTA Railroad, Revetment, and ROW Along Beach ¹		7.3	80%
Total Shoreline Length in South Orange County Study Area		9.08	100%

Note:

- OCTA railroad, revetment, and ROW along beach overlap with other entities; therefore, the sum of the total is greater than 9.08. The 7.3 miles of shoreline length are OCTA operated in conjunction with Metrolink, LOSSAN Corridor, and Amtrak.

Difference Between a JPA and a Special District

A JPA is distinct from a special district, though they may provide similar services. A special district is a separate local government with its own governing body that delivers services to a particular area. Special districts rely on state laws for their legal authority and elected or appointed boards of directors for their governance.

The legal authority for all JPAs comes from the California Joint Exercise of Powers Act. The formation of a JPA is relatively straightforward and requires only the signing of a Joint Powers Agreement by

the member agencies. In contrast, procedures to form a new special district usually includes the approval by the Local Agency Formation Commission and may include voter approval.

Advantages and Disadvantages of JPAs

Potential advantages of establishing a regional coastal resiliency JPA include the following:

- JPAs are flexible and relatively easy to form. The Joint Exercise of Powers Act allows any government agency to participate in a JPA. The act permits the member agencies to negotiate their levels of commitment and structure their own governing boards.
- JPAs may be more efficient than separate governments. JPAs allow local agencies to join forces and tackle issues together. The personnel, expertise, equipment, and property of each agency can be consolidated, promoting economy and efficiency.
- JPAs finance public works. JPAs can finance physical improvements and can jointly purchase equipment, finance insurance pools, refinance member agencies' debts, and provide working capital by selling bonds.
- JPAs cooperate on regional solutions. JPAs serve as public forums for regional problems, providing residents with the opportunity to focus on regional issues.
- JPAs can assist communities in finding grants. Local agencies form JPAs to pursue grants to fund better services, start new programs, or purchase equipment. Participation in a JPA helps local authorities show the granting entities that they are cooperating on regional problems and not competing with each other for grant funds for separate projects.

Potential disadvantages of having a JPA include the following:

- JPAs require mutual trust to form. Getting separate public agencies to cooperate can be hard because each organization has its own powers, purposes, and politics. Sometimes it can take a while to build the trust that is required before public officials are ready to sign a Joint Powers Agreement that puts the common good ahead of individual needs.
- JPAs can be hard to keep together. Because a Joint Powers Agreement is merely a voluntary relationship among the member agencies, local problems may threaten to split up the JPA. Changes in local public support, new political leaders, or financial pressures may cause a member agency to reconsider participating in the JPA. If a member agency decides to leave the JPA, the departure may harm the JPA's long-term bonds or purchasing programs.
- JPAs can be hard to dissolve. To avoid the financial problems that can result if member agencies pull out of JPAs, some Joint Powers Agreements include specific protocols that make it difficult to dissolve the agreements. To keep petty problems from splintering a long-term JPA, a dissident government may have to give the other member agencies months or years of warning before dropping out.

- JPAs can be complex. Some people see JPAs as an additional and unnecessary layer of government, even when that may not be the case. Local residents may ask why they must call the JPA instead of a local office for answers to their questions. When agencies combine forces or create a separate agency to provide a service, the visibility and accountability of the JPA may not be readily apparent.

JPAs can be a successful approach to achieving intergovernmental cooperation, which can save money and time for local agencies and their taxpayers/constituents.

JPA Fundamentals

In general, each of the JPAs shown in the four examples has the following organizational elements:

- Member Agencies (voting members, usually elected officials from the county and cities)
- Ex-Officio Members (non-voting members, such as regulatory entities)
- Scientific/Technical/Academic Advisors (non-voting members)
- Community Advisors and Nongovernmental Organizations (non-voting members)

Most JPAs' governing boards have five or seven members, but state law does not require a specific number. Each Joint Powers Agreement outlines its own rules about how its board will be set up, keeping in mind that each member agency will want to be sure that its interests are represented.

