



**November 27, 2023**

**To:** Members of the Board of Directors

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

**Subject:** Amendment to Cooperative Agreement with the Southern California Regional Rail Authority for the San Juan Creek Bridge Replacement Project

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

**Overview**

On April 14, 2020, the Orange County Transportation Authority entered into a cooperative agreement with the Southern California Regional Rail Authority for construction capital and construction support services for the San Juan Creek Bridge Replacement Project. Board of Directors' approval is requested to amend the cooperative agreement for additional funding for construction capital and construction support services.

**Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Amendment No. 1 to Cooperative Agreement No. C-0-2540 between the Orange County Transportation Authority and the Southern California Regional Rail Authority, in the amount of \$22,578,258, for additional construction capital and construction support services for the San Juan Creek Bridge Replacement Project. This will increase the maximum cumulative obligation of the cooperative agreement to a total contract value of \$59,481,903.
- B. Authorize the use of up to \$17 million in SB 125 (Chapter 54, Statutes of 2023) Transit and Intercity Rail Capital Program funds and \$5,578,258 in SB 1 (Chapter 5, Statutes of 2017) State of Good Repair funds from fiscal year 2024-25 for the construction phase of the San Juan Creek Bridge Replacement Project.
- 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.

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- D. Amend the Orange County Transportation Authority's Fiscal Year 2023-24 Budget by \$22,578,258 to accommodate the additional budget needed for the San Juan Creek Bridge Replacement Project.

***Discussion***

The Orange County Transportation Authority (OCTA), in coordination with the Southern California Regional Rail Authority (SCRRA), proposes to replace the 100-year-old bridge over San Juan Creek, located in the City of San Juan Capistrano, near the Interstate 5 Camino Capistrano off-ramp (Attachment A). This railroad bridge, built in 1917, is used by Metrolink, the Pacific Surfliner, and freight trains and has reached the end of its useful life. The bridge rests on wood foundation piles that are subject to scouring caused by rapid water flows that remove soil around the piles in the creek bed. Scouring compromises the integrity of the foundation supporting the bridge. The bridge also has a steel structural member that has cracked and requires frequent maintenance. Most recently this year, SCRRA had to temporarily support the bridge with hydraulic jacks until steel beams were fabricated to provide temporary support. The temporary foundation support mitigation requires frequent monitoring and will be sufficient until the bridge is replaced. The San Juan Creek Bridge Replacement Project (Project) will construct a new bridge over San Juan Creek adjacent to the existing bridge. The Project is required to keep the railroad infrastructure in a safe operating condition, maintain a state of good repair, reduce maintenance needs, and meet current design standards and rail weight load requirements.

The coastal rail corridor to the south of San Juan Capistrano experienced passenger rail interruptions in the past few years due to coastal erosion and landslides. OCTA began work on a coastal resiliency study to explore near-term (up to 10 years) and mid-term (10 to 30 years) concepts to protect the railroad infrastructure and maintain rail service in the current alignment. The study will also identify high risk problem areas within the first 90 days, along with potential solutions to address any high-risk concerns. A separate study will commence in the near future to assess coastal rail corridor options, including potential alignment changes, that will provide resiliency beyond the 20-30 year horizon.

On March 26, 2020, SCRRA completed the Project environmental clearance requirements in compliance with the California Environmental Quality Act and National Environmental Policy Act. On April 14, 2020, OCTA entered into Cooperative Agreement No. C-0-2540 with SCRRA to define roles and responsibilities and to provide construction capital and construction support services funding of \$36,903,645 for the Project. SCRRA is the lead in the design

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and construction phases of the Project, and OCTA provides support to obtain the necessary property rights and leads the public outreach efforts for the Project. Funding for Cooperative Agreement No. C-0-2540 was provided through \$35,724,000 in Federal Transit Administration (FTA) Section 5337 funds from Urbanized Area (UZA) 2 and UZA 68 for fiscal years (FY) 2017-18 and 2018-19 and UZA 2 for FY 2021 to be administered by SCRRA and \$1,179,645 in surplus FTA Section 5337 funds in SCRRA grant CA-54-0043. Funding for the environmental and design phases of the Project was provided through the approved SCRRA FY 2015-16 annual rehabilitation budget.

