



September 8, 2022

To: Transit Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Analysis on Environmental Impact Report for the Orange County Maintenance Facility

Overview

On June 13, 2022, the Orange County Transportation Authority Board of Directors was presented with a recommendation to approve Resolution No. 2022-025 to adopt the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, pursuant to the California Environmental Quality Act, for the Metrolink Orange County Maintenance Facility. At that time, the Board of Directors directed staff to undertake an analysis to study the increased costs and schedule delays associated with preparing an Environmental Impact Report in addition to the already completed draft Initial Study. This report includes the completed analysis.

Recommendation

Receive and file as an information item.

Discussion

Procedural Background

A draft Initial Study (IS) was prepared for the Orange County Maintenance Facility (OCMF) project (Project) in 2020 through 2021 to determine the most appropriate California Environmental Quality Act (CEQA) document to be prepared based on Project components, local conditions, and anticipated effects across all CEQA review topics. Based on the draft IS, the Orange County Transportation Authority's (OCTA) environmental consultant determined that no significant unmitigable effects were likely to occur in any of the 21 CEQA environmental factor areas. Because of this fact, per CEQA guidance, preparation of an Environmental Impact Report (EIR) is not required or necessary for the Project. The summary sheet of the environmental factors studied is provided as Attachment A. This conclusion was supported by a detailed

technical analysis and specific technical memoranda completed in conjunction with the Mitigated Negative Declaration (MND). The results and conclusions of the technical evaluation clearly demonstrate that there will not be any significant effects on the environment because of the Project.

The draft IS/MND process, pursuant to the CEQA guidelines, was completed for the Project with the exception of formal adoption of the MND by OCTA's Board of Directors (Board), and subsequent filing of a Notice of Determination (NOD) with the County Clerk.

The City of Irvine (City) did not have any initial objections noted during the public comment period on the draft IS/MND. On June 12, 2022, OCTA received a letter from the City providing late comments on the draft IS/MND for consideration during the Board meeting to adopt the IS/MND on June 13, 2022. The letter challenged some elements of the technical analyses supporting the IS/MND and raised concern that the Project was not a compatible use with the surrounding area and inconsistent with the current zoning designation. The City's issues and objections were not anticipated and raised significant concerns to OCTA, since OCTA has been working in good faith with the City for many years on this Project with the clear and well-documented direction from the City that the proposed Project is a conditionally permitted use under existing City zoning.

The City's Orange County Great Park EIR, dated May 27, 2003, acknowledged that OCTA would purchase the site. The EIR states that, "The inclusion of the OCTA facility within the proposed project is aimed at encouraging the use of alternative transportation thereby reducing motor vehicle congestion and related air quality emissions and impacts." This same report also states that, "Also, sensitive receptors will be located away from major noise sources such as the sports park and the OCTA facility, as well as the existing railroad line and the I-5 Freeway." The City's presentation to City Council for the Purchase and Sale Agreement for the property with OCTA, dated January 13, 2015, acknowledged that the 2003 Orange County Great Park EIR includes rezoning a portion of a 135-acre parcel at the former El Toro base as a future institutional use by the County and OCTA. Property was further refined to designate 21.3 acres for OCTA as a Metrolink passenger rail maintenance facility. OCTA has continued to advance this Project in good faith based on the above and has worked in earnest collaboration with the City. The chronology of this effort is outlined in Attachment B.

It should be acknowledged that resolution of land use/zoning issues raised by the City and specifically whether the Project is allowed with a Conditional Use Permit needs to be resolved with the City, regardless of what type of CEQA document is prepared for the Project (i.e., IS/MND vs. EIR).

IS/MND Versus EIR

The MND process generally includes the following steps (which were followed for this Project):

- Conduct technical analysis for environmental resource topics.
- Prepare the MND based on technical analysis in accordance with the CEQA checklist.
- Publish the Notice of Intent to adopt the MND for public review 20 to 30 days.
- Adopt the MND.
- Prepare and file a NOD with the County Clerk.

