

Memorandum

To: CHAIR AND COMMISSIONERS **Date:** July 21, 2010

From:  BIMLA G. RHINEHART **File:** Book Item 2.2c (8)
Action
Executive Director

Ref: Final Environmental Impact Report for the Orange County Gateway Project (Resolution E-10-74)

ISSUE: Should the Commission, as a Responsible Agency, accept the Final Environmental Impact Report (FEIR), Findings of Fact and Statement of Overriding Considerations for the Orange County Gateway Project (project) in Orange County and approve the project for future consideration of funding?

RECOMMENDATION: Staff recommends that the Commission accept the FEIR, Findings of Fact and Statement of Overriding Considerations and approve the project for future consideration of funding.

BACKGROUND: The City of Placentia, as the lead agency under CEQA, prepared the FEIR and filed the Notice Determination for the project on November 17, 2008. The project proposes to construct six overcrossings and two undercrossings across the Burlington Northern Santa Fe (BNSF) tracks in the Cities of Placentia and Anaheim and unincorporated Orange County from west of Bradford Avenue to west of Imperial Highway (State Route 90).

In January 2008, the Orange County Transportation Authority (OCTA) became the lead agency for the design and construction of the project. However, the City remained the lead agency for the environmental phase.

The City found that the project will result in significant unavoidable adverse impacts, even with implementation of mitigation measures included in the adopted Mitigation Monitoring and Report Program for the project. Specifically, the project will result in significant unavoidable adverse impacts related to visual resources/aesthetics and short term air quality during construction. Since the overcrossings would be constructed above grade, the overcrossings would block and alter views from existing residential uses and would alter the visual experience of area residents and motorists with temporary views from the area roads. In addition, the project would result in potentially significant adverse air quality impacts and cumulative short term air quality impacts during construction. Specifically, emissions of nitrogen dioxide (NO₂) would exceed the South Coast Air Quality Management District daily emissions thresholds for construction.

The City adopted a Statement of Overriding Considerations for the project finding that the significant unavoidable impacts of the proposed project are acceptable in light of the project benefits. The City found that the project would reduce traffic delay and improve mobility; improve public safety; eliminate train whistle noise; relieve flood conditions; reduce air quality emissions from surface vehicles; and reduce fuel consumption for surface vehicles.

OCTA will construct four of the grade separations identified in the study: Kraemer Boulevard, Orangethorpe Avenue, Tustin Avenue/Rose Drive, and Lakeview Avenue. OCTA, as the implementing agency for the project, committed to the implementation of all mitigation measures as documented in the final environmental document. These four grade separations are estimated to cost \$353,482,000. The Commission programmed funds for these four projects totaling \$124,380,000 in the Proposition 1B TCIF program as follows:

- Kramer Boulevard Undercrossing, estimated to cost \$70,432,000, is programmed with TCIF (\$22,642,000), Federal (\$32,072,000) and Local (\$15,718,000) funds. Construction is estimated to begin in February 2011.

According to OCTA, the preferred alternative results in a revised scope and a cost increase totaling \$24,522,000 over the estimated total cost of \$45,910,000 programmed in the TCIF baseline agreement. According to OCTA, supplemental Federal (\$15,512,000) and Local (\$9,010,000) funds have been secured to complete the project. OCTA has requested an amendment to the TCIF baseline agreement to reflect the project scope and cost changes. An environmental revalidation was completed on March 6, 2010 to address the project scope changes. The revalidation was accepted by Caltrans and FHWA on May 24, 2010. The approved revalidation did not result in additional mitigation measures relative to air quality or other issues.

- Orangethorpe Avenue Overcrossing, estimated to cost \$117,385,000, is programmed with TCIF (\$41,666,000), Federal (\$65,552,000) and Local (\$10,167,000) funds. Construction is estimated to begin in 2013.

According to OCTA, the preferred alternative results in a revised scope and a cost increase totaling \$33,428,000 over the estimated total cost of \$83,957,000 programmed in the TCIF baseline agreement. OCTA intends to request an amendment to the TCIF baseline agreement to reflect the project scope and cost changes.

