



**October 5, 2020**

**To:** Regional Planning and Highways Committee

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

**Subject:** Cooperative Agreement with the California Department of Transportation for the State Route 91 Improvement Project Between State Route 57 and State Route 55 and Authority to Acquire Right-of-Way

### **Overview**

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to define roles, responsibilities, and funding obligations for right-of-way support services, right-of-way engineering, right-of-way acquisition, and utility relocation for the State Route 91 Improvement Project between State Route 57 and State Route 55.

### **Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-0-2583 between the Orange County Transportation Authority and the California Department of Transportation, in the amount of \$970,000, to perform right-of-way support services for the State Route 91 Improvement Project between State Route 57 and State Route 55.
- B. Authorize the use of up to \$39.602 million in State Route 91 Express Lanes excess revenue funding for right-of-way capital and right-of-way support services for the following projects:
  - State Route 91 from State Route 55 to Lakeview Avenue (Segment 1)
    - \$5.926 million
  - State Route 91 from La Palma Avenue to State Route 55 (Segment 2)
    - \$28.166 million
  - State Route 91 from Acacia Street to La Palma Avenue (Segment 3)
    - \$5.510 million

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- C. Authorize staff to process all necessary amendments to the Federal Transportation Improvement Program and execute or amend all necessary agreements to facilitate the above actions.
- D. Authorize the Chief Executive Officer to initiate discussions with property owners and utility owners, make offers, and execute agreements for the acquisition of all necessary real property interests and necessary utility relocations.

***Discussion***

State Route 91 (SR-91) improvements between State Route 57 (SR-57) and State Route 55 (SR-55) (Project) are part of Project I in the Measure M2 (M2) freeway program. In the updated Next 10 Delivery Plan, adopted by the Orange County Transportation Authority (OCTA) Board of Directors (Board) in November 2019, the Project is listed as one of the M2 freeway projects to be cleared through the environmental process and to move into design using 91 Express Lanes (EL) excess revenue.

The Project will add a general purpose lane in the eastbound direction between La Palma Avenue and SR-55, and provide westbound operational improvements between Acacia Street and La Palma Avenue and between SR-55 and Lakeview Avenue.

On June 10, 2019, the Board authorized Cooperative Agreement No. C-9-1274 with the California Department of Transportation (Caltrans) to provide oversight of the plans, specifications, and estimate, and to advertise and award the construction contracts for the Project. An additional cooperative agreement with Caltrans is now needed to initiate the Project's right-of-way (ROW) phase.

The final environmental document, approved in June 2020, identifies the build alternative as the preferred alternative to be implemented. Therefore, the Project is ready to proceed into the final design phase. The Project is being developed as three separate design and construction projects to enhance the participation and competitive bidding of consultants and contractors, with the following Project limits:

- Segment 1 extends from SR-55 to Lakeview Avenue
- Segment 2 extends from La Palma Avenue to SR-55
- Segment 3 extends from Acacia Street to La Palma Avenue

OCTA proposes to enter into a cooperative agreement with Caltrans to define the roles and responsibilities of both agencies. OCTA will be the lead agency implementing ROW activities, which shall include property acquisitions, relocation assistance for displacees if necessary, and coordination of utility relocations for the Project. OCTA will also be the lead agency for eminent domain proceedings, which shall include OCTA Board resolutions of necessity if needed. Caltrans will be the lead agency for ROW engineering activities for segments 1 and 2, which shall include mapping, surveying and monumentation as directly reimbursed work, and oversight of ROW activities for all three segments, at no cost to OCTA. Caltrans' work will be funded by 91 EL excess revenue, in the amount of \$970,000. ROW engineering activities for Segment 3 will be done by OCTA's consultant team.

ROW activities are anticipated to commence in spring 2021 upon completion of 65 percent design and determination of final ROW requirements. The Project is estimated to impact a total of 16 properties, both privately and publicly-owned properties, and 28 utility conflicts. The current list of impacted properties has land uses, which include vacant, commercial/industrial, multifamily residential, residential, and public (Attachment A). The real property requirements are comprised of a combination of partial fee acquisitions, permanent easements, utility easements, and temporary construction easements. There are no anticipated full fee acquisitions. The needed property rights are required to implement the Project scope as defined in the final environmental document. Consistent with Recommendation D above and the Project schedule, the Chief Executive Officer (CEO) will initiate conversation with property owners and utility owners upon Board approval of this item.

OCTA shall follow the Caltrans *Right of Way Manual* (RWM) and the OCTA *Real Property Policies and Procedures Manual* (RPPPM) to properly handle the acquisition of property rights in compliance with requirements set by the Uniform Relocation Assistance and Real Property Acquisition Policies Act (Uniform Act). The Uniform Act was enacted by the federal government to ensure real property is acquired, and that displacees are relocated in an equitable, consistent, and equal manner. The Caltrans RWM and OCTA RPPPM also incorporate State of California laws and regulations enacted to provide benefits and safeguards to property owners. Statutory offers for the purchase of property will be made for an amount established as just compensation, which shall be determined through an independent appraisal process. Efforts will be made to reach a negotiated settlement with property owners or businesses; however, when an impasse is reached, as an act of last resort, staff, through a separate Board action, may request the Board to adopt a resolution of necessity to initiate eminent domain proceedings to obtain the necessary interests in real property.

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The Project does not intend to require the permanent relocation or displacement of any residences or businesses as a result of property acquisitions. In the event of a need to displace any individual or business as a result of the Project, relocation assistance will be provided in accordance with the Caltrans RWM and OCTA RPPPM.

OCTA and Caltrans staff will continue to evaluate the need for property through the design phase. If any modifications to the ROW requirements are necessary, OCTA staff will appropriately justify and document the need to secure such property to construct the Project in accordance with procedural requirements. Any need for additional ROW requirements will be addressed within the parameters of the California Environmental Quality Act and National Environmental Policy Act.

**Fiscal Impact**

As part of this cooperative agreement, funding for Caltrans services for ROW support is included in OCTA's Fiscal Year (FY) 2020-2021 Budget, and will be proposed for FY 2021-22 and FY 2022-23 budgets, Capital Programs Division, accounts 0017-7514-FI106-10Q and 0017-7514-FI105-10R, and will be funded through 91 EL excess revenue.

While the cooperative agreement with Caltrans represents a portion of the ROW cost, OCTA is requesting Board approval to program funds for ROW based on the current estimated cost for ROW capital and support. The 91 EL excess revenue funds for Project I will be drawn from the Board-approved 91 EL Capital Reserve fund. Project I is consistent with the SR-91 Implementation Plan to reinvest net revenues in the SR-91 corridor to improve regional mobility. The Capital Programming Policy, which is the guiding document OCTA uses for programming federal, state, and local funds, currently does not have a policy regarding 91 EL excess revenue funds. An update to reflect the usage of these funds will be presented to the Board at a later date. Meanwhile, these projects will be added into the Capital Funding Program which depicts funding for OCTA projects, and is provided as Attachment B.

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***Summary***

Staff requests Board approval for the CEO to negotiate and execute Cooperative Agreement No. C-0-2583 with Caltrans, in the amount of \$970,000, to provide oversight at no cost, perform a portion of ROW support services, and certify the ROW for the Project. In addition, staff requests approval to use up to \$39.602 million in 91 EL excess revenue for the ROW phase for Project I. Finally, staff requests the Board authorize the CEO to make offers and execute agreements with property owners and utility owners for the acquisition of all necessary interests in real property and necessary utility relocations for the Project.

***Attachments***

- A. State Route 91 Improvement Project Between State Route 57 and State Route 55 Right-of-Way
- B. Capital Funding Program Report

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