



**February 6, 2023**

**To:** Regional Transportation Planning Committee

**From:** Darrell E. Johnson, Chief Executive Officer

A handwritten signature in blue ink, appearing to read "Darrell E. Johnson", is written over the "From:" line.

**Subject:** Escalation Rate Adjustment Recommendations for Prior Regional Capacity Program and Regional Traffic Signal Synchronization Program Allocations

**Overview**

The Orange County Transportation Authority's Regional Capacity Program and Regional Traffic Signal Synchronization Program allocate Measure M2 streets and roads funds for roadway and signal improvement projects through a competitive process. Due to recent extraordinary inflationary pressures, the Board of Directors authorized staff to accept escalation adjustment requests from local jurisdictions for existing project commitments that meet certain criteria. Staff has evaluated these requests, and a list of eligible projects with recommended one-time escalation adjustments is presented for Board of Directors' review and approval.

**Recommendations**

- A. Approve one-time construction escalation adjustments to four previously approved (2020, 2021) Regional Capacity Program projects in the amount of \$2,751,877, increasing the overall Measure M2 award from \$13,905,846 to \$16,657,723.
- B. Approve one-time construction escalation adjustments to four previously approved (2020, 2021) Regional Traffic Signal Synchronization Program projects in the amount of \$1,599,615, increasing the overall Measure M2 award from \$9,377,300 to \$10,976,915.
- C. Approve a one-time right-of-way escalation adjustment to one previously approved 2018 Regional Capacity Program project in the amount of \$1,410,134, increasing the overall Measure M2 award from \$7,494,000 to \$8,904,134.

- D. Approve a modification to the Temporary Policy to apply escalation to Project O Regional Capacity Program and Project P Regional Traffic Signal Synchronization Program prior allocation related to right-of-way requirements.

***Background***

Measure M2 (M2) includes two competitive streets and roads programs known as the Regional Capacity Program (RCP) and the Regional Traffic Signal Synchronization Program (RTSSP). These programs target projects that improve mobility by considering factors such as degree of congestion relief, cost-effectiveness, and project readiness and allocate M2 funds on a competitive basis through the Comprehensive Transportation Funding Programs (CTFP).

Both programs are included in the CTFP, which serves as the mechanism through which Orange County Transportation Authority (OCTA) staff administers the RCP and RTSSP, as well as other M2 competitive transit and environmental cleanup programs. The CTFP allocates funds for the RCP and RTSSP through an annual call for projects (call) based on a common set of guidelines and scoring criteria. The CTFP guidelines are developed in collaboration with the OCTA Technical Advisory Committee (TAC), which includes representatives from all of Orange County's 35 local jurisdictions, and are ultimately approved by the OCTA Board of Directors (Board).

In adherence to the CTFP guidelines, OCTA staff and the TAC review, evaluate, score, and recommend funding allocations to the Board. Once awarded funding by the Board, a project cannot receive additional allocations of M2 funds due to the competitive nature of these programs and as prescribed in the CTFP guidelines. As such, M2 funding that is allocated through CTFP calls requires that local jurisdictions commit to covering any project cost overruns that may occur after a project is allocated.

At the May 2022 TAC meeting, the committee requested that OCTA consider ways to help local jurisdictions accommodate considerable cost increases for projects entering right-of-way (ROW) and construction phases. The issue involves projects which had been allocated RCP and RTSSP funding in recent years and have not started due to the coronavirus pandemic or other factors. Local jurisdictions indicated that they are experiencing extraordinary cost increases in projects due to increases in the cost of materials and labor due to shortages, supply chain issues, and extraordinary inflation.

As background, the CTFP guidelines provide that at time of Board award, OCTA applies an escalation factor to RCP grants for ROW and construction phases after a project is selected for an allocation. The escalation for years two and three of the call funding cycle is applied based on the Engineering News Record Construction Cost Index (ENR CCI) 20-city average rate that is available when the Board awards the grants. Prior to the pandemic, typical changes to the ENR CCI rates result in escalation factors around two to three percent annually. Following the pandemic, based on the published ENR CCI rate combined with M2 economic forecasts, an aggregate or cumulative escalation of 21 percent is the approximate rate of escalation through fiscal year 2023.

