



**November 6, 2023**

**To:** Regional Transportation Planning Committee

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

**Subject:** Adopt Resolution Authorizing the Executive Director of Capital Programs or Designee to Execute Right-of-Way Certifications

**Overview**

The Orange County Transportation Authority is currently acquiring and managing numerous properties required for the construction and delivery of capital improvement projects. As part of the acquisition and management process, the Orange County Transportation Authority must, by general resolution, authorize certain policies and procedures to implement this process in compliance with federal and state laws. The current Real Property Policies and Procedures Manual, dated August 2022, was approved by the Board of Directors with the adoption of Resolution 2022-052 on August 22, 2022. Staff is now requesting a separate resolution authorizing the Executive Director of Capital Programs or designee to execute right-of-way certifications.

**Recommendation**

Adopt Resolution No. 2023-061 authorizing the Executive Director of Capital Programs or designee to execute right-of-way certifications.

**Background**

In the course of developing and delivering transportation projects, the acquisition of public and private properties may be required to implement the project. Although extensive efforts are made during the design process to minimize impacts to property owners, some projects require the acquisition of public and private properties. Orange County Transportation Authority (OCTA) staff follows the current Board of Directors (Board)-approved Real Property Policies and Procedures Manual, dated August (Current Policies Manual), to properly handle the acquisition and management of property. The approved Current Policies Manual is intended to describe the internal steps that OCTA takes to ensure compliance with federal and state laws.

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***Discussion***

Staff is seeking approval to implement a separate resolution that authorizes the Executive Director of Capital Programs, or designee, to execute right-of-way (ROW) certifications (Attachment A). This request is being made on behalf of the California Department of Transportation (Caltrans) who have determined it is needed to comply with the Caltrans ROW Manual. This resolution is consistent with OCTA's Current Policies Manual as approved by the previous resolution of the Board.

When implementing projects, the Real Property Department is responsible for acquiring property, relocating utilities, and completing other ROW activities necessary to clear a path for construction activities to be completed without delay. The Executive Director of Capital Programs oversees all responsibilities of the Real Property Department. The Current Policies Manual allows the Executive Director of Capital Programs to execute and approve ROW Certifications.

ROW certification is a written statement summarizing the status of all ROW-related matters pertaining to a proposed construction project. The purpose of the ROW certification is to document that the construction project is ready for advertising and states that real property interests have been, or are being, secured, physical obstructions including utilities and railroads have been, or will be, removed, relocated, or protected as required for construction, and ROW acquisition and relocation assistance program requirements were conducted in accordance with applicable federal and state laws and procedures.

Caltrans policy requires a ROW certification to be executed prior to a construction project achieving the Ready to List (RTL) certification milestone. The RTL certification documents that all applicable design, ROW, environmental, regulatory, and statutory conditions have been addressed prior to the advertisement of the project for construction bids.

The Caltrans ROW Manual requires that an agency such as OCTA adopt a resolution that specifically names the individual or job title that has the authorization to execute ROW certifications. OCTA's Current Policies Manual authorizes the Executive Director of Capital Programs as the individual authorized to execute ROW certifications; however, there is no accompanying resolution specifically noting the authorization. Based on a recent review of policies, Caltrans is requiring OCTA to provide a separate specific resolution naming that individual by title in order to accept a ROW certification signed by the Executive Director of Capital Programs.

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***Summary***

Staff recommends the Board of Directors adopt Resolution No. 2023-061 authorizing the Executive Director of Capital Programs or designee to execute all ROW certifications consistent with Resolution No. 2022-052 authorizing procedures outlined in OCTA's Current Policies Manual.

***Attachment***

- A. Resolution No. 2023-061

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