Tustin Avenue/Rose Drive Overcrossing, estimated to cost \$95,492,000, is programmed with TCIF (\$31,387,000), Federal (\$53,067,000) and Local (\$11,038,000) funds. Construction is estimated to begin in 2013.

According to OCTA, the preferred alternative results in a revised scope and a cost increase totaling \$32,092,000 over the estimated total cost of \$63,400,000 programmed in the TCIF

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baseline agreement. OCTA intends to request an amendment to the TCIF baseline agreement to reflect the project scope and cost changes.

- Lakeview Avenue Overcrossing, estimated to cost \$70,173,000, is programmed with TCIF (\$28,685,000), Federal (\$32,392,000) and Local (\$9,096,000) funds. Construction is estimated to begin in 2011.

According to OCTA, the preferred alternative results in a revised scope and a cost increase of \$ 11,648,000 over the estimated total cost of \$58,525,000 programmed in the TCIF baseline agreement. OCTA intends to request an amendment to the TCIF baseline agreement to reflect the project scope and cost changes.

Attachments

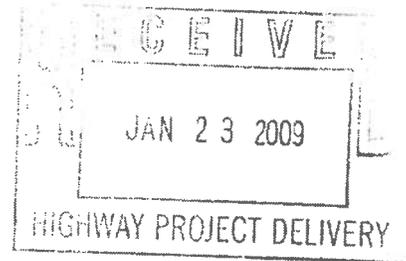
- Resolution E-10-74
- Statement of Overriding Considerations
- Project Location

CALIFORNIA TRANSPORTATION COMMISSION

Resolution for Consideration of Future Funding 12 – Orange County Resolution E-10-74

- 1.1 **WHEREAS**, the City of Placentia (City) has completed a Final Environmental Impact Report pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines for the following project:
 - Orange County Gateway Project
- 1.2 **WHEREAS**, the City has certified that the Final Environmental Impact Report has been completed pursuant to CEQA and the State CEQA Guidelines for its implementation; and
- 1.3 **WHEREAS**, the project will construct six overcrossings and two undercrossings across the Burlington Northern Santa Fe (BNSF) tracks in the Cities of Placentia and Anaheim and unincorporated Orange County from west of Bradford Avenue to west of Imperial Highway (State Route 90); and
- 1.4 **WHEREAS**, the California Transportation Commission, as a Responsible Agency, has considered the information contained in the Final Environmental Impact Report; and
- 1.5 **WHEREAS**, Findings of Fact made pursuant to CEQA guidelines indicate that specific unavoidable significant impacts related to aesthetics/visual resources and short term air quality make it infeasible to avoid or fully mitigate to a less than significant level the effects associated with the project; and
- 1.6 **WHEREAS**, the City adopted a Statement of Overriding Considerations for the project; and
- 1.7 **WHEREAS**, the City adopted a Mitigation Monitoring and Reporting Program for the project; and
- 1.8 **WHEREAS**, the above significant effects are acceptable when balanced against the facts as set forth in the Statement of Overriding Considerations.
- 2.1 **NOW, THEREFORE, BE IT RESOLVED** that the California Transportation Commission does hereby accept the Final Environmental Impact Report, Findings of Fact and Statement of Overriding Considerations and approve the above referenced project to allow for future consideration of funding.

ATTACHMENT 2



**STATEMENT OF OVERRIDING CONSIDERATIONS
FOR THE
ORANGE COUNTY GATEWAY PROJECT**

FILE COPY
FEB 10 2009
Project No.: 50200
File No.: 5.0
Log No.: 00109
OCTA

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1.0 INTRODUCTION

The California Environmental Quality Act (CEQA) requires a public agency to balance the benefits of a proposed project against the unavoidable significant adverse environmental impacts of that project in determining whether to approve the project.

Section 15093 of the CEQA Guidelines provides:

- a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."
- b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final Environmental Impact Report (EIR) but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The Statement of Overriding Considerations (SOC) shall be supported by substantial evidence in the record.
- c) If an agency makes an SOC, that statement should be included in the record of the project approval and should be mentioned in the Notice of Determination. This SOC does not substitute for, and shall be in addition to, findings required pursuant to Section 15091 of the CEQA Guidelines.