In response to the Board's request on June 13, 2022, the following steps outline the process for completing an EIR:

- Prepare and issue a Notice of Preparation (NOP) to start a 30-day public scoping period.
- Standard practice is to conduct at least one scoping meeting to inform the public and agencies about the project and the proposed scope of the EIR analysis.
- Accept and review public/agency comments related to scoping to inform key areas of technical analysis for the EIR.
- Conduct technical analysis for environmental resource topics.
- Identify cumulative projects that need to be addressed as part of the cumulative analysis required for an EIR.
- Prepare and release draft EIR, file Notice of Completion (NOC) with State Clearinghouse and Notice of Availability (NOA) for public comments.
- Conduct a public comment period for a minimum of 45 days.
- Prepare responses to comments, make necessary edits to EIR, and prepare final EIR.
- Issue final EIR and release it for public inspection a minimum of ten days prior to public hearing for certification of the final EIR.
- Prepare NOD, CEQA Findings of Fact (and Statement of Overriding Considerations only if unmitigated impacts are identified), and a Mitigation Monitoring and Reporting Plan.
- Certify the EIR.
- File NOD with the County Clerk.

Project Scope Impacts

The preparation of a draft and final EIR would require the scope and contract for OCTA's consultant to be amended to include specific language addressing the steps outlined above. The scope would include:

- Review whether additional technical analysis is necessary to supplement the work already completed for air quality, noise and vibration, visual and aesthetics, biological resources, transportation and cultural resources (consider if technical memoranda should be revised and titled as technical reports).
- Additional written material necessary for other resource topics, including a more detailed assessment of the regulatory environment, existing conditions, and the potential for impacts. These topics include, but are not limited to, issues such as land use, community facilities, geology and soils, hydrology and water quality, utilities, and recreation.
- Additional documentation on the identification and evaluation of the reasonable range of alternatives to the project.
- Cumulative projects analysis.
- Anticipate the number of public comments expected to ensure appropriate budget is allocated to respond to comments (an MND does not require a response to public comments).
- Standard language related to the development of the draft and final EIR and accompanying documentation (NOP, NOC/NOA, NOD, CEQA findings/ Statement of Overriding Considerations [if required]).

The technical analysis for subjects where technical memoranda already exists is unlikely to change unless project elements or operational assumptions are changed. Nevertheless, it is recognized that additional effort may be necessary to address public concerns, to supplement existing analysis with revised assumptions or details, and to re-package the materials for inclusion with an EIR.

Based on the analysis conducted to date, no significant, unavoidable impacts are expected to be identified that would require an EIR. Furthermore, it is anticipated that all potential impacts can be mitigated to less than significant levels and that no conclusions as presented in the IS/MND are likely to be changed unless Project features are changed.

Schedule Impacts

It is anticipated that production and completion of the full EIR process would require between nine and 12 months. This estimate is based on the expectation that primary detailed analysis for key environmental topics has already been completed and documented via technical memoranda and that limited additional technical analysis will be required. However, it will involve a second round of making the EIR available for public review (likely 45 days) and then responding to comments that have been received. Depending on the number of comments received, this could increase the schedule beyond 12 months.

Budget Impacts

Although there are several unknown factors that could affect the budget required to complete a draft and final EIR, what is known regarding Project controversy, likely scrutiny of technical studies, and the duration of activity provide an indication that substantial budget will be required for the environmental analysis and associated staff time. The current estimated additional budget to produce a full EIR for the Project is between \$6,750,000 to \$9,100,000. The largest cost impact is the associated construction phase delay and construction cost escalation. The additional cost components are shown in the table below.

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| Environmental Work | \$600,000-\$900,000 |
| OCTA Project Management | \$150,000-\$200,000 |
| Construction Escalation (9-12 months @ 6%) | \$6-\$8 million |
| Total Additional Funding Needed | \$6.75-\$9.1 million |

The funding for the Project is through the Southern California Regional Rail Authority's (SCRRA) Southern California Optimized Rail Expansion Capital Program, which is primarily funded by the State of California's Transit and Intercity Rail Capital Program. SCRRA has committed to delivering this Project by the 2028 Olympics. Any delay in the Project may compromise meeting this schedule and therefore funding for the Project.

OCTA has expended \$4.829 million in state funding so far on the Project, which would need to be reimbursed to the State if the Project does not get built, according to the funding agreement with the State. OCTA would seek compensation for these funds from the City for this cost.

Fiscal Impact

Additional funding to produce a Project EIR and the associated construction delay escalation costs have not been identified at this time.

Summary

Production of a CEQA EIR to environmentally clear the OCMF will require an estimated nine to 12 months to complete and cost up to \$9,100,000. Regardless of the type of environmental document prepared, the outstanding land-use designation and zoning issue needs to be resolved with the City. OCTA staff recommends that should the Board decide to move forward with the preparation of an EIR, that effort should not commence until the City land-use designation, zoning, and permitting requirements are resolved.

Attachments

- A. Environmental Factors Potentially Affected
- B. Chronology of Effort with the City of Irvine

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