

APPENDIX

C PROJECT-RELATED AGENCY COMMUNICATIONS

- **California Coastal Commission (CCC) Permit Requirement to Provide 176 Parking Spaces East of Coast Highway 101**
Excerpt of Special Conditions section from approved Coastal Development Permit for North Coast Highway 101 Leucadia Streetscape project. From CCC staff report, September 28, 2018.
- **SANDAG Letter to City of Encinitas, March 20, 2019**
- **NCTD Letter to City of Encinitas, November 6, 2019**

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APPENDICES

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EXHIBITS

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[Exhibit 6 – Proposed Changes to Figure 2 -Circulation Element of the City’s Land Use Plan](#)

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[Exhibit 9 – Appeals by Commissioner Steve Padilla, Commissioner Effie Turnbull-Sanders, Leah Bissonette, Frank Birkner, Christine Wagner, Susan Turney, Lynn Marr, Richard Kingsland, Spencer Mosher, James Mosher, Doug Fiske, Robert Hemphill, Alice Lemon, David Smith, Donna Westbrook](#)

[Exhibit 10 – City of Encinitas Final Resolution No. 2018-34](#)

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 certified LCP and the public access policies of the Coastal Act. 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.

VII. STANDARD CONDITIONS

This permit is granted subject to the following standard conditions:

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

VIII. SPECIAL CONDITIONS

The permit is subject to the following conditions:

1. **Final Plans.** PRIOR TO ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit final plans for the proposed streetscape improvements. The final plans shall be in substantial conformance with the plans submitted with this application by Michael Baker International dated April 2, 2018, shall be subject to the review and written approval of the Executive Director, and shall:
 - (a) Identify the number and location of all public parking spaces proposed for the development site. A minimum of 235 formal public on-street vehicle parking

spaces and 39 motorcycle parking spaces shall be provided on the Highway and 176 formal vehicle parking spaces shall be provided within the three new parking bays on the east side of Highway 101.

- (b) Designate three exclusive “Rideshare” pickup and drop off locations within the Highway corridor adjacent to the Grandview, Beacons, and Stonesteps beach access points. If proposed public parking spaces are used to meet this requirement, the “Rideshare” spaces shall be limited to a maximum of six parking spaces.

The permittee shall undertake the development in accordance with the approved final streetscape improvement 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 Coastal Commission approved amendment to this coastal development permit amendment unless the Executive Director determines that no additional amendment is legally required.

2. **Final Landscape Plans.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit final landscape plans for the proposed streetscape improvements. The final landscape plans shall be in substantial conformance with the plans submitted with this application by MW Peltz and Associates, Inc. received 04/02/2018 and shall be subject to the review and written approval of the Executive Director. The final landscape plans shall include the following:

- (a) A plan showing the type, size, extent and location of all proposed vegetation and any necessary irrigation.
- (b) Only drought tolerant native or non-invasive plant materials may be planted throughout the project site. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, 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 ‘noxious weed’ by the State of California or the U.S. Federal Government shall be planted within the property.
- (c) Low-flow efficient irrigation systems shall be utilized. Any irrigation system shall be designed with drip lines, where feasible; check valves at low points to reduce excess drainage; automatic controllers; rainy weather shut off controls; and, if rotor heads are used, minimal head coverage overlap.

The permittee shall undertake the development in accordance with the approved final landscape 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 Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

3. **Storm Water Quality Management Plan.** PRIOR TO CONSTRUCTION, the Green Streets PDP Exempt Storm Water Quality Management Plan (SWQMP), dated January 22, 2018, shall be updated in accordance with the findings of a geotechnical investigation regarding site-specific soil-infiltration conditions. The 30% Plan sheets shall be updated, where needed, to reflect the final site drainage and BMP design. The final documents shall be submitted for review and written approval of the Executive Director.