2.0 ENVIRONMENTAL DOCUMENTATION FOR THE OCG PROJECT

The City of Placentia prepared a joint Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the proposed Orange County Gateway (OCG) project to satisfy the requirements of CEQA and the National Environmental Policy Act (NEPA). The Draft EIS/EIR considered three Build Alternatives and a No Build Alternative. The Draft EIS/EIR identified Build Alternative D, standard grade separations, as the locally preferred alternative for the OCG project. That Alternative is cited in this SOC as the "OCG project."

The CEQA process for the OCG project will be completed by the City of Placentia when the City Council certifies the Final EIR for the selected project and files a Notice of Determination with the County Clerk and the State Clearinghouse.

The NEPA process will be completed when the Federal Highway Administration (FHWA) completes a Record of Decision (ROD) for the selected OCG project.

Citations to the Draft EIS/EIR in this SOC refer to the joint NEPA/CEQA Draft EIS/EIR. Citations to the Final EIR refer to the final environmental document under CEQA that will be certified by the City of Placentia. This SOC applies only under CEQA.

3.0 SIGNIFICANT ADVERSE IMPACTS OF THE OCG PROJECT

As discussed in the "Findings and Facts in Support of Findings for the Orange County Gateway Project" (October 2008), the OCG project will result in significant unavoidable adverse impacts, even with implementation of the mitigation measures provided in the Mitigation Monitoring and Reporting Program (MMRP) for the selected project. The OCG project will result in significant unavoidable adverse impacts related to visual resources and short term air quality, as described below.

3.1 Unavoidable Significant Adverse Visual Impacts

As described in Section 3.23, Unavoidable Adverse Impacts, in the Final EIR, the OCG project proposes the construction of six overcrossings and two undercrossings across the Burlington Northern Santa Fe (BNSF) tracks. The overcrossings would be above grade, would block and alter views from existing residential uses, and would alter the visual experience of area residents and motorists with temporary views from the area roads. Specifically, the construction of bridge structures at Orangethorpe Avenue, Tustin Avenue/Rose Drive, Jefferson Street, Van Buren Street, Richfield Road, and Lakeview Avenue for the OCG project would create adverse visual impacts for observers. Construction of Orangethorpe Avenue as a road bridge over the railroad tracks just east of Miller Street would result in adverse visual impacts to area residents. These overcrossing structures are considered to result in permanent adverse visual impacts. Mitigation Measures V-2, V-3, and V-4 in the MMRP would reduce the adverse visual impacts of the OCG project but not to below a level of significance. Therefore, the OCG project would result in significant adverse visual impacts associated with overcrossing structures that cannot be mitigated to below a level of significance.

3.2 Unavoidable Significant Adverse Short-Term Air Quality Impacts

As discussed in detail in Section 3.13, Air Quality, in the Final EIR, the OCG project would result in potentially significant adverse air quality impacts during construction. Emissions of nitrogen dioxide (NO₂) would exceed the South Coast Air Quality Management District (SCAQMD) daily emissions thresholds for construction. Mitigation Measures AQ-1 through AQ-4 in the MMRP would substantially reduce these short-term adverse air quality impacts of the OCG project, but not to below a level of significance.

4.0 CUMULATIVE IMPACTS

As discussed in Section 4.0, Cumulative Impacts, in the Final EIR, the OCG project could potentially contribute to cumulative adverse impacts related to property acquisition (community impacts), short-term air quality, and noise impacts. The potential for the OCG project to contribute to cumulative impacts related to these parameters is described briefly in the following sections.

4.1 Cumulative Property Acquisition (Community) Impacts

As concluded in Section 3.4, Community Impacts, in the Final EIR, the business and residential acquisitions required for the OCG project are considered adverse before mitigation. Mitigation measures provided in the MMRP would substantially reduce those potential adverse community impacts of the OCG project.