The member agencies that created the Joint Powers Agency or Authority pay for the organization's operation. Their Joint Powers Agreement usually spells out how much each member agency contributes, based on such factors as its projected use of services.

There is no fixed time frame for a JPA duration. Member agencies can dissolve a JPA when it no longer serves their interests, or a predetermined termination date may be part of the Joint Powers Agreement.

References

- California State Legislature (California State Legislature, Senate Local Government Committee), 2007. *Governments Working Together: A Citizen's Guide to Joint Powers Agreements*. August 2007.
- USACE (U.S. Army Corps of Engineers), 2013. *Orange County Coastal Regional Sediment Management Plan*. Prepared for U.S. Army Corps of Engineers, County of Orange, and California Coastal Sediment Management Workgroup. Prepared by Everest International Consultants, Inc., in association with Science Applications International Corporation and Dr. Philip King. June 2013.

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Attachment 1

Draft Joint Powers Agreement and Memorandum of Understanding

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March 4, 2024

~ Draft Examples ~

**South Orange County Regional Coastal Resiliency
Strategic Plan**

Joint Powers Agreement (JPA)

and

**Memorandum of Understanding (MOU)/
Memorandum of Agreement (MOA)**

South Orange County Shoreline Management Authority Joint Powers Agreement

This presentation reflects the Agreement made between the _____, hereinafter collectively or individually referred to as "Member Agencies" of the South Orange County Coastal Resiliency Authority (SOCCRA). This document reflects the Joint Powers Agreement (JPA) with an effective date of _____, 2024 as hereunder agreed to by the Member Agencies.

RECITALS

- A. Member Agencies recognize the urgent need for a coordinated, regional, littoral sand cell and sediment management planning of beach and shoreline areas in order to maximize benefits to the region and avoid unwanted or adverse effects to adjoining shorelines.
- B. Member Agencies believe that the joint exercise of their powers will provide the foundation for a regional organization capable of:
- *Developing beach sand replenishment and retention planning and management projects and;*
 - *Protection and enhancement of the public beach, sand and shoreline resources and;*
 - *Protection of critical public infrastructure along the coast of South Orange County.*
- C. Member Agencies wish to create a regional organization that will collaboratively pursue and develop coastal resiliency and protection projects of public use and benefit.
- D. Member Agencies will make comments to other Member Agencies and granting agencies regarding projects pursuing federal, state, regional, and local grants and/or regulatory permits and/or approvals to optimize collaboration, coordination, and cooperation to best serve local and regional interests.
- E. Member Agencies believe that a regional organization directed by elected, appointed, or otherwise senior officials from each Member Agency is best suited for this area-wide beach sand replenishment and retention planning and project development task.
- NOW, THEREFORE, in consideration of the recital and the mutual obligations of the parties herein expressed, Member Agencies agree as follows:

1. Definitions

The following terms shall have the meaning ascribed to them within this section unless the content of their use dictates otherwise:

- A. "North Oceanside Littoral Sand Cell" shall mean a geographically designated coastal compartment with specified supplies and loss of sand and defined transport mechanism paths.
- B. "North Oceanside Littoral Cell" shall mean the sand transport cell extending generally from just south of Dana Point Harbor to San Mateo Point in San Clemente near San Onofre State Park.
- C. "Fiscal Year" shall mean that year beginning July 1 and ending June 30.

2. Establishment of the South Orange County Coastal Resiliency Authority (SOCCRA) Joint Powers Agreement (JPA)

There is hereby created the SOCCRA JPA to be known and denominated as the South Orange County Coastal Resiliency Authority (SOCCRA), which shall be a public entity separate and apart from any Member Agency. This Joint Powers Agency is established under authority of Title I, Division 7, Chapter 5 of the California Government Code (§6500 et seq.) with all powers and authority of such an agency, as hereunder more fully described.

The SOCCRA JPA shall be governed by the terms of this Joint Powers Agreement and any Bylaws passed and adopted by its governing board.

