



**November 6, 2023**

**To:** Regional Transportation Planning Committee

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

A handwritten signature in blue ink, appearing to read "Darrell E. Johnson", is written over the "To:" and "From:" lines of the memo.

**Subject:** Cooperative Agreements with the California Department of Transportation for the Interstate 5 Improvement Project Between State Route 73 and El Toro Road for Right-of-Way Capital and Support Services

**Overview**

On October 12, 2015, the Orange County Transportation Authority Board of Directors approved a cooperative agreement between the Orange County Transportation Authority and the California Department of Transportation for right-of-way support services, right-of-way acquisition, and utility relocation for the Interstate 5 Improvement Project between State Route 73 and El Toro Road. Board of Directors' approval is requested, pursuant to the California Department of Transportation's current requirement and request that there be a separate agreement for each project segment, to negotiate and execute three new cooperative agreements to replace the original cooperative agreement, and to include additional funding for right-of-way support services, right-of-way acquisition, and utility relocation.

**Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-3-2902, between the Orange County Transportation Authority and the California Department of Transportation, in the amount of \$53,693,000, for right-of-way support services, right-of-way acquisition, and utility relocation costs for the Interstate 5 Improvement Project between State Route 73 and Oso Parkway. This increases the right-of-way funding for this project segment by \$16,021,000.
  
- B. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-3-2950 between the Orange County Transportation Authority and the California Department of Transportation, in the amount of \$11,305,400, for right-of-way support services, right-of-way acquisition, and utility relocation costs for the Interstate 5

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Improvement Project between Oso Parkway and Alicia Parkway. This decreases the right-of-way funding for this project segment by \$1,679,600.

- C. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-3-2951 between the Orange County Transportation Authority and the California Department of Transportation, in the amount of \$28,788,000, for right-of-way support services, right-of-way acquisition, and utility relocation costs for the Interstate 5 Improvement Project between Alicia Parkway and El Toro Road. This increases the right-of-way funding for this project segment by \$1,746,000.
- D. Authorize the use of up to \$16,087,400 in additional Measure M2 funds for the right-of-way phase of the Interstate 5 Improvement Project between State Route 73 and El Toro Road.
- E. 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.

***Discussion***

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), is implementing the Interstate 5 (I-5) Improvement Project between State Route 73 (SR-73) and El Toro Road (Project). The Project is part of projects C and D in the Measure M2 (M2) freeway program and is being advanced through the updated Next 10 Delivery Plan approved by the OCTA Board of Directors (Board) in November 2022.

The Project will add one general purpose lane in each direction on I-5 between SR-73 and El Toro Road, extend the second high-occupancy vehicle lane between Alicia Parkway and El Toro Road, re-establish auxiliary lanes, and construct new auxiliary lanes at various locations. In addition, the Project will reconstruct the Avery Parkway and La Paz Road interchanges and the Los Alisos Boulevard overcrossing, improve several existing on- and off-ramps, and convert existing and proposed carpool lanes to continuous access.

Construction is underway in three segments with the following Project limits:

- Segment 1 extends from SR-73 to south of Oso Parkway
- Segment 2 extends from south of Oso Parkway to south of Alicia Parkway

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- Segment 3 extends from south of Alicia Parkway to El Toro Road

On October 12, 2015, the Board authorized Cooperative Agreement No. C-5-3661 with Caltrans to provide right-of-way (ROW) support services, ROW acquisition, and utility relocation for the I-5 Improvement Project between SR-73 and El Toro Road.

Additional funding for ROW capital and support is required at this time due to various reasons, including delays in construction which requires the use of properties for additional durations of time, and additional costs associated with litigation, loss of business goodwill, and relocation of third-party utilities. Rather than amend the original cooperative agreement to include the additional funding, Caltrans requires that the existing agreement be segregated into three new cooperative agreements, one for each project segment. The following describes the specific reasons for the increased ROW costs and the need for additional funding:

- Segment 1 – Delays in construction necessitate Temporary Construction Easement (TCE) extensions. In addition, higher-than-anticipated acquisition costs for parcels have increased the capital costs.
- Segment 3 – The relocation of Southern California Edison utilities required to construct the freeway improvements have increased support costs.
- Negotiations, revisions, and extensions to TCEs and additional effort to develop multiple agreements and settlements with the aid of Caltrans legal staff have also led to increased ROW support costs.
- Since the original ROW cooperative agreement between OCTA and Caltrans was executed, utility relocation agreements between Caltrans and third-party utilities have been updated and finalized, resulting in an increase in costs to relocate utilities for the three segments. These increases are included in the higher amounts of the three cooperative agreements.