4. **Construction Pollution Prevention Plan.** PRIOR TO CONSTRUCTION, a Construction Pollution Prevention Plan (CPPP) shall be submitted for review and approval. The plan shall incorporate the Best Management Practices cited in the preliminary SWQMP and the final SWQMP. In addition, the CPPP shall comply with the following requirements:

- (a) **Protect Public Access.** Construction shall protect and maximize public access, including by:
 - i. All construction methods to be used, including all methods to keep the construction areas separated from public recreational use areas (e.g., using unobtrusive fencing or equivalent measures to delineate construction areas), shall be clearly identified on the construction site map.
- (b) **Property Owner Consent.** The Construction and Pollution Prevention Plan shall be submitted with evidence indicating that the owners of any properties on which construction activities are to take place, including properties to be crossed in accessing the site, consent to use of their properties.
- (c) **Minimize Other Impacts of Construction Activities.** Other impacts of construction activities shall be minimized through the use of appropriate BMPs, including:
 - i. The damage or removal of non-invasive vegetation (including trees, native vegetation, and root structures) during construction shall be minimized, to achieve water quality benefits such as transpiration, vegetative interception, pollutant uptake, shading of waterways, and erosion control.
 - ii. Soil compaction due to construction activities shall be minimized, to retain the natural stormwater infiltration capacity of the soil.
 - iii. The use of temporary erosion and sediment control products (such as fiber rolls, erosion control blankets, mulch control netting, and silt fences) that incorporate plastic netting (such as polypropylene, nylon, polyethylene, polyester, or other synthetic fibers) shall be avoided, to minimize wildlife entanglement and plastic debris pollution.
 - iv. Staging and storage of construction equipment and materials shall occur in inland areas at least 50 feet from coastal waters, drainage courses, and storm drain inlets, if feasible. Upon a showing of infeasibility, the applicant may

submit a request for review and written approval to the Executive Director for staging and storage of construction equipment and materials closer than 50 feet from coastal water, drainage courses, and storm drain inlets. Construction is prohibited outside of the defined construction, staging, and storage areas.

- (d) Construction Site Map and Narrative Description. The Construction and Pollution Prevention Plan shall include a construction site map and a narrative description addressing, at a minimum, the following required components:
- i. A map delineating the construction site, construction phasing boundaries, and the location of all temporary construction-phase BMPs (such as silt fences, inlet protection, and sediment basins).
 - ii. A description of the BMPs that will be implemented to minimize land disturbance activities, minimize the project footprint, minimize soil compaction, and minimize damage or removal of non-invasive vegetation. Include a construction phasing schedule, if applicable to the project, with a description and timeline of significant land disturbance activities.
 - iii. A description of the BMPs that will be implemented to minimize erosion and sedimentation, control runoff and minimize the discharge of other pollutants resulting from construction activities. Include calculations that demonstrate proper sizing of BMPs.
 - iv. A description and schedule for the management of all construction-phase BMPs (including installation and removal, ongoing operation, inspection, maintenance, and training). Identify any temporary BMPs that will be converted to permanent post-development BMPs.

5. **Sign Program.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT, the applicant shall submit plans for a comprehensive sign program, documenting all signage proposed for the development site. The comprehensive sign program plans shall be subject to the review and written approval of the Executive Director. These plans shall include the following:

- (a) No commercial or other advertising shall be permitted.
- (b) Roof or tall freestanding pole signs shall not be permitted and monument signs shall not exceed eight feet in height.

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

6. **Local Coastal Program Amendment.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the City shall submit, for review and written concurrence of the Executive Director, documentation that the Coastal Commission has effectively certified Local Coastal Program Amendment No. LCP-6-ENC-18-0034-1, as necessary to ensure that the subject project is consistent with the City's certified LCP.

7. **North County Transit District Final Approval.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written concurrence of the Executive Director, documentation that the City and the North County Transit District have executed a final agreement to locate the proposed parking spaces, landscaping, and infrastructure improvements within North County Transit Right-Of-Way. An amendment to this permit will be required if any of the parking spaces are proposed to be removed in the future.

8. **Traffic Monitoring Plan.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written concurrence of the Executive Director, a traffic monitoring plan to monitor the performance of the project corridor, which requires the following:

- (a) Northbound and southbound travel time through the project corridor shall be measured on a Saturday or Sunday, a minimum of two separate days each month, during beach use and peak travel volume periods. Determination of the monitoring dates shall be randomized and selected for the entire year prior to September 1 of each year.
- (b) Provisions for submittal of a report to the Executive Director of the Coastal Commission by September 1 of each year (beginning the first year after construction of the project is completed). Annual reports shall be prepared and submitted for a period of 5 years after completion of project construction, and a final report 10 years after completion.

