

## **Revised Agenda Item No. 44**

### **Board of Directors Meeting**

**June 4, 2025  
10:00 AM**

#### **Location**

San Bernardino County Transportation Authority  
First Floor Lobby Board Room  
1170 W. 3rd Street, San Bernardino, CA 92410

## **DISCUSSION ITEMS**

### **Project Delivery**

**44. Interstate 10 Corridor Freight and Express Lanes - Contract 2: Construction and Maintenance Agreement for Kaiser Spur Overpass and Temporary Encroachment Agreement for Contract 2A**

That the Board, acting as the San Bernardino County Transportation Authority:

A. Authorize the Executive Director, or his designee, to **negotiate, finalize, and** execute Construction and Maintenance Agreement No. 25-1003211 between Union Pacific Railroad (UPRR), California Department of Transportation, and SBCTA for the construction and maintenance of the Interstate 10 (I-10) Corridor Freight and Express Lanes - Contract 2 Project at the Kaiser Spur Overpass in the amount of \$187,500, which may be recalculated and adjusted by UPRR if SBCTA does not commence construction on the portion of the Project located on the UPRR's property within 12 months, to be funded with Measure I Valley Freeway Program funds, subject to approval as to form by SBCTA General Counsel, or her designee.

B. Authorize the Executive Director, or his designee, to execute Temporary Encroachment Agreement No. 25-1003324 between UPRR and SBCTA for the I-10 Corridor Freight and Express Lanes - Contract 2A Project for a not-to-exceed amount of \$1,686,000 for the Temporary Construction Easements, and the amount of \$50,000 for UPRR project management and construction management costs, which may be recalculated and adjusted by UPRR if SBCTA does not commence construction on the portion of the Project located on the UPRR's property within six months, to be funded with Measure I Valley Freeway Program funds, subject to approval as to form by SBCTA General Counsel, or her designee.

*The item was revised after the posting of the agenda. Revisions made to the item are in bold font.*

## ***Minute Action***

AGENDA ITEM: 44

***Date:*** June 4, 2025

***Subject:***

Interstate 10 Corridor Freight and Express Lanes - Contract 2: Construction and Maintenance Agreement for Kaiser Spur Overpass and Temporary Encroachment Agreement for Contract 2A

***Recommendation:***

That the Board, acting as the San Bernardino County Transportation Authority (SBCTA):

A. Authorize the Executive Director, or his designee, **to negotiate, finalize, and** execute Construction and Maintenance Agreement No. 25-1003211 between Union Pacific Railroad (UPRR), California Department of Transportation, and SBCTA for the construction and maintenance of the Interstate 10 (I-10) Corridor Freight and Express Lanes - Contract 2 Project at the Kaiser Spur Overpass in the amount of \$187,500, which may be recalculated and adjusted by UPRR if SBCTA does not commence construction on the portion of the Project located on the UPRR's property within 12 months, to be funded with Measure I Valley Freeway Program funds, subject to approval as to form by SBCTA General Counsel, or her designee.

B. Authorize the Executive Director, or his designee, to execute Temporary Encroachment Agreement No. 25-1003324 between UPRR and SBCTA for the I-10 Corridor Freight and Express Lanes - Contract 2A Project for a not-to-exceed amount of \$1,686,000 for the Temporary Construction Easements, and the amount of \$50,000 for UPRR project management and construction management costs, which may be recalculated and adjusted by UPRR if SBCTA does not commence construction on the portion of the Project located on the UPRR's property within six months, to be funded with Measure I Valley Freeway Program funds, subject to approval as to form by SBCTA General Counsel, or her designee.

***Background:***

The Interstate 10 (I-10) Corridor Freight and Express Lanes Project – Contract 2 (Project) is the second phase of the San Bernardino County Transportation Authority (SBCTA) I-10 Corridor Express Lanes Program. The Project will include a single express lane in each direction from Interstate 15 (I-15) in the City of Ontario to Pepper Avenue in the City of Colton, connecting to the recently opened I-10 Corridor Contract 1 Express Lanes in the vicinity of I-15. To expedite project delivery, the Project will be divided into two construction contracts: Contract 2A from I-15 to Sierra Avenue and Contract 2B from Sierra Avenue to Pepper Avenue. Contract 2A is currently in its 100% design phase with a target for design approval and right-of-way certification in June 2025.