The total ROW funding previously approved by the Board for the I-5 Improvement Project was \$77,699,000, comprised of \$26,978,000 in Regional Surface Transportation Program (RSTP), and \$50,721,000 in local M2 funds. The two amounts are broken down as follows:

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- Segment 1 – The RSTP funds are \$13,415,000 and M2 funds are \$24,257,000, for a total of \$37,672,000. Recommendation A increases the M2 funds by \$16,021,000 up to \$40,278,000, for a revised total of \$53,693,000.
- Segment 2 – The RSTP funds are \$4,144,000 and M2 funds are \$8,841,000, for a total of \$12,985,000. Recommendation B decreases the M2 funds by \$1,679,600 down to \$7,161,400, for a revised total of \$11,305,400.
- Segment 3 – The RSTP funds are \$9,419,000 and M2 funds are \$17,623,000, for a total of \$27,042,000. Recommendation C increases the M2 funds by \$1,746,000 up to \$19,369,000, for a revised total of \$28,788,000.

The total estimated increase to the ROW support services, ROW acquisition, and utility relocation costs for all three segments is \$16,087,400, which is proposed to be funded by additional M2 funding (Recommendation D).

The following table summarizes the original ROW funding and the proposed funding changes:

	<b>Original Funding</b>	<b>Increase/Decrease</b>	<b>Proposed Funding</b>
Segment 1 – RSTP	\$13,415,000	0	\$13,415,000
Segment 1 – M2	\$24,257,000	+\$16,021,000	\$40,278,000
Segment 1 – Total	\$37,672,000	+\$16,021,000	\$53,693,000
Segment 2 – RSTP	\$ 4,144,000	0	\$ 4,144,000
Segment 2 – M2	\$ 8,841,000	[\$ 1,679,600]	\$ 7,161,400
Segment 2 – Total	\$12,985,000	[\$ 1,679,600]	\$11,305,400
Segment 3 – RSTP	\$ 9,419,000	0	\$ 9,419,000
Segment 3 – M2	\$17,623,000	+\$ 1,746,000	\$19,369,000
Segment 3 – Total	\$27,042,000	+\$ 1,746,000	\$28,788,000
Total RSTP	\$26,978,000	0	\$26,978,000
Total M2	\$50,721,000	+\$16,087,400	\$66,808,400
Total ROW Funding	\$77,699,000	+\$16,087,400	\$93,786,400

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The revised Capital Funding Program Report is consistent with Board approval of the actions outlined in this report (Attachment A). This report provides a summary of Board-approved funding for each of the OCTA highway projects.

**Fiscal Impact**

These new cooperative agreements will increase the total cooperative agreement value to \$93,786,400. Funding for the Caltrans services for ROW capital and support is included in OCTA's Fiscal Year 2023-24 Budget, Capital Programs Division, Account Nos. 0017-7514-FC102-1O3 and 0017-9081-FC102-1O3 (Segment 1), 0017-7514-FC105-1O3 and 0017-9081-FC105-1O3 (Segment 2), and 0017-7514-FC106-1O3 and 0017-9081-FC106-1O3 (Segment 3) and is funded with federal RSTP and local M2 funds.

**Summary**

Board approval is requested for the Chief Executive Officer to negotiate and execute Cooperative Agreement Nos. C-3-2902, C-3-2950 and C-3-2951 between OCTA and Caltrans, to increase the funds in the amount of \$16,021,000 (Segment 1), decrease the funds in the amount of \$1,679,600 (Segment 2), and increase the funds in the amount of \$1,746,000 (Segment 3), for ROW capital and support services for the Project. This will increase the maximum obligation of the cooperative agreements to a total contract value of \$93,786,400, comprised of a capital share of \$77,039,000 and a support share of \$16,747,400. Staff is requesting authorization for the use of up to \$16,087,400 in additional M2 funds for the Project.

**Attachment**

- A. Capital Funding Program Report

**Prepared by:**



Niall Barrett, P.E.  
Program Manager  
(714) 560-5879

**Approved by:**



James G. Beil, P.E.  
Executive Director, Capital Programs  
(714) 560-5646