3. Purpose of the SOCCRA JPA

The various Member Agencies have a strong, common interest in the preservation and restoration of sandy public beaches and protection of public beaches and critical public infrastructure located along the coastline. The maintenance of wide, sandy beaches helps promote continued safe public access to the beach and to protect against costly property damage and, further, benefits the entire region economically by promoting a wide variety of no-cost and low-cost public recreation opportunities and continuing to support a visitor-based local and regional economy. Furthermore, because sand moves generally from north to south in the northern part of the Oceanside Littoral Cell, beach restoration activities undertaken in one area may affect the character of the shoreline in adjoining jurisdictions.

Therefore, the purpose of the SOCCRA JPA is to foster greater cooperation toward the maintenance and enhancement of the beaches within the jurisdiction of the SOCCRA JPA Member Agencies.

4. Objectives of the SOCCRA JPA

The primary objectives for which the SOCCRA is created are as follows:

- A. Identify green, grey, and hybrid solutions to address and abate coastal erosion.
- B. Coordinate the use of local, regional, state, federal, and private resources.
- C. Facilitate design, financing, construction, and maintenance of beach restoration, shoreline protection, and coastal enhancement projects.
- D. Collect and analyze data needed to facilitate the design of projects and to monitor their performance.
- E. Coordinate local government involvement and keep elected officials and citizens informed.
- F. Support the preparation of contingency plans by Member Agencies to be ready in emergencies, to direct public and private efforts to combat erosion, and to take steps necessary to coordinate the protection of public infrastructure and private property.
- G. Spearhead local government lobbying efforts at the state and federal levels to secure funding.

5. Authority of the SOCCRA JPA

The SOCCRA is granted the authority by this JPA to:

- A. Review emerging proposals for beach restoration, shoreline erosion control, and enhancement projects for consistency with local and regional goals, policies, and programs.
- B. Comment on such proposals to Member Agencies and appropriate State and Federal agencies.
- C. Propose and participate in joint or area-wide projects for beach restoration, shoreline erosion control, and protection projects.
- D. Act as agent for regional project applications for beach restoration, shoreline erosion control, and shoreline protection and enhancement projects.
- E. Coordinate funding for beach restoration, shoreline erosion control, protection, and enhancement projects from private and public sources at the local, regional, State, and Federal levels.
- F. Adopt and amend Bylaws, rules, and regulations as may be required for the conduct of meetings and the orderly operation of the organization.

6. Limitation of Authority

Neither the SOCCRA JPA nor a majority of the members thereof shall have the authority to impose any plan, duty, obligation, or other responsibility upon any Member Agency thereof without the

consent of such Agency; further, no Agency shall be required to do anything it does not specifically agree to do. Any recommendations, plans, or programs promulgated by the SOCCRA shall be advisory only as to Member Agencies.

7. Governing Board of the SOCCRA

All powers of the SOCCRA shall be exercised by the Board of Directors. The Board of Directors shall be composed of one designated representative and one alternate from each Member Agency. Each designated director and alternate must be a mayor, council-person or supervisor, or other senior level agency official.

8. Ex-Officio Membership

The Board of Directors may designate ex-officio members of the SOCCRA. The ex-officio members shall have the right to participate in the SOCCRA but may not exercise a vote.

9. Ralph M. Brown Act

All meetings of the SOCCRA, including without limitation regular, adjourned regular, and special meetings of the Board of Directors, shall be called, noticed, held, and conducted in accordance with the provisions of the Ralph M. Brown Act (commencing with Section 54950 of the California Government Code).

10. Quorum

A majority of the voting members of the Board of Directors of the SOCCRA shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time.

11. Voting

Each voting member of the Board of Directors shall be entitled to one vote. No action shall be taken without an affirmative vote of a majority of the voting members present.

12. Addition of Members

There may be future opportunities for the addition of new members to the SOCCRA at the discretion of the SOCCRA Board of Directors. To join, the agency/entity must execute the JPA then in effect and agree to abide by the Bylaws.

13. Termination of Agreement

This Agreement shall terminate upon the withdrawal of 50% or more of Member Agencies from this Organization by action of the governing board of each withdrawing Member Agency.

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