At the time the Draft EIS/EIR was prepared, the State Route 90 (SR-90) Grade Separation project was underway. The Draft EIS/EIR indicated that the SR-90 project was anticipated to result in up to 45 full property acquisitions and 9 partial property acquisitions. As discussed in the Draft EIS/EIR, had the right-of-way acquisition for the SR-90 and OCG projects occurred concurrently, those impacts related to property acquisition for public projects in this area could potentially have been a cumulative adverse impact of those two projects.

However, since the analysis in the Draft EIS/EIR was prepared, the property acquisition for the SR-90 project has been completed and the construction of that project is underway. Therefore, the property acquisitions for these two projects would not occur concurrently and consequently would not result in cumulative adverse impacts.

4.2 Cumulative Short-Term Air Quality Impacts

During construction of the OCG project, emissions from construction equipment and grading activities would exceed the daily SCAQMD emissions thresholds. The short-term construction emissions under the OCG project, together with emissions from other construction sites and operations in the South Coast Air Basin (Basin), would add to the Basin's daily emissions and contribute to the existing exceedance of air quality standards. Therefore, there is potential for the short-term air quality emissions as a result of the OCG project to contribute to a cumulative short-term regional impact when considered with other projects under construction at the same time.

4.3 Cumulative Long-Term Noise Impacts

The OCG project would result in slightly increased noise levels associated with vehicle travel in the project area due in part to the elimination of vehicle idling at the railroad crossings. Vehicles traveling at higher speeds generally generate higher noise levels than vehicles idling at a specific location. The OCG project would result in slightly higher vehicle traffic noise in the areas adjacent to the railroad crossings due to the increased exposure to vehicles and potentially shorter distances to the elevated overcrossings. The vehicle volumes evaluated in the Final EIR analysis included cumulative traffic trips in the area. Therefore, the OCG project would contribute only a small amount to a cumulative adverse effect related to increased local traffic noise impacts in the area when considered with other sources of vehicular traffic.

5.0 BENEFITS OF THE PROPOSED PROJECT

While the mitigation measures described earlier will help to mitigate the adverse visual impacts of the OCG project, those impacts cannot be mitigated to below a level of significance. Alternative B, the full trench alternative, would avoid these impacts because it would not provide overcrossings at these six locations. Alternative C, the trench/overcrossing alternative, would avoid this impact at all but one arterial crossing. The No Build Alternative would avoid all these impacts but would not meet any of the defined project objectives.

As required by Sections 21081 (a)(3) and (b) in the CEQA Statutes and Section 15093 in the CEQA Guidelines, the lead agency must identify those specific considerations and benefits of the project that

are documented to support findings that either additional mitigation measures or alternatives are infeasible and that the significant unavoidable impacts of the proposed project are acceptable in light of these benefits. These benefits must be taken into consideration with approval of the proposed project by the decision-makers. The benefits of the OCG project described here are in comparison to the No Build Alternative conditions in 2030.

As described in Section 1.0, Purpose and Need for the Project, in the Final EIR, the purpose of the OCG project is to eliminate the current and potential environmental impacts and hazards posed by the existing at-grade crossings at several intersections on the Orangethorpe Corridor. The specific objectives of the OCG project are to:

- Improve the economic vitality of the surrounding community by improving the projected future vehicle level of service (LOS) and reducing the amount of congestion and delay on the project area roadway network for residents, employees, and visitors to area businesses
- Increase the efficiency of moving people and goods by rail (freight and passengers) and cars and trucks in the OCG project area
- Increase public safety by eliminating at-grade rail/local street crossings
- Reduce operational train noise and whistles
- Reduce emergency vehicle response times
- Reduce air pollution from idling vehicles on local streets at rail crossings

The benefits of the OCG project, as a result of meeting these defined objectives for the OCG project, are described below.

5.1 Reduce Delay/Improve Mobility

The grade separations provided by the OCG project would eliminate the need for surface traffic on the eight arterials to stop at the BNSF tracks for passing trains. As a result, the delays experienced by surface traffic would be eliminated, and mobility in the area would be improved by eliminating the need for travelers on the crossing arterials to stop for passing trains.

