



March 24, 2021

To: Finance and Administration Committee
From: Darrell E. Johnson, Chief Executive Officer
Subject: Approval to Sell Surplus Land

Overview

As part of the Measure M2 Freeway Environmental Mitigation Program, the Orange County Transportation Authority acquired the Trabuco Rose Preserve, formerly Ferber Ranch, to be maintained in perpetuity as a conservation property. A small portion of the Trabuco Rose Preserve, determined to have no biological value, is recommended to be sold as surplus land to an adjacent property by the Orange County Transportation Authority; therefore, staff is seeking approval to sell a portion of the Trabuco Rose Preserve as surplus land under the Surplus Land Act (Government Code Section 54220 et seq.).

Recommendations

- A. Declare the 0.36-acre parcel located within the Trabuco Rose Preserve as surplus land, pursuant to Government Code Section 54221(b), that is no longer necessary for the Orange County Transportation Authority's use.
- B. Direct staff to sell the surplus land parcel located within the Trabuco Rose Preserve.
- C. Authorize the Chief Executive Officer to execute the necessary documents to complete the sale of the surplus land for the offer price of \$13,400.

Background

As part of Measure M2 (M2), approved by voters in 2006, the Orange County Transportation Authority (OCTA) established the Freeway Environmental Mitigation Program (EMP) for the purpose of permanently preserving open space and restoring habitat in exchange for streamlined project approvals for M2 freeway improvement projects. In May 2011, as part of the EMP, OCTA acquired the Trabuco Rose Preserve (Preserve) to be maintained in perpetuity as a

conservation property. The 399-acre Preserve was acquired for \$12.76 million. The Preserve is located northwest of the City of Rancho Santa Margarita in Trabuco Canyon, and is accessible via Trabuco Oaks Road and Rose Canyon Road. This property is predominantly adjacent to undeveloped land on the east and rural residential development on the west. The Preserve includes a five-acre parcel that is bisected by an access road, Hickey Canyon Road, traversing in a north/south direction (Attachment A).

In February 2018, Eric Wintemute (Owner), the new owner of a property adjacent to the Preserve, performed a property boundary survey and determined that existing improvements on his property encroached on 0.36-acres of the Preserve. Specifically, the Owner's corral and ancillary structure encroached on approximately 0.29-acres of the Preserve (Attachment B). In addition, the Owner is obligated to perform fuel modifications (weed abatement) on the property to comply with the 100-foot setback from habitable structures, as required by the Orange County Fire Authority. Therefore, a small portion of this area needed for fuel modification (0.07-acres) is also situated on the Preserve (Attachment B). The 0.29-acres and 0.07-acres of the Preserve are collectively identified as the encroachment area.

After learning that the corral and ancillary structure on his newly purchased property encroached on the Preserve, the Owner approached OCTA to remedy the situation. An evaluation determined that the encroachment area has no biological value, and the sale of the 0.36-acre area does not affect the integrity of the biological resources of the overall 399-acre Preserve. The state and federal resource agencies, including OCTA's Environmental Oversight Committee (EOC), concur with this assessment and do not object to the sale of the of encroachment area. Therefore, staff recommends the encroachment area be sold as surplus land under the Surplus Land Act (Government Code Section 54220 et seq.), as it is no longer necessary for OCTA's use for preservation purposes.

Discussion

The recently enacted Surplus Land Act changed the procedures for the sale of surplus land by local agencies. It requires OCTA to send notices of availability of surplus land to various public and private entities 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 Surplus Land Act. OCTA staff mailed notices of availability on October 6 and 7, 2020, respectively. Although OCTA staff received three inquiries related to the sale, no entities expressed interest to purchase or lease the land. Thereafter, as further required by the Surplus Land Act, OCTA provided information regarding the proposed sale to the California Department of Housing and Community Development (DHCD), including the mandatory affordable housing restrictions to be recorded on the

property, and timely responded to written findings received by the DHCD. The Surplus Land Act requirements have been satisfied; therefore, OCTA can proceed with the proposed disposition of the land.

Since 2018, when the encroachment was identified, the Owner has been working with OCTA to potentially acquire the property. On October 25, 2018, OCTA staff presented this matter to OCTA's EOC with a recommendation for the EOC to endorse staff's recommendation to sell 0.36 acre of the Preserve to the adjacent property Owner, subject to a fair market appraisal. The EOC, which monitors and makes recommendations regarding the EMP, endorsed staff's recommendation to sell the encroachment area to the Owner.

OCTA used the services of its consultant, CBRE, Inc., for commercial brokerage services to facilitate the sale of the encroachment area. CBRE, Inc. received an offer from the Owner to purchase the encroachment area for the appraised value. The 0.36 acre of encroachment area was appraised in 2018 with a value of \$13,400. The Owner has agreed to pay the closing costs for this transaction, less CBRE, Inc. commission, which shall be paid by OCTA through an escrow.

Fiscal Impact

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

Summary

Staff recommends the Board of Directors formally declare the 0.36-acre parcel located within the Preserve as surplus land, pursuant to Government Code Section 54221(b), that is no longer necessary for OCTA's use, and authorize the Chief Executive Officer to negotiate and execute a purchase and sale agreement with the Owner for the sale price of \$13,400.

Attachments

- A. Trabuco Rose Preserve Map
- B. Proposed Surplus Land Area Map

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