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

9. **Fence Plan.** PRIOR TO THE ISSUANCE OF THIS COASTAL DEVELOPMENT PERMIT, the applicant shall submit, for review and written concurrence of the Executive Director, a fence plan, documenting all permanent fencing that is proposed for the development site. The fence plan shall be subject to the review and written approval of the Executive Director. The plan shall include the following:

- (a) Chain link fencing is prohibited.

- (b) Fencing shall consist of post and rail type fencing or an alternative fencing style that is compatible with the character or the surrounding area.

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

10. **Parking Restrictions.** By acceptance of this permit, the applicant acknowledges and agrees to the following:

- (a) Paid parking within the three new parking bays on the east side of the Highway is prohibited.
- (b) Proposals for paid parking elsewhere in the project corridor will require an amendment to this permit.
- (c) Proposals for timed parking within the three new parking bays on the east side of the Highway or elsewhere in the project corridor will require an amendment to this permit.

IX. FINDINGS AND DECLARATIONS

The Commission finds and declares as follows:

A. PROJECT DESCRIPTION

A detailed project description is contained above within the Substantial Issue findings. The City has not modified the proposed project since the filing of the appeals. However, the City has provided additional information and analysis related to the proposed project. Specifically, the City has provided additional analysis related to the expected traffic circulation.

The standard of review is the certified City of Encinitas Local Coastal Program (LCP) and because the site is partially located between the first public road and the sea, the public access policies of Chapter 3 of the Coastal Act also serve as a standard of review.

B. PUBLIC ACCESS/RECREATION

The relevant public access and recreation policies of the Coastal Act and the City of Encinitas' certified LCP are cited in the Substantial Issue portion of the staff report, and are incorporated herein.



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March 20, 2019

File Number 3400600

Ms. Brenda Wisneski
 Development Services Director
 City of Encinitas
 505 South Vulcan Avenue
 Encinitas, CA 92024

MEMBER AGENCIES

*Cities of
 Carlsbad
 Chula Vista
 Coronado
 Del Mar
 El Cajon
 Encinitas
 Escondido
 Imperial Beach
 La Mesa
 Lemon Grove
 National City
 Oceanside
 Poway
 San Diego
 San Marcos
 Santee
 Solana Beach
 Vista
 and
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 Transit System
 North County
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 United States
 Department of Defense
 San Diego
 Unified Port District
 San Diego County
 Water Authority
 Southern California
 Tribal Chairmen's Association
 Mexico*

Dear Ms. Wisneski:

Subject: City of Encinitas North Coast Highway 101 Streetscape and El Portal Undercrossing Design Reviews

After further discussions with city staff, this letter replaces the February 13, 2019, letter from SANDAG.

In their December 27, 2018, letter to the City of Encinitas, North County Transit District (NCTD) staff requested that the San Diego Association of Governments (SANDAG) perform a consistency review to ensure the proposed Coast Highway 101 Streetscape Project is consistent with the long-range Regional Transportation Plan (RTP) as determined by SANDAG and in collaboration with NCTD, pursuant to California Senate Bill 1703 (Peace, 2002). Furthermore, the SANDAG review was to include future double-track plans, Coastal Rail Trail (CRT), and handling of storm water drainage using NCTD's design standard drawings providing minimum track and maintenance operation requirements. In their December 14, 2018, comments on the 100 percent design plans for the El Portal Undercrossing, NCTD noted that the Underpass 100 percent design plan alignment may be in conflict with the future railroad double-track alignment between Encinitas COASTER Station and La Costa Avenue and noted that the Undercrossing shall be compatible with the long-range RTP as determined by SANDAG.

Overall, SANDAG supports the needs of all projects in this vicinity but recognizes the challenges that exist in a constrained environment. SANDAG staff has completed this consistency review and has the following comments.

- The RTP (also referred to as San Diego Forward: The Regional Plan) is the transportation blueprint for the San Diego region and addresses the region's future to 2050 through implementing regional transportation goals, including future double-tracking of the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor to add additional passenger and freight rail service and completion of the CRT, including the segments in the City of Encinitas.

