



February 4, 2019

To: Regional Planning and Highways Committee

From: Darrell E. Johnson, Chief Executive Officer *Kenneth Dyer for*

Subject: Amendment to Cooperative Agreement with City of Fullerton for the State College Boulevard Railroad Grade Separation Project

Overview

On October 26, 2009, the Orange County Transportation Authority Board of Directors authorized a cooperative agreement with the City of Fullerton that outlined the roles, responsibilities, and processes for funding, final design, right-of-way acquisition, construction, and construction management of the Raymond Avenue and State College Boulevard railroad grade separation projects. The agreement requires an amendment to change the overall funding commitment for the State College Boulevard project.

Recommendations

- A. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 7 to Cooperative Agreement No. C-9-0576, between the Orange County Transportation Authority and the City of Fullerton, in the amount of \$2,662,000, for the State College Boulevard railroad grade separation project. This will increase the maximum obligation of the agreement to a total contract value of \$99,631,000.
- B. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute or amend all necessary agreements to facilitate the above action.
- C. Authorize the Chief Executive Officer to negotiate and execute Reimbursement Agreement No. C-9-0988 with the City of Fullerton, in the amount of \$12,700,000, to pay right-of-way costs for the State College Boulevard railroad grade separation project.

Discussion

The City of Fullerton (City) is the lead agency for the State College Boulevard railroad grade separation project (Project). The City is responsible for the environmental documentation, final design, utility relocation, construction, construction management, inspection, and materials testing for the Project. The Orange County Transportation Authority (OCTA) is responsible for the oversight of the City's efforts, right-of-way (ROW) acquisition and associated activities, public outreach services, and coordination of the schedules for the Project with the other six railroad grade separation projects along the Orangethorpe railroad corridor.

On October 26, 2009, the OCTA Board of Directors (Board) approved a cooperative agreement with the City for the delivery of both the Raymond Avenue and State College Boulevard railroad grade separation projects. Six amendments have been approved to date. OCTA and City staff are working to closeout and reconcile the final costs and funding balances.

The Project construction was completed in March 2018. OCTA and City staff performed a comprehensive analysis of actual and remaining costs to closeout the Project. Results of the analysis indicate that the estimated cost-to-complete the Project is \$99,631,000, which is \$2,662,000 (2.7 percent) over the current available funding of \$96,969,000, as reflected in Amendment No. 6 to Cooperative Agreement No. C-9-0576 approved by the Board on November 14, 2016 (Attachment A). The Project cost increase is attributed to the few remaining ROW matters related to property and business impacts.

Project ROW costs are funded primarily from federal funds, which the City is the direct recipient of since the City is the lead agency for the overall Project. Federal funds are obtained after ROW costs are paid and actual payments are submitted for reimbursement. On November 15, 2018, the City submitted a letter to OCTA requesting assistance to pay for Project costs, prior to federal reimbursement, due to the City's limited cash flow (Attachment B). The federally reimbursable ROW cost has been determined by OCTA staff to be \$12,700,000, which must be paid before the City can obtain federal funding reimbursements. The City will utilize the \$12,700,000 to be advanced by OCTA to then pay OCTA for ROW costs incurred. These financial transactions will occur within a very brief timeframe, potentially within one to two days. The City can then seek federal funding reimbursement for the ROW costs paid.

A loan repayment plan would be developed that identifies the terms of repayment. The daily interest rate would be 0.00274 percent which would equate to a daily charge of approximately \$348. This rate is based on OCTA's overnight bank rate of one percent annually. Staff recommends entering into this reimbursement agreement, in an amount not to exceed \$12,700,000. Funds advanced under the reimbursement agreement shall be exclusively used by the City to pay ROW costs incurred by OCTA. The City is working diligently with OCTA staff in the development of Reimbursement Agreement No. C-9-0988, which is scheduled for City Council approval on February 5, 2019.

Fiscal Impact

Funding for the Project is included in OCTA's Fiscal Year 2018-19 Budget, Capital Programs Division, Account 0017-7831-SO207-QKC, and is funded with Measure M2 funds.

Summary

Staff requests Board of Directors' approval for the Chief Executive Officer to negotiate and execute Amendment No. 7 to Agreement No. C-9-0576 between the Orange County Transportation Authority and the City of Fullerton, in the amount of \$2,662,000, for additional right-of-way costs, and Reimbursement Agreement No. C-9-0988 between the Orange County Transportation Authority and the City of Fullerton, in the amount of \$12,700,000, to pay project right-of-way costs.

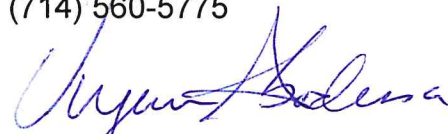
Attachments

- A. City of Fullerton, Cooperative Agreement No. C-9-0576 Fact Sheet
- B. Letter from Ken Domer, City Manager, City of Fullerton, to Rose Casey, Director Highway Programs, Dated November 15, 2018, Re: State College Boulevard Grade Separation - Project No. 45660

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