




July 10, 2024

To: Finance & Administration Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Approval to Sell Surplus Land for the Interstate 405 Improvement Project Between State Route 73 and Interstate 605

Overview

The Orange County Transportation Authority has substantially completed the freeway improvements for the Interstate 405 Improvement Project between State Route 73 and Interstate 605 for public use. The project required acquisition of property rights from public and private parties adjacent to the existing freeway and city streets to construct the freeway improvements. Now an approximately 44,540 square-foot improved commercial property located at 14980 Goldenwest Avenue, in the City of Westminster, Assessor Parcel Numbers 096-522-02 and 096-522-04, is recommended to be sold as surplus land by the Orange County Transportation Authority. Staff is seeking approval to sell the vacant land as surplus land under the Surplus Land Act (Government Code Section 54220 et seq.).

Recommendations

- A. Direct staff to sell the surplus land located within the Interstate 405 Improvement Project between State Route 73 and Interstate 605 for public use.
- B. Authorize the Chief Executive Officer to negotiate and execute the necessary documents to complete the sale of the surplus land for the offer price of \$4,500,000.

Background

The acquisition of public and private properties is often required to implement transportation projects even though extensive efforts are made during the planning and design process to avoid or minimize the impacts to public and private properties. Design-build (DB) Cooperative Agreement No. C-4-1847 between the Orange County Transportation Authority (OCTA) and the California

Department of Transportation (Caltrans) was approved by the Board of Directors (Board) on June 30, 2015, and defined the roles and responsibilities of OCTA and Caltrans for final design, construction, and right-of-way (ROW) acquisition for the Interstate 405 Improvement Project between State Route 73 and Interstate 605 (Project). Pursuant to the DB cooperative agreement, OCTA is the lead implementing agency for final design, construction, and ROW acquisition for the Project. This also includes the responsibility for OCTA to be the lead agency in the need to dispose of any surplus land.

The approved design for the Project required the acquisition of an improved commercial property located adjacent to the Project to accommodate bridge improvements and construction of the Bolsa Avenue off-ramp. Construction of the freeway and bridge improvements are now complete and therefore the property, as acquired, is no longer needed by the Project, resulting in the creation of surplus land (Attachment A). OCTA staff recommends the Board authorize the Chief Executive Officer to execute the necessary documents to complete the sale of the surplus land located at 14980 Goldenwest Avenue, in the City of Westminster, Assessor Parcel Numbers 096-522-02 and 096-522-04 (Attachment B).

Discussion

The Project required the replacement of the Goldenwest bridge and the Bolsa Avenue bridge with limited access to the property during construction. As a result, businesses could not operate; therefore, on February 26, 2018, the Board authorized the acquisition of the property. The subject property is a 44,540 square-foot parcel improved with an existing retail building containing 15,190 square feet of gross leasable area in two separate buildings. The property is no longer needed by the Project and is not planned to be used by OCTA. Staff has analyzed the potential uses for the subject property and determined that it is not necessary for any highway-related purposes or other OCTA uses.

The Surplus Land Act (SLA) defines “surplus land” as “land owned in fee simple by a local agency for which the governing body takes formal action in a regular public meeting declaring that the land is surplus and is not necessary for the agency’s use.” Under the SLA, an “agency’s use” includes, but is not limited to, land that is being used or is planned to be used pursuant to a written plan adopted by the local agency’s governing board (Government Code Section 54221). The SLA requires OCTA to send notices of availability of surplus land to local public entities and housing sponsors and engage in good-faith negotiations with any parties that, within 60 days, express interest to purchase or lease the land for purposes specified in the SLA. On October 9, 2023, the Board formally declared the property as surplus land pursuant to Government Code Section 54221 and directed staff to seek and negotiate with potential buyers interested in the purchase of the surplus land. Per the SLA, OCTA staff mailed

notices of availability on November 6, 7, and 8, 2023, respectively. OCTA received one written letter expressing interest in purchasing the surplus land. OCTA attempted to make contact and open good-faith negotiations; however, OCTA has not received any response. Thereafter, as further required by the SLA, OCTA provided information regarding the proposed sale to the California Department of Housing and Community Development (HCD), including the mandatory affordable housing restrictions to be recorded on the property. On April 2, 2024, HCD determined that OCTA met all the requirements under the SLA (Attachment C); therefore, OCTA can proceed with the proposed disposition of the land.

Sale of the subject property is being conducted in accordance with the SLA, OCTA's Real Property Policies and Procedures, and Caltrans guidelines. The property was appraised by a qualified appraiser on December 11, 2023, with a value of \$4,650,000. OCTA used the services of its consultant, CBRE, Inc., for commercial brokerage services, to facilitate the sale of the surplus land. CBRE, Inc., was in contact with a number of potential buyers and conducted negotiations to recommend a qualified buyer to acquire the surplus land. On June 14, 2024, CBRE, Inc., received a Letter of Intent (Attachment D) from a potential buyer to purchase the surplus land for the value of \$4,500,000. The Letter of Intent outlines the general terms and conditions upon negotiating a definitive Purchase and Sale Agreement. The potential buyer shall have 30 days from the execution of the Purchase and Sale Agreement to conduct due diligence followed by 15 days to close escrow. The potential buyer has agreed to pay the closing costs for this transaction, less CBRE, Inc., commission, which shall be paid by OCTA through an escrow. Per Agreement No. C-0-2160 between OCTA and CBRE, Inc., the commission rate by OCTA is agreed at four percent for the first \$3,000,000 of the purchase price, or \$120,000, and three percent for the remainder of the purchase price, or \$45,000, for a total commission value of \$165,000.

Fiscal Impact

Proceeds from the surplus land sale will be returned to the local Measure M2 fund.

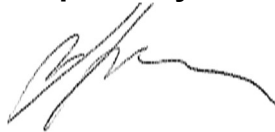
Summary

Staff recommends the Board of Directors direct staff to sell the surplus land located within the Interstate 405 Improvement Project between State Route 73 and Interstate 605 and authorize the Chief Executive Officer to negotiate and execute a purchase and sale agreement with the potential buyer for the sale price of \$4,500,000.

Attachments

- A. Photo Aerial Exhibit
- B. Assessor Parcel Numbers 096-522-02 and 096-522-04
- C. Letter from Laura Nunn, Senior Manager, Department of Housing and Community Development, to Cassie Trapesonian, Woodruff & Smart, APC, dated April 2, 2024, re: Written Comments Regarding the Orange County Transportation Authority's Surplus Land Disposition Documentation for 14980 Goldenwest Street, Westminster (APNs 096-522-02 and 096-522-04) Declared Surplus by the Minutes of the Board of Directors Meeting Dated October 9, 2023
- D. Letter from Peter N. Andrich, Senior Vice President, CBRE, Inc., to John Pedicini, JP Development, dated June 13, 2024, re: Letter of Intent – Counter Proposal, OCTA Surplus Land – 14970-14990 Goldenwest Street, Westminster, CA 92683

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