




**August 31, 2023**

**To:** Regional Transportation Planning Committee

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

**Subject:** Amendment to Cooperative Agreement with the California Department of Transportation for the Interstate 5 Improvement Project Between Alicia Parkway and El Toro Road

**Overview**

On November 11, 2019, 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 construction capital and construction support services for the Interstate 5 Improvement Project between Alicia Parkway and El Toro Road, which is Segment 3 of the Interstate 5 Improvement Project between State Route 73 and El Toro Road. 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-9-1600 between the Orange County Transportation Authority and the California Department of Transportation, in the amount of \$19,570,000, for additional construction capital and construction support services for the Interstate 5 Improvement Project between Alicia Parkway and El Toro Road. This will increase the maximum cumulative obligation of the cooperative agreement to a total contract value of \$156,185,000.
- B. Authorize the use of up to \$12,043,000 in Measure M2 funds for the construction phase of the Interstate 5 Improvement Project between Alicia Parkway and El Toro Road.
- C. Authorize the use of up to \$7,527,000 in Local Partnership Program – Formula funds for the construction phase of the Interstate 5 Improvement Project between Alicia Parkway and El Toro Road.

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

On November 11, 2019, the Board authorized Cooperative Agreement No. C-9-1600 with Caltrans to provide construction capital and construction support services for Segment 3, between Alicia Parkway and El Toro Road.

Additional construction funding for capital costs is required at this time due to various impacts, including differing site conditions, delays caused by third-party utility relocations, man-made buried objects, including buried asbestos conduits, and installation and removal of shoring required to protect third-party utility facilities, all within the limits of Segment 3 of the Project. These impacts have delayed the contractor's construction completion date. Construction progress and the extent of these impacts are being monitored and managed with the intent of minimizing delay to the completion date. The following describes the specific construction issues which have been encountered and require additional funding:

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- The presence of bats at Aliso Creek delayed the contractor's pile driving activities at this location, causing 92 days of delay. As a result of the late start, the contractor had to work extended shifts and weekends to complete the work within Aliso Creek, prior to the start of the winter season. This resulted in additional costs that were not part of the original construction contract.
- There were three major Southern California Edison (SCE) utility relocations that were required to construct the freeway improvements; however, there were delays in SCE's mobilization and relocation of their facilities, which then delayed the state contractor's controlling operation on the critical path. This delayed the construction completion date by 99 working days.
- The contractor encountered buried asbestos conduits within the excavation limits along I-5 that had to be removed and disposed of by a certified hazardous waste subcontractor. This removal and disposal resulted in additional costs.
- Many of the existing freeway on- and off-ramps were built over local streets when the I-5 freeway was originally constructed. During reconstruction of these ramps, the contractor encountered buried man-made objects, not shown on the plans, that had to be removed and properly disposed.
- Four SCE transmission power poles required protection in place while excavating for retaining wall 191 on the southbound side of the I-5 freeway. To protect these poles, the contractor had to install significant shoring protection. The cost of shoring installation and removal was not included in the project bid items.

The total construction capital funding previously approved by the Board for Segment 3 was \$117,000,000, comprised of \$8,127,000 in Local Partnership Program – Formula (LPP-F) funds, \$2,728,000 in federal Highway Infrastructure Program (HIP) funds, \$23,036,000 in Surface Transportation Block Grant (STBG) program funds, and \$83,109,000 in local M2 funds. The total increase to the construction capital costs is \$14,630,000, which is proposed to be funded by additional LPP-F and M2 funding. The total construction capital funding required for Segment 3 is revised from \$117,000,000 to \$131,630,000, increasing the need for LPP-F funds by \$7,067,000, from \$8,127,000 to \$15,194,000, and for M2 funds by \$7,563,000, from \$83,109,000 to \$90,672,000. All other fund sources will remain the same.

The construction impacts and increased construction capital scope and costs have also led to increased construction management (CM) costs. The delays due to the relocation of utilities and protection of third-party utilities have increased CM work and extended the duration of the construction contract by 99 working days. Another 92 working days were granted to the contractor due to delays to the Aliso Creek work and incorrect as-built drawings of the existing foundations and retaining walls in the vicinity of the Los Alisos Boulevard overcrossing. The total time extension granted to the contractor is 191 working days. At this time, Segment 3 construction is scheduled to be completed in late 2024. Traffic maintenance, electrical facility maintenance, and lane closure coordination with neighboring Segments 1 and 2 have also increased support costs. Additional construction scope of work also requires additional collecting, processing, and maintaining of project communications and records, managing of contractor progress payments, and processing of change orders and claims. These changes to the scope of work and the extended construction schedule have resulted in the need for additional CM support services and have increased the construction support costs by \$4,940,000.

The total construction support funding for Segment 3, approved by the Board, is \$19,615,000, comprised of \$7,732,000 in STBG funds, \$2,000,000 in federal HIP funds, \$1,261,000 in LPP-F funds, and \$8,622,000 in M2 funds. Staff is seeking Board approval for an additional \$4,940,000 in LPP-F and local M2 funds. Of this amount, \$3,740,000 will fund the consultant support services and the remaining amount of \$1,200,000 will fund the state's construction support services. The proposed total construction support funding is \$24,555,000, comprised of \$7,732,000 in STBG funds, \$2,000,000 in federal HIP funds, \$1,721,000 in LPP-F funds, and \$13,102,000 in M2 funds. The construction capital and support funding are summarized in Attachment A.

The LPP-F fund was approved by Governor Brown on April 28, 2017, as part of SB 1 (Chapter 5, Statutes of 2017), the Road Repair and Accountability Act of 2017. The goal of these statewide funds is to provide funding to regional transportation agencies in which voters have approved taxes solely dedicated to transportation improvements. Previously in Cycle 2 of the LPP-F program, \$9,388,000 was approved for the I-5 Improvement Project from Alicia Parkway to El Toro Road. Currently in Cycle 4 of the LPP-F, \$7,527,000 is available, and staff is recommending these funds to be programmed to the I-5 Improvement Project between Alicia Parkway and El Toro Road.

This amendment will increase the total cooperative agreement value to \$156,185,000 (Attachment A). This is Project C in the Next 10 Delivery Plan, and the use of M2 and LPP-F funds for this Project is consistent with the Board-approved Capital Programming Policies. The Capital Funding Program Report provides summary funding information for all the freeway projects,

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including the programming actions that are recommended in this report (Attachment B).

**Fiscal Impact**

Funding for the Project is included in OCTA's Fiscal Year 2023-24 Budget, Capital Programs Division, account nos. 0017-9084-FC106-1O3 and 0017-9085-FC106-1O3 and is funded with state LPP-F and local M2 funds.

**Summary**

Board approval is requested for the Chief Executive Officer to negotiate and execute Amendment No. 1 to Cooperative Agreement No. C-9-1600 between OCTA and Caltrans, in the amount of \$19,570,000, 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 \$156,185,000, comprised of a construction capital share of \$131,630,000 and a construction support share of \$24,555,000. Additionally, staff is requesting authorization for the use of up to \$12,043,000 in M2 funds and \$7,527,000 in LPP-F funds for the Project.

**Attachments**

- A. California Department of Transportation, Cooperative Agreement No. C-9-1600 Fact Sheet
- B. Capital Funding Program Report

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