As discussed in Section 1.0, Purpose of and Need for the Project, in the Final EIR, train volumes and lengths are forecast to increase substantially by 2030, which would increase the hours of delay at the eight arterial crossings under the No Build Alternative. The *Traffic Delay Analysis* (Meyer, Mohaddes Associates, September 2002, provided in Appendix B of the *Traffic Impact Analysis*) includes a detailed analysis of increased rail activity along the BNSF corridor, increased vehicular traffic along the arterials in the vicinity of the corridor, and the potential delay to surface traffic under the No Build Alternative in 2030. Table 5.A shows the total daily vehicle hours of delay in 2030 at each of the eight arterials under No Build Alternative. As shown, that forecasted delay is substantial. The delay at all eight crossings would be eliminated with the eight grade separations provided by the OCG project. This represents a substantial benefit to travelers crossing the BNSF tracks, including residents, visitors, commuters, businesses, emergency services providers, transit services providers, and other traffic.

Table 5.A: Vehicle Delay Due to At-Grade Crossings under the No Build Alternative

Cross Streets	2030 Total Daily Vehicle Hours of Delay
Jefferson Street	51
Kellogg Drive	46
Kraemer Boulevard	315
Lakeview Avenue	171
Orangethorpe Avenue	130
Richfield Road	91
Tustin Avenue-Rose Drive	224
Van Buren Street	91

Source: *Traffic Delay Analysis* (Meyer, Mohaddes Associates, September 2002) provided in Appendix B of the *Traffic Impact Analysis* (LSA Associates, Inc., October 2007).

5.2 Improve Public Safety

The grade separations provided by the OCG project would fully separate rail traffic from surface vehicular traffic, pedestrians, and bicyclists at the eight arterial crossings of the BNSF. This would eliminate the potential for train/vehicle, train/pedestrian and train/bicyclist conflicts at the crossings.

The grade separations provided by the OCG project would eliminate delays for emergency vehicles using the eight arterial crossings of the BNSF tracks.

5.3 Elimination of Train Whistle Noise

The grade separations provided by the OCG project would eliminate the need for conductors to use their horns/whistles at the eight arterial road crossings. This a primary purpose of the OCG project because the train whistle noise has been a subject of community concern for a number of years.

5.4 Relieving Flood Conditions

As discussed in Section 3.9, Hydrology and Floodplains, in the Final EIR, the OCG project would require reconstruction of flood control channels located within the project footprints at the eight arterial crossings. The mitigation measures provided in the MMRP require that all affected flood control channels be reconstructed to safely convey 100-year storm water flows as part of the OCG project. As a result, the OCG project will provide improved flood control channels with greater capacity at these crossings.

5.5 Reduction in Air Quality Emissions

Because the OCG project eliminates the delay at the eight arterial crossings, emissions from surface vehicles at these crossings would be reduced. However, there will be emissions at the signalization and other traffic controls associated with the overcrossings and undercrossings. As a result, although

there is a reduction of air emissions due to the elimination of delay, the net level of emissions under the OCG project would be similar to the emissions under the No Build Alternative. In summary, the OCG project would not reduce emissions compared to the No Build Alternative but it would also not result in an increase in emissions compared to the No Build Alternative.

5.6 Reduction in Energy Use

The OCG project would improve circulation and separate vehicles and trains at the eight arterial crossings. The OCG project would not result in any changes in the volumes or lengths of trains operating on these tracks. Therefore, the OCG project would not result in an increase in fuel consumption by freight and passenger train/locomotive operations, compared to the No Build Alternative.

Although it is not anticipated that vehicle miles traveled would change as a result of the OCG project, it is expected that fuel consumption by surface vehicles would be reduced compared to the No Build Alternative. This is because vehicular traffic congestion would be reduced by eliminating existing and future delays for vehicular traffic at the railroad crossings. Elimination of these vehicle-delay hours would reduce the fuel consumed by vehicles traveling through and waiting at these crossings. Therefore, for the OCG project, the elimination of the at-grade railroad crossings would reduce fuel consumption for surface vehicles.

