

**California Department of Transportation State Route 28 Rehabilitation Project
Right of Entry and Long-Term License Agreements**

Recommended Action: Adopt Resolution 23-06-03 (Attachment 1) authorizing staff to execute right of entry and long-term license agreements with the California Department of Transportation (Caltrans) allowing Caltrans use of portions of 11 Conservancy parcels in Placer County to implement and maintain its State Route (SR) 28 Rehabilitation Project (Project).

Executive Summary: The recommended action allows Caltrans to implement and maintain the Project along SR 28, from the junction of SR 89 and SR 28 to the Nevada state line. Caltrans will rehabilitate existing facilities by repaving asphalt, replacing or lining culverts, upgrading curb ramps that do not comply with the Americans with Disabilities Act (ADA), and upgrading existing metal beam guard railings. The Project does not include installing new infrastructure. The right of entry agreement allows Caltrans to use small portions of the Conservancy parcels (identified below), which abut the Caltrans SR 28 Right-of-Way, to implement the Project. The long-term license agreement allows Caltrans to maintain the storm water infrastructure on a subset of the Conservancy parcels. The recommended action helps achieve the Conservancy's Strategic Plan Goal 1, to implement interagency agreements to manage its lands and protect communities.

Location: Portions of Conservancy parcels (ANs 115-030-033, 115-030-052, 115-030-089, 115-030-090, 115-030-091, 115-030-092, 115-050-040, 117-072-014, 117-160-023, 117-130-026 and 117-180-023) along SR 28 from the SR 89 junction east to the Nevada state line (Attachment 2).

Fiscal Summary: The Project is in furtherance of the Conservancy's mission and goals, therefore no charge is assessed for the right of entry and long-term license agreements. Conservancy staff will process the right of entry and long-term license agreements as part of its regular workload.

Overview

History

In fall 2022, Caltrans contacted the Conservancy requesting right of entry and long-term license agreements for construction and maintenance access to implement the Project.

All the portions of the Conservancy properties that are included in the Project area abut the Caltrans SR 28 Right-of-Way. Along the Right-of-Way, Caltrans will repave sections with asphalt, and repair or replace existing guard rails. Caltrans will upgrade curb ramps associated with crosswalks to current ADA standards, including those ramps that are located adjacent to the Conservancy's Waterman's Landing, Sandy Beach, Moon Dune Beach, and North Tahoe Beach parcels (ANs 115-030-033, 115-030-052, 115-030-089, 115-030-091, 117-072-014, 117-160-023, 117-160-023, 117-130-026 and 117-180-023) (see Attachment 2).

Caltrans will also address existing storm water culverts on two Conservancy properties. Caltrans requires long-term access to maintain the culverts that convey storm water to settling basins on Conservancy property. At the Waterman's Landing parcels (ANs 115-030-090, 115-030-091, and 115-030-092,), Caltrans will trench to remove and replace the existing pipe in the culvert. At the Conservancy's Carnelian West parcel (AN 115-050-040), Caltrans plans to clean out and line the existing pipe to rehabilitate the culvert instead of replacing it. Neither culvert will be expanded in size or length.

Detailed Description of Recommended Action

1. Major Elements and/or Steps of the Recommended Action

Right of Entry: Staff recommends entering into a right of entry agreement with Caltrans to allow Caltrans to construct ADA improvements and maintain existing storm water infrastructure. The right of entry agreement will provide temporary access to only reconstruct curb ramps to meet current ADA standards and reline or replace existing water conveyance culverts. The other project activities, such as repaving and repairing guard rails, will occur within the Caltrans Right-of-Way.

Long-term license agreement: Staff recommends entering into a long-term license agreement with Caltrans to maintain the existing storm water infrastructure. A long-term license is an appropriate instrument when the Conservancy desires to maintain fee title of a property but allow long-term access. Staff considered a Transfer of Jurisdiction, to transfer the parcels in fee to Caltrans. This is not preferred because of the Conservancy's existing concession and management agreements at recreation sites that are adjacent to the Caltrans Right-of-Way and the Conservancy's desire to maintain fee title of the land for potential future projects. Staff also considered using easements, but the Department of General Services generally does not allow easements between state entities.

2. Overall Context and Benefits

The purpose of the Project is to improve and maintain existing storm water, roadway, and crosswalk infrastructure along SR28, and bring curb ramps into current ADA standards. The Project will result in improved safety for drivers and pedestrians. It will also benefit water quality by ensuring the culverts are well-maintained and properly conveying storm water to settling basins on Conservancy property.

3. Schedule for the Recommended Action

Staff will negotiate the right of entry and long-term license agreements with Caltrans by fall 2023. Caltrans plans to certify the Project in December 2023 and then begin the bidding process. Construction may start as soon as spring 2024.

Financing

The Project is in furtherance of the Conservancy's mission and goals, therefore no charge is assessed for the right of entry and long-term license agreements. Conservancy staff will process the right of entry and long-term license agreements as part of its regular workload.

Authority

Consistency with the Conservancy's Enabling Legislation

The recommended action is consistent with the Conservancy's enabling legislation. Specifically, Government Code section 66907.8 authorizes the Conservancy to lease, rent, or otherwise transfer any real property interest to fulfill the purposes of its enabling legislation and to promote the State's planning priorities. Under Government Code section 66907.9, the Conservancy is authorized to initiate, negotiate, and participate in agreements for the management of land under its ownership or control with local public agencies, state agencies, federal agencies, nonprofit organizations, individuals, and corporate entities or partnerships, and to enter into any other agreements authorized by state or federal law.

Consistency with the Conservancy's Strategic Plan

The recommended action helps achieve the Conservancy's Strategic Plan Goal 1, which tasks the Conservancy with implementing and developing innovative financial partnerships and interagency agreements to manage its lands and protect communities.

Consistency with the Conservancy's Program Guidelines

The recommended action is consistent with the Conservancy's Special Use Guidelines.

Consistency with External Authorities

The recommended action is consistent with Caltrans' 2020-2024 Strategic Management Plan Goal 3: Enhance and connect the multimodal transportation network.

Compliance with the California Environmental Quality Act

Pursuant to the California Environmental Quality Act (CEQA) Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), certain classes of activities are statutorily exempt from CEQA or are exempt because they have been determined by the Secretary of the California Natural Resources Agency to have no significant effect on the environment. Pursuant to Public Resources Code sections 21001(f) and 21082, the Conservancy has also adopted regulations to implement, interpret, and make specific the provisions of CEQA. (Cal. Code Regs., tit. 14, § 12100 et seq.)

Caltrans prepared a Notice of Exemption (NOE) for the Project and filed the NOE on November 1, 2021. Staff has evaluated this Project, and has found it to be exempt under CEQA. This Project qualifies for a Class 1 categorical exemption under CEQA Guidelines section 15301 existing facilities, and the Conservancy's CEQA regulations, section 12102.1. An NOE has been prepared for the Project (Attachment 3). If the Board approves the Project, staff will file the NOE with the State Clearinghouse pursuant to CEQA Guidelines, section 15062.

List of Attachments

Attachment 1 – Resolution 23-06-03
Attachment 2 – Location Map
Attachment 3 – Conservancy Notice of Exemption
Exhibit A - Location Map

Conservancy Staff Contact

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