

Date: Monday, August 10, 2009

Time: 9:00 a.m.

Where: Orange County Transportation Authority Headquarters
600 South Main Street, First Floor - Conference Room 154
Orange, California 92868



BOARD AGENDA

Orange County Transportation Authority Board Meeting
Orange County Transportation Authority Headquarters
First Floor - Room 154
600 South Main Street, Orange, California
Monday, August 10, 2009, at 9:00 a.m.

ACTIONS

Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA Clerk of the Board, telephone (714) 560-5676, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Agenda Descriptions

The agenda descriptions are intended to give members of the public a general summary of items of business to be transacted or discussed. The posting of the recommended actions does not indicate what action will be taken. The Board of Directors may take any action which it deems to be appropriate on the agenda item and is not limited in any way by the notice of the recommended action.

Public Comments on Agenda Items

Members of the public wishing to address the Board of Directors regarding any item appearing on the agenda may do so by completing a Speaker's Card and submitting it to the Clerk of the Board. Speakers will be recognized by the Chairman at the time the agenda item is to be considered. A speaker's comments shall be limited to three (3) minutes.

Public Availability of Agenda Materials

All documents relative to the items referenced in this agenda are available for public inspection at www.octa.net or through the Clerk of the Board's office at the OCTA Headquarters, 600 South Main Street, Orange, California.

Call to Order

Invocation

Director Pringle

Pledge of Allegiance

Director Brown



BOARD AGENDA

ACTIONS

Special Matters

There are no Special Matters items.

Consent Calendar (Items 1 through 5)

All matters on the Consent Calendar are to be approved in one motion unless a Board Member or a member of the public requests separate action on a specific item.

Orange County Transportation Authority Consent Calendar Matters

1. **Approval of Minutes**

Of the Orange County Transportation Authority and affiliated agencies' regular meeting of July 27, 2009.

2. **State Legislative Status Report**

Manny Leon/Kristine Murray

Overview

An overview of the recently approved state budget package is provided.

Recommendation

Receive and file as an information item.

3. **Excess Liability Insurance Renewal**

Al Gorski/Patrick J. Gough

Overview

The Orange County Transportation Authority currently has excess liability insurance policies with Everest National Insurance Company and Great American Insurance Company. These policies are scheduled to expire on November 1, 2009.



BOARD AGENDA

ACTIONS

3. (Continued)

Recommendation

Authorize the Chief Executive Officer to issue Purchase Order No. A14151, in an amount not to exceed \$550,000, to Marsh Risk and Insurance Services, Inc., for the purchase of excess liability insurance for the period November 1, 2009 to November 1, 2010.

Orange County Local Transportation Authority Consent Calendar Matters

4. **Update on Negotiations with City of Irvine Regarding Marine Way Realignment and Metrolink Maintenance Facility Property**

Kia Mortazavi

Overview

The Orange County Transportation Authority and the City of Irvine are working cooperatively to plan for realignment of Marine Way and development of a future rail maintenance yard in the Orange County Great Park area. The Orange County Transportation Authority is also providing planning grants to the City of Irvine for the development of local shuttle service.

Recommendation

Authorize the Chief Executive Officer to execute the revised Cooperative Agreement No. C-9-0303 between the Orange County Transportation Authority and the City of Irvine to define each party's roles and responsibilities for service planning of the Irvine Spectrum Shuttle.



BOARD AGENDA

ACTIONS

Orange County Transit District Consent Calendar Matters

5. **Approval for Release of Request for Proposals for On-Call Architectural/Engineering Design and Construction Support Services for Facility Modification Projects**

James J. Kramer/Darrell Johnson

Overview

Staff has developed a request for proposals to initiate a competitive procurement process to retain on-call architectural and engineering design and construction support services for facility modification projects.

Recommendations

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 9-0589 for the selection of consultant services.
- B. Approve the release of Request for Proposals 9-0589 for the on-call architectural and engineering design and construction support services for facility modifications.

Regular Calendar

Orange County Transportation Authority Regular Calendar Matters

6. **Excess Workers' Compensation Insurance Policy**

Al Gorski/Patrick J. Gough

Overview

The Orange County Transportation Authority's Excess Workers' Compensation Insurance Policy will expire on October 1, 2009. Although the California Workers' Compensation Rating Bureau recommends a 27 percent increase, this policy can be renewed at current rates.



BOARD AGENDA

ACTIONS

6. (Continued)

Recommendation

Authorize the Chief Executive Officer to execute Purchase Order No. A14027 for the renewal of the Excess Workers' Compensation Insurance Policy at the current guaranteed rate of \$0.4300 at statutory limits with a \$500,000 self-insured retention or less, for an annual premium not to exceed \$500,000, for the policy period of October 1, 2009, through October 1, 2010.

Orange County Local Transportation Authority Regular Calendar Matters

7. Support for High-Speed Intercity Passenger Rail Program Stimulus Funding for the State of California

Michael Litschi/Darrell Johnson

Overview

As part of the American Recovery and Reinvestment Act of 2009, \$8 billion was made available for improvements to high-speed and intercity passenger rail corridors throughout the United States. In Orange County, projects to support the development of the California High-Speed Rail corridor from Anaheim to Los Angeles and the Intercity Rail corridor from San Diego to San Luis Obispo are eligible for funding. A summary of proposed project submittals is provided for Board of Directors' review and approval.

Recommendations

- A. Support the California High-Speed Rail Authority's request for federal High-Speed Intercity Passenger Rail Program funding, including \$3.4 billion for the Anaheim to Los Angeles segment of the system.
- B. Support the statewide application for \$850 million to fund implementation of positive train control.
- C. Support the California Department of Transportation's application for \$339.9 million in funding for 18 intercity rail projects on the Pacific Surfliner corridor, including six projects in Orange County.



BOARD AGENDA

ACTIONS

Discussion Items

8. **Rail Program Update**
Darrell Johnson
9. **Katella Avenue Smart Street Project Status**
Harry W. Thomas/Kia Mortazavi
10. **