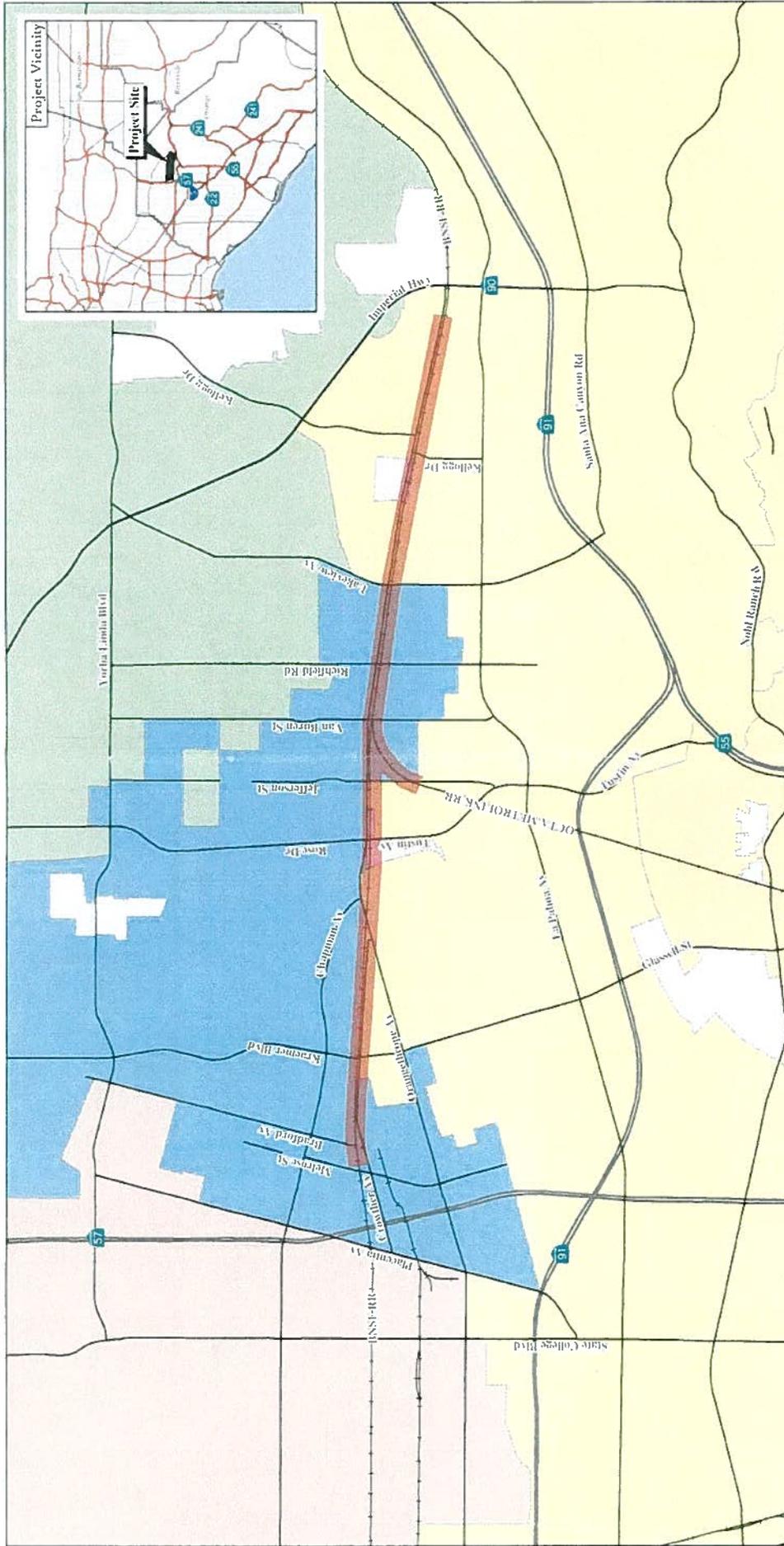


FIGURE 1-1

Orange County Gateway
Project Location

Legend

- Project Area
- City of Orange
- County of Orange
- City of Anaheim
- City of Fullerton
- City of Placentia
- City of Yorba Linda
- Railroad

0 0.750 1.500 3.000 4.500 METERS
 0 2.500 5.000 10.000 FEET
 SOURCE: FIRM (2004)
 Project: 03/03/04; Final: 01/12/07

