



ITEM ID: 2024-142-0

TRANSMITTAL DATE: March 22, 2024

MEETING DATE: March 29, 2024

TO: Board of Directors

FROM: Justin Fornelli, Chief, Program Delivery

SUBJECT: Memorandum of Understanding (MOU) amendment between the Authority and the Ventura County Transportation Commission (VCTC) for Right of Way (ROW) Acquisitions required for the SCORE Simi Valley Double Track Project

Issue

Approval is needed to authorize the CEO to negotiate and execute a MOU amendment between the Authority and VCTC for Right of Way (ROW) Acquisitions required for the construction of the SCORE Simi Valley Double Track Project.

Recommendation

Contracts, Operations, Maintenance and Safety Committee recommended (4-0) the Board authorize the Chief Executive Officer to negotiate and execute a Memorandum of Understanding (MOU) amendment between SCRRA and VCTC for a not-to-exceed amount of \$579,000 for Right of Way (ROW) Acquisitions required for the construction of the SCORE Simi Valley Double Track Project.

Strategic Commitment

This report aligns with the Strategic Business Plan commitment of:

- **Advancing Key Regional Goals:** We will grow the role of regional rail in addressing climate change, air quality, and other pressing issues by advancing toward zero emissions, making rail a compelling alternative to single-occupant automobiles and advancing equity-focused opportunities for all communities throughout Southern California. The SCORE Simi Valley Double Track Project would enable additional

capacity and service improvements on Metrolink's Ventura County Line.

Background

The SCORE Simi Valley Double Track Project will install 2.15 miles of a 2nd track immediately adjacent to the existing track, install a new platform with pedestrian underpass at the existing Simi Valley Station, and upgrade the existing five (5) grade crossings within the project limits to current Metrolink standards.

The Authority and VCTC executed a MOU for VCTC's support services to the Project on December 4, 2020, which included provision for the support of Right of Way (ROW) Acquisitions.

Immediately adjacent to the existing Simi Valley Station, where the new platform, pedestrian underpass, and improvements to the Hidden Ranch Drive grade crossing will be constructed, the Authority requires ROW Acquisitions for construction of the Project.

The ROW Acquisitions are comprised of the following five (5) property parcels owned by Delaware Hidden Valley Grand Apartments, LLC (Delaware HVG Apts):

- a 4,104 square foot sub-surface Storm Drain Easement;
- a 1,987 square foot Temporary Construction Easement for a duration of 3 years;
- a 6,181 square foot Temporary Construction Easement for a duration of 3 years;
- a 4,762 square foot Temporary Construction Easement for a duration of 3 years; and
- a 55 square foot Permanent Acquisition (fee interest)

All of the property parcels are not developed, are located on the railroad side of the existing barrier wall, and as such the impacts to Delaware HVG Apts and the local residents is minimal.

In March 2023, the Authority undertook an independent appraisal of the five (5) property parcels and the total appraised value for all five (5) parcels combined was \$579,000. On May 9, 2023, the Authority, in close coordination with VCTC, submitted a formal offer to Delaware HVG Apts to acquire the five (5) parcels for the total sum of \$579,000.

In August 2023, VCTC and the Authority was informed that the owner of Delaware HVG Apts had engaged with legal counsel regarding the acquisition of the five (5) parcels. VCTC, in close coordination with the Authority, subsequently also engaged with legal counsel.

On September 26, 2023, VCTC and the Authority met with Delaware HVG Apts, along with respective legal counsel. Delaware HVG Apts legal counsel stated that they would propose a counter-offer to VCTC and the Authority for consideration. Following the meeting, VCTC and the Authority determined that condemnation would likely be required given the circumstances and thereby commenced condemnation proceedings.

On November 1, 2023, Delaware HVG Apts legal counsel formally submitted a counter-offer to VCTC and the Authority that was significantly greater than the appraised value of \$579,000.

On November 3, the VCTC Commission approved the filing of the Resolution of Necessity, which was subsequently filed with the Ventura County Courthouse on December 11, 2023.

Discussion

The next stage of the condemnation process is the preparation and filing of a Motion for Prejudgment Possession. If the Motion is approved by the court, it would grant VCTC and the Authority an Order of Possession of the Delaware HVG Apts property parcels on September 1, 2024.

The Order of Possession significantly reduces the schedule risk to the Project by allowing the Authority to obtain ROW Certification, the TIRCP construction funding allocation from the California Transportation Commission (CTC), and the release of the Invitation for Bid (IFB) for the procurement of the construction contractor.

VCTC is the Plaintiff in the court filing, and as such will submit the Motion of Prejudgment Possession to the court. When the Motion is filed with the court, VCTC must deposit the appraised value of the five (5) parcels, \$579,000, into the State Treasurer's Compensation Deposits Fund. The \$579,000 of funds would then be available to Delaware HVG Apts to utilize prior to the conclusion of the condemnation process.

The Authority has received a ROW TIRCP funding allocation from the California Transportation Commission, and therefore the Authority is the holder of the \$579,000 of funds.

The Authority must transfer the \$579,000 of funds to VCTC in order for VCTC, as the Plaintiff, to deposit the funds with the State Treasurer's Compensation Deposits Fund at the time of the filing of the Motion for Prejudgment Possession. The Authority and VCTC will execute an amendment to the existing MOU in order to formalize the transfer of the \$579,000 of funds.

Budget Impact

The amount for which authority is requested is included in the Adopted SCORE Program Capital Budget for FY2023-24 (\$579,000) and funded with TIRCP funds granted by CalSTA through the SCORE Program.

Next Steps

Upon Board Authorization, the Authority will negotiate and execute an amendment to the existing MOU for the transfer of \$579,000 of funds to VCTC. VCTC, as Plaintiff in the court proceedings, will then deposit the \$579,000 of funds with the State Treasurer's Compensation Deposits Fund.

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Approved by: Justin Fornelli, Chief of Program Delivery