On August 8, 2022, the Board authorized temporary policy changes to address project challenges. The temporary policies, described in Attachment A and Attachment B, provided two options for local jurisdictions:

1. To participate in a flexible reapplication process in the current 2023 CTFP call.
2. Request an escalation adjustment to existing RCP and RTSSP allocations.

Both one-time options are limited to existing RCP and RTSSP allocations previously programmed through the 2018, 2019, 2020, and 2021 calls that satisfy a list of eligibility criteria. OCTA committed to return to the Board for consideration of the escalation to existing allocations based on requests from local jurisdictions.

### ***Discussion***

OCTA received nine escalation adjustment requests comprised of five RCP projects and four RTSSP projects as further detailed in Attachment C. Staff reviewed all request packages to ensure completion, accuracy, and compliance with Board-approved temporary policy requirements. The eligibility criteria reviewed included confirmation that construction phases were not under a contract, verification of council approval to also increase the required local match, and review of the acquisition status of all parcels included in ROW phases. During the review process, staff worked with local jurisdictions to calculate escalation rate adjustments for project allocations and the proportionate local funding commitment.

Based upon these reviews, staff recommends an escalation adjustment to the construction phases of four RCP projects, totaling \$2,751,877 in additional M2 funds. The M2 RCP funding adjustments support arterial capacity benefits for two City of Santa Ana projects and two City of Yorba Linda projects, which are expected to require an additional total local match commitment of \$754,007.

With respect to the four RTSSP requests, staff recommends an escalation adjustment to the primary implementation phases of all four projects, totaling \$1,599,615 in additional M2 funds. The M2 RTSSP funding adjustment supports one project programmed through the 2020 call and led by the City of Huntington Beach and three projects programmed through the 2021 call, with implementation efforts being led by OCTA staff at the request of lead applicant agencies from the cities of Irvine, Lake Forest, and Santa Ana. Among the partnering agencies for each corridor, the M2 escalation adjustment would result in an additional local match commitment of \$685,317 towards construction.

Lastly, an escalation adjustment to the ROW phase of one RCP request submitted by the City of Santa Ana (City) for Warner Avenue arterial improvements, between Oak Street and Standard Avenue, is recommended, totaling \$1,410,134 in increased M2 funding and \$470,045 in additional local match funding. In order to implement this recommendation, the Board is requested to also authorize an update to the temporary policy specifying that requests to adjust allocations for escalation must be submitted before a purchase agreement has been fully executed for property as part of the ROW phase instead of before an initial offer has been made. The City believed that not awarding a construction contract would satisfy the requirement of this segment of Warner Avenue arterial improvements for both the ROW and construction allocations. The ROW phase was included in the policy at the City's request and is the only agency that would qualify for ROW escalation, under the modified policy. Approval of the proposed modification to the escalation policy, as red-lined in Attachment D, is recommended in light of the unique circumstance.

The overall escalation adjustment recommendation of \$5,761,626, as detailed in Attachment E, is within the estimated impact of \$5 million to \$9 million reported to the Board in August 2022. It should be noted that of the nine recommended adjustments requests, three projects recommended for \$2.4 million in escalation adjustments may be alternatively funded through the 2023 call.

#### Next Steps

With Board approval of these recommendations, staff will initiate the execution of amended letter agreements between OCTA and the appropriate local jurisdictions. Once these agreements are executed, local jurisdictions are authorized to proceed and seek M2 reimbursement for their respective eligible project costs.

***Summary***

Escalation adjustment recommendations that will provide an additional \$5.76 million in M2 funding from the RCP and RTSSP programs to nine projects, increasing the overall M2 award from \$30.78 million to \$36.54 million, are presented for Board approval.

***Attachments***

- A. Temporary Policy for Flexible Cancellation of Project Allocations to Reapply and Pre-Award Authority
- B. Temporary Policy to Apply Escalation to Project O Regional Capacity Program and Project P Regional Traffic Signal Synchronization Program Prior Allocation
- C. Escalation Rate Adjustment Request Recommendations
- D. Temporary Policy to Apply Escalation to Project O Regional Capacity Program and Project P Regional Traffic Signal Synchronization Program Prior Allocation – Proposed Revisions
- E. CTFP Temporary Policy for Inflation – Escalated Funding Allocation Recommendations

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