The design for the Project was completed in June 2020 with an engineer's estimate (EE) of \$23 million for construction, and the property rights were obtained in January 2023. On July 24, 2023, SCRRA released the invitation for bids for construction of the Project. On September 15, 2023, SCRRA received three bids ranging from \$39.37 million to \$41.98 million, which is a fairly tight spread on pricing. The lowest and the second lowest bidders were deemed non-responsive due to not meeting disadvantaged business enterprise requirements and not providing the required subcontractor listing and safety submittals. The lowest responsive and responsible bidder is \$41.98 million. SCRRA staff reviewed the bid and deemed it fair and reasonable.

There is a significant construction cost increase, and the construction market has a strong backlog which reduces competitive pricing coupled with high interest rates that the contractor would have to carry the cost of money that would be reflected in the bid pricing. The materials and labor costs have also increased over the last two years. Additionally, the Project also has limited access for the contractor to stage and work while keeping the passenger and freight rail safely in service during construction. A similar transit project in Los Angeles has seen overall project costs increase by nearly 30 percent over the last two years. As an example, LA Metro's East San Fernando Valley Transit Corridor Project costs increased by 29.3 percent in March 2023. Similarly, for highway projects, the California Department of Transportation locally is seeing bids come in this year at 35.5 percent over the EE in March 2023 for a pavement rehabilitation project on Interstate 405 and 52.9 percent over the EE in April 2023 on a pavement preservation and transportation management systems on State Route 1 in Orange County. The National Highway Construction Cost Index showed the cost index increased by 0.9 between first quarter of 2020 and first quarter of 2023, which further highlights the increasing trend in construction costs.

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OCTA and SCRRA reviewed the budget necessary to fully fund the Project and an additional \$22.58 million is needed to provide construction capital and construction support services including construction contingency. SCRRA's project budget estimate was \$40.41 million and based on the construction bid received, signal construction cost estimate and contingencies updates, and other actuals for design and construction support services, the new project estimate is \$60.90 million.

This amendment will increase the total cooperative agreement value from \$36,903,645 to \$59,481,903 (Attachment B). The Capital Funding Program Report (Attachment C) provides summary funding information for all the rail projects, including the programming actions that are recommended in this report. This amendment will allow SCRRA to award the construction contract and target the contractor for foundation work in the creek when the dry season begins in April 2024.

Staff is recommending the use of \$17 million in SB 125 Transit and Intercity Rail Capital Program (TIRCP) funds, which are funds that are distributed by the California State Transportation Agency (CalSTA) to regional transportation planning agencies, like OCTA, on a population-based formula. OCTA is expected to receive over \$320 million in SB 125 TIRCP funds in FY 2023-24 and FY 2024-25. Staff will return to the Board of Directors (Board) to seek approval for programming of the remaining funds. The funds are flexible and are meant to support transit capital projects that increase ridership and reduce greenhouse gas emissions as well as support transit operations to avoid service cuts and increase ridership. The use of SB 125 TIRCP funds is consistent with the Board-approved Capital Programming Policy (CPP) regarding maximizing the use of external funds. Staff is also recommending the use of SB 1 State of Good Repair funds which are also formula program funds that are provided to transit agencies to keep equipment and infrastructure like the San Juan Creek Bridge in a state of good repair. The use of SB 1 State of Good Repair funds is consistent with the Board-approved CPP for maintenance, rehabilitation, and replacement of existing OCTA transit assets.

#### Fiscal Impact

An amendment to the OCTA Fiscal Year 2023-24 Budget, Capital Programs Division, Account No. 0017-7831-TR022-0DM, in the amount of \$22,578,258, is being requested to accommodate Amendment No. 1 to Cooperative Agreement No. C-0-2540.

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***Summary***

Board approval is requested to authorize the Chief Executive Officer to negotiate and execute Amendment No. 1 to Cooperative Agreement No. C-0-2540 between OCTA and SCRRA, in the amount of \$22,578,258, for additional construction capital and construction support services for the Project. This will increase the maximum obligation of the cooperative agreement to a total contract value of \$59,481,903. Additionally, staff is requesting authorization for the use of \$17 million in SB 125 TIRCP funds and \$5,578,258 in SB 1 State of Good Repair funds from FY 2024-25 for the Project and to amend the FY budget to accommodate funding for the Project.

***Attachments***

- A. San Juan Creek Bridge Replacement Project Location Map
- B. Southern California Regional Rail Authority, Cooperative Agreement No. C-0-2540 Fact Sheet
- C. Capital Funding Program Report

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