- Currently, the segment of the LOSSAN Rail Corridor from Control Point (CP) Ponto in south Carlsbad to CP Swami just south of the Encinitas Transit Center is single-tracked. The RTP calls for this section to be double-tracked in the second phase of improvements by 2035, although this implementation could occur sooner pending additional project funding.
- The Public Works Plan/Transportation and Resource Enhancement Program (PWP/TREP) for the North Coast Corridor is the permitting and implementation document for a multimodal set of improvements for a 27-mile stretch in the coastal zone, including the City of Encinitas. The double-tracking improvements in the PWP/TREP are consistent with the RTP. Furthermore, all phases of the CRT are shown in the first phase of the PWP/TREP.
- SANDAG has determined at a conceptual engineering level that the future second track can be located to the east of the existing track. This is based on a preliminary review of the entire future double-track alignment from La Costa Avenue to CP Swami just south of the Encinitas Transit Center. This finding is the result of several factors:
 - At the Encinitas Station, the second track and second platform will be on the east side.
 - At Leucadia Grade Crossing, the second track most likely will be on the east side due to the steep terrain on the west side.
 - At La Costa Avenue, the tracks need to be shifted to allow for a second track under the La Costa Avenue overcrossing bridge.
- The final track configuration also will need to consider the significant storm water drainage challenges in this area and the need for the areas to the east and west of the future second track to be reserved for future drainage improvement(s) to be studied by the City of Encinitas in conjunction with SANDAG and NCTD. Furthermore, all projects will need a design approach that does not increase the limits of flooding, which currently exists in this area.
- The Streetscape Improvements need to consider surface drainage along the east side of Highway 101 from Leucadia Boulevard to La Costa Avenue, as the area floods during rain events.
- The engineering requirement to travel under the existing La Costa Avenue bridge requires the existing main line to be relocated generally five feet west of its current location.
- SANDAG also recognizes potentially significant constructability challenges with shifting this track while keeping the railroad open for operations. Further study will be needed as more design work on the future second track is completed.
- The drainage improvements needed for the future double track will reduce parking opportunities within the NCTD right-of-way along Vulcan Avenue—in particular, north of Leucadia Boulevard.
- SANDAG agrees that NCTD will require unrestricted access to the Main Track(s), and specifically that a 20.5-foot setback from centerline of one of the tracks is needed for NCTD inspection and maintenance needs.
- If SANDAG implements the above assumptions, the CRT cannot be located to the east of the tracks north of Leucadia Boulevard without further study. Furthermore, because the future El Portal Undercrossing will be grade separated, SANDAG prefers to cross the CRT at this location rather than Leucadia Boulevard should the future CRT be located to the east of the tracks, south of the El Portal Undercrossing project. The CRT will need to be located to the west of the tracks, north of the El Portal crossing.

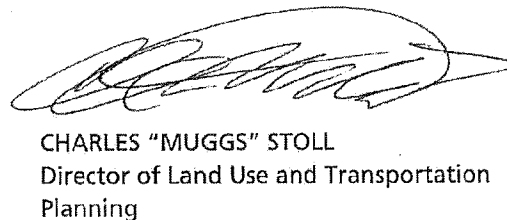
- SANDAG requests that the City of Encinitas recognize the need for access and ramps on the west side and the southeast corner stairs on the east side of the El Portal Crossing to accommodate the future CRT. SANDAG also requests that the City of Encinitas work with SANDAG during the construction process to consider these design changes, pending review of feasibility, schedule, and budget.
- SANDAG prefers 16 feet for the CRT, including two 2-foot unpaved shoulders. This would result in the paved trail being at least 2 feet from the fence. We understand that space is more constrained in some areas. In those cases, we will work with the City of Encinitas on final design plans to include a smaller footprint.
- SANDAG suggests that the City of Encinitas consider increasing the super-elevation of Highway 101 through the Leucadia intersection. This will help reduce the substantial grade differential between Highway 101 and the westernmost track. This approach also will help with the future design of the Leucadia grade crossing and CRT.
- SANDAG is the lead and the City of Encinitas is the co-lead for a planning grant awarded in 2018 to study these improvements further to identify the future alignment of the CRT from Santa Fe Drive to La Costa Avenue. SANDAG requests that the City of Encinitas and NCTD work with us to complete that comprehensive look. SANDAG will base future CRT design on this study.

Based on the consensus on these assumptions, SANDAG finds the Streetscape and El Portal Projects consistent with the RTP and looks forward to continuing to work with the City of Encinitas and NCTD on these important improvements. If you have any questions, please contact Linda Culp, Principal Planner, at linda.culp@sandag.org or (619) 699-6957.