**Recommendation A:**

On January 8, 2025, the SBCTA Board of Directors (Board) authorized the Executive Director, to negotiate, finalize, and execute Construction and Maintenance Agreement (CMA) No. 25-1003211 with Union Pacific Railroad (UPRR), California Department of Transportation (Caltrans), and SBCTA for defining roles, responsibilities, and funding for the construction and maintenance of the I-10 Corridor Freight and Express Lane Contract 2 Project at the Kaiser Spur Overpass in the amount of \$187,500, to be funded with Measure I Valley Freeway Program funds, subject to approval as to form by SBCTA General Counsel.

*Entity: San Bernardino County Transportation Authority*

Staff received the final draft CMA from UPRR in May 2025, which prescribes that the agreement amount of \$187,500, at SBCTA's sole cost and expense, is only an estimate of UPRR construction support costs and other UPRR expenses, and that UPRR will be reimbursed for actual costs incurred. The CMA also provides that UPRR may recalculate and update the estimate, which will be submitted to SBCTA in the event SBCTA does not commence construction on the portion of the Project located on the railroad's property within 12 months from the execution of the CMA. UPRR struck a provision that the amount would be increased only upon the written agreement of the parties, which allows UPRR to unilaterally increase the amount without a written amendment. Although SBCTA expects that any such increase would be done pursuant to such an amendment, the CMA as written does not require it. **On June 2, 2025, Caltrans made corrections to Exhibit E of the CMA pertaining to Contractor's Right of Entry Agreement, which would require further review of the CMA.**

Staff is recommending that the Board authorize the Executive Director, or his designee, to **negotiate, finalize, and** execute the CMA, subject to approval as to form by SBCTA General Counsel.

Recommendation B:

On March 1, 2023, the Board authorized staff to complete appraisals of properties and to make offers of Just Compensation to property owners for the acquisition of property necessary for the Project, and authorized the Director of Project Delivery to add or remove parcels, as deemed necessary. Included in the authorization were Temporary Construction Easements (TCE) within the railroad right-of-way.

Staff received the draft Temporary Encroachment Agreement (TEA) No. 25-1003324 from UPRR in May 2025, requesting compensation of \$1,686,000 for the TCEs for a three-year term and an estimate of \$50,000 for work to be performed by UPRR.

The TEA prescribes that the amount of \$50,000, at SBCTA's sole cost and expense, is only an estimate of UPRR project management and construction management costs, and that UPRR will be reimbursed for actual costs incurred. Similar to the CMA in Recommendation A, the TEA provides that UPRR may recalculate and update the estimate, which will be submitted to SBCTA in the event SBCTA does not commence construction on the portion of the Project located on the railroad's property within six months from the date of the estimate.

Staff is recommending that the Board authorize the Executive Director, or his designee, to execute the TEA, subject to approval as to form by SBCTA General Counsel.

***Financial Impact:***

This Project is included in the proposed budget for Fiscal Year 2025/2026 and funded with Measure I Valley Freeway Program funds in Program 40, Project Delivery under Task No. 0820 Freeway Projects, Sub-Task No. 0821 I-10 Corridor Project - Contract 2.

***Reviewed By:***

This item has not received prior policy committee or technical advisory committee review. This item is being presented directly to the Board of Directors to clarify the contract amount approved by the Board of Directors on January 8, 2025 for Agreement No. 25-1003211, to approve contract amount with similar language for Agreement No. 25-1003324, and because right-of-way certification is required by June 12, 2025 in order for funding to be allocated at the June California Transportation Commission meeting. SBCTA General Counsel has reviewed this item and the draft agreements.

Board of Directors Agenda Item

June 4, 2025

Page 3

***Responsible Staff:***

Sal Chavez, Project Delivery Manager

---

Approved  
Board of Directors  
Date: June 4, 2025

Witnessed By: