

STAFF REPORT

APPROVE JOB ORDER NO. 21009-001 TO EXBON DEVELOPMENT, INC. FOR RIGHT-OF-WAY BOUNDARY FENCING INSTALLATION IN THE CITY OF ENCINITAS

Time Sensitive: Consent:

**STAFF
RECOMMENDATION:**

Approve Job Order No. 21009-01 to Exbon Development, Inc. for right-of-way boundary fencing installation in the City of Encinitas in an amount not-to-exceed \$2,355,394.

**BACKGROUND
INFORMATION:**

The North County Transit District (NCTD) is responsible for railroad safety, operations, and maintenance on the San Diego Subdivision, which extends from the Orange County jurisdictional border to the Santa Fe Depot Rail Station in downtown San Diego. In addition to operating COASTER commuter rail on the San Diego Subdivision, NCTD hosts Amtrak, BNSF, and Metrolink.

In 2015, NCTD and the City of Encinitas (City) entered into a Memorandum of Understanding (MOU) to engage in joint discussions and work together to investigate, evaluate, and pursue safety, active transportation (bike and pedestrian) and parking improvements that benefit commercial businesses, residential properties, beach access and transit users. NCTD has delivered on the commitments of the MOU, working collaboratively with the City on multiple projects allowing use of NCTD's right-of-way (ROW) for City purposes. These projects include temporary parking along Vulcan Avenue, the 1.3 mile segment of the Coastal Rail Trail from Chesterfield Drive to the Santa Fe Drive Undercrossing, Streetscape and the El Portal Undercrossing.

Currently, there are approximately sixty-seven (67) trains per weekday within the San Diego Subdivision. Train traffic is planned to increase within the region to more than one hundred (100) trains per day by 2030, including NCTD's planned increase in COASTER frequencies from twenty-two (22) trains per average weekday to more than forty-five (45) trains per average weekday by 2025. COASTER, Metrolink and Amtrak are currently transitioning to Tier-4 emissions locomotives that are significantly quieter and more environmentally friendly.

Trespasser events pose one of the current challenges to rail operations on the San Diego Subdivision, increasing the risk of injuries, fatalities, service disruptions/delays (average delay over one hundred and twenty (120) minutes for significant events), potential damage to equipment and infrastructure, and liability claims. Based on NCTD's tracking and trending of trespasser events, three (3) locations have been identified as high-priority areas in need of risk reduction alternatives followed by the implementation of appropriate and effective safety improvements to reduce trespasser events. One of the locations is within the City, Mile Posts 235.1 to 237.60 (east and west side of tracks).

In 2018, NCTD received a state grant of \$1.3 million to implement fencing, which has been recommended by the Federal Railroad Administration (FRA) in the [National Strategy to Prevent Trespassing on Railroad Property Report to Congress, dated October 2018](#), as an effective strategy to reduce trespasser events. To complement the implementation of fencing, NCTD also conducted a

[Trespasser Risk Reduction Study](#), to identify additional measures to further mitigate trespassing and related negative impacts including loss of life, injury, environmental impacts, and train delays along the railroad ROW.

As part of the project collaboration under the MOU, NCTD and the City are parties to NCTD Agreement No. 235.1-237.7-0520-MISC-ENC dated May 1, 2020 (Agreement) that allows the City to use NCTD's ROW for its Streetscape project, located to the west of the railroad tracks, along Coast Highway. The Agreement contemplates NCTD fencing of the ROW and allows for alternative fencing design subject to insurance and indemnity provided by the City. The City would be responsible for the cost difference between NCTD's engineering standard fence and the City's requested alternative. As part of the City's Streetscape project, the City is installing fencing with their improvements, eliminating the need for NCTD's installation. This eliminates a project cost to NCTD of approximately \$1,259,573.

As a reciprocal benefit, NCTD has agreed to install an alternative fencing design along the eastern side of the ROW at no additional cost to the City. The City will still be responsible for insurance and indemnity associated with the fence design deviation. The agreement for this reciprocal benefit is memorialized in an amendment to NCTD Agreement No. 235.1-237.7-0520-MISC-ENC between NCTD and the City, approved by City Council on September 29, 2021.

NCTD staff prepared a scope of work and estimate for the boundary fencing, including a boundary survey, for execution through Agreement No. 21009 with Exbon Development, Inc. (Exbon) for Job Order Contract (JOC) – General Building and Facilities, which was approved by the NCTD Board of Directors (Board) at the September 17, 2020 Regular Board meeting for repairs, maintenance, and construction projects on an as-needed basis (Agenda Item No. 17). The scope of work specifies that the ROW boundary fencing shall be 42-inch-high post and cable. The location for the fence installation is approximately twenty (20) feet east of the railroad tracks for 12,145 linear feet, beginning in the vicinity of La Costa Avenue (milepost 235.10) south to the vicinity of Encinitas Boulevard (milepost 237.60).

On June 16, 2021, NCTD issued a Request for Proposal (RFP) to Exbon Development, Inc. for Job Order No. 21009-001. On July 29, 2021, Exbon Development, Inc. provided a final proposal in the amount of \$2,355,394, which was determined to be in accordance with the Agreement Construction Task Catalog pricing and bid adjustment factor.

The agreements between NCTD and the City represent a positive example of working collaboratively to support the respective goals of each party. Attachment 16A provides photos of the project area along with completed improvements constructed as part of the agreements executed by the City and NCTD.

Staff recommends that the Board approve Job Order No. 21009-001 to Exbon Development, Inc. for ROW boundary fencing installation in the City of Encinitas in an amount not-to-exceed \$2,355,394.

ATTACHMENT: 16A – Photos of ROW Boundary Fencing and Completed Projects

GOAL/STRATEGIC DIRECTION: Enhance Safety & Security

FISCAL IMPACT: The fiscal impact of this proposed contract action is \$2,355,394, which is funded with Federal Transportation Administration, State Transit Assistance, California Department of Transportation State Transit and Intercity Capital Rail Program, and Transportation Development Act funds in Project 519003, which has a total budget of \$3,567,505. If the Board approves this proposed contract action, the balance available in Project 519003 will be reduced to \$665,638.

COMMITTEE REVIEW: None

STAFF CONTACT: Tracey Foster, Chief Development Officer
E-mail: tfoster@nctd.org Phone: 760-966-6674

Approved and/or authorized
by the Board of Directors of the
North County Transit District
By:  Date: 10/25/21
Clerk of the Board

Photos of ROW Fencing and Completed Projects

Current Unimproved Condition with Fence Boundary



Completed Improvements

The Coastal Rail Trail includes a 1.3-mile segment in Encinitas that opened to the public in May 2019, providing a multi-use biking and walking path with safety fencing along the east side of the railroad tracks near San Elijo Avenue, from Chesterfield Drive to the Santa Fe Drive undercrossing.

The Streetscape Parking Pods include 3,000 linear feet of formalized parallel parking along Coast Highway 101 in five locations, creating approximately 120 spaces. Each pod includes safety fencing.