Sincerely,



JIM LINTHICUM
 Director of Mobility Management
 and Project Implementation



CHARLES "MUGGS" STOLL
 Director of Land Use and Transportation
 Planning

JLIN/MST/BSM/TDE/LCU/fwe

- cc: Karen Brust, City Manager, City of Encinitas
 Ed Wimmer, City Engineer, City of Encinitas
 Matthew Tucker, Executive Director, NCTD
 Jacob Gould, Senior Legal Counsel, NCTD
 Stephen Fordham, Director of Railroad Engineering, NCTD
 Tracey Foster, Chief Development Officer, NCTD
 Beth Freeman, Manager of Real Estate, NCTD

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November 6, 2019

Ms. Brenda Wisneski
Development Services Director
City of Encinitas
505 S. Vulcan Avenue
Encinitas, CA 92024

Re: City of Encinitas - Leucadia 101 Streetscape 70% Design Review

Dear Ms. Wisneski:

The North County Transit District (NCTD) has reviewed the Leucadia 101 Streetscape 70% Design Plans (Submittal), submitted by the City of Encinitas for the proposed North Coast Highway 101 Streetscape Project (Project). As the Project has long term impacts to the right-of-way (ROW) and as previously discussed, the San Diego Association of Governments (SANDAG) will need to perform a consistency review to ensure the proposed Project is consistent with the long-range Regional Transportation Plan (RTP) as determined by SANDAG and in collaboration with NCTD, pursuant to Senate Bill No. 1703. Additionally, and as previously discussed, the Project will require the execution of the Streetscape Agreement prior to any use of the NCTD ROW which is currently with the parties for review.

NCTD is providing comments on all design elements of the Project which have any impact on NCTD's ownership interests, preservation of right-of-way (ROW) for future use, safety, operations, and maintenance. NCTD has specifically identified the following elements which have an impact on operations, maintenance, or safety as "Significant and Material." The following constitute Significant and Material issues as identified in the Submittal.

Preservation of ROW for Future Use:

- The limit line for improvements shall extend 20.5' from center line of future double track alignment.
- Provide the Project storm drain plans for review.

Safety:

- Fencing will be required for the Project no closer than 20.5' from center line of the future double track alignment. An agreement between NCTD and the City shall be required to memorialize fence deviations, corresponding indemnifications, incremental costs and installation responsibilities and coordination. (NCTD legal counsel has previously discussed with City Attorney the inclusion of the fencing requirements in the Project Agreement.)
- Update the Submittal with the current version of NCTD General Notes, a copy of which is enclosed.

Bus Stops:

- Identify existing NCTD bus stops, new bus stop locations and improvements to be installed with the Project. Construction plans shall also identify bus stops requiring relocation or closure during construction.

Ownership Interest to NCTD:

- The City shall be required to enter into an agreement with NCTD for the use of NCTD's ROW for the Project as stated above, as NCTD must retain its ownership interest in the ROW.

Based upon the foregoing, NCTD requires the City to revise and resubmit the Project plans. NCTD will not enter into any agreement described herein until the Project plans have been revised to incorporate the Significant and Material issues described above, and design approval and/or concurrence is provided by NCTD.

Alternatively, and in an effort to accommodate the City's plans using the existing rail track alignment, NCTD would require the following:

1. A letter from the Coastal Commission acknowledging all improvements in NCTD's right-of-way are temporary and may be removed and/or altered without any obligation to replace parking or other improvement deemed to enhance coastal access.
2. A surety bond or other monetary security in an amount equivalent to the cost for removal and/or replacement of the improvements (e.g. fencing) in order to facilitate the double track capacity enhancing project.

The City and NCTD must coordinate with SANDAG for the Project consistency review of this Submittal. The City previously provided a copy of the Submittal to SANDAG and NCTD will copy this letter to SANDAG electronically for SANDAG's consistency review.

Should you have any questions, please contact me at tfoster@nctd.org or 760-966-6674.

Sincerely,



Tracey Foster
Chief Development Officer

Attachments: NCTD General Notes

cc: Karen Burst, City Manager, City of Encinitas
Ed Wimmer, City Engineer, City of Encinitas
Jim Linthicum, Director of Mobility Management and Project Implementation, SANDAG
Linda Culp, Principal Planner, SANDAG
Christy Villa, CEO/Principal Engineer, Hoch Consulting
Matthew O. Tucker, Executive Director, NCTD
R. Jacob Gould, Senior Legal Counsel, NCTD
Stephen Fordham, Director of Railroad Engineering, NCTD
Beth Freeman, Manager of Real Estate, NCTD

NCTD General Notes

1. In case of emergencies and for track and train safety call North County Transit District (NCTD) 24/7 Operations Control Center at (760) 966-6700.
2. No work shall be performed on NCTD's Right-of-Way (ROW) or Property without a Right-of-Entry permit. See NCTD's website at GoNCTD.com/working-around-the-rails/#submittals for information on Property Access Requests.
3. All personnel entering NCTD's ROW or Property shall comply with all NCTD requirements. Failure to comply shall be grounds for termination of work and revocation of the Right-of-Entry Permit.
4. Prior to entering onto the ROW and at the Contractor's expense, all personnel working in or around the ROW, including subcontractors and third parties, shall complete NCTD's Roadway Worker Protection (RWP) training course. RWP training is provided by NCTD's Rail Contractor. See NCTD's website at GoNCTD.com/working-around-the-rails/#rwp for rates, class times, scheduling, and contact information.
5. All persons entering the railroad ROW shall have the RWP sticker affixed to the right side of their hard hat and RWP badge in their possession.
6. The Contractor shall adhere to all requirements set forth by NCTD, the Right-of-Entry Permit, project plans and specifications, and the job site NCTD Railroad Flagman/Employee-in-Charge (EIC). Failure to comply may result in work stoppage or removal from NCTD property.
7. All Contractors performing work on the ROW whose duties include inspection, construction, maintenance or repair of railroad track, bridges, roadway, signal and communication systems, electric traction systems, roadway facilities or roadway maintenance machinery are required to submit to NCTD a Federal Railroad Administration accepted 49 CFR Part 219 Control of Drug and Alcohol Use Plan, prior to the commencement of any work.
8. NCTD Railroad Roadway Worker Flag Protection (Flagging) is required any time when working in the railroad ROW, or working on non-railroad property near or adjacent to the ROW with the potential to impact the railroad tracks, operations or infrastructure. A railroad flagman may be defined as Flagman, EIC, Roadway Worker in Charge (RWIC), or Watchman/Lookout/Flagger (Railroad Flagman). Only an NCTD authorized Railroad Flagman, provided by NCTD's Rail Contractor, is permitted to perform Flagging within the railroad ROW. The Railroad Flagman has sole responsibility to protect the railroad operations and infrastructure. At all times the Contractor shall follow the Railroad Flagman's direction.
9. The Contractor is responsible for requesting Flagging services with adequate notice to meet Contractor's construction schedule. See NCTD's website at GoNCTD.com/working-around-the-rails/#rowss for information on requesting services.
10. The Contractor must contact Dig Alert/Call Before You Dig (811) before any excavations or grade level penetration can occur.
11. NCTD utilities within the ROW are not part of Dig Alert/Call Before You Dig (811). NCTD utilities must be marked out by NCTD's Rail Contractor. The Contractor must request NCTD utility mark out with adequate notice to meet Contractor's construction schedule before any excavations or any grade-level penetration can occur. See NCTD's website at GoNCTD.com/working-around-the-rails/#rowss for information on requesting services.
12. The Contractor shall pay all costs associated with RWP training, Flagging, utility mark out, inspections, and reviews, as required by NCTD policy and/or the Right-of-Entry Permit.

13. The Contractor shall make the necessary arrangements for each equipment operator to have constant and direct radio communications with their foreman and Railroad Flagman.
14. The Contractor shall have the permitted stamped set of plans on-site. Work will be terminated by NCTD should no stamped plans be on-site.
15. All work on or adjacent to the San Diego Trolley shall also adhere to NCTD requirements.
16. The Contractor shall contact NCTD 72-hours in advance for any inspections required in the Permit.
17. Upon project completion the NCTD ROW shall be left in as good if not better condition as prior to the start of the project. The Contractor shall restore all disturbed or damaged area and facilities as directed by NCTD at the Contractor's expense.
18. NCTD ROW and Property shall not be used for storage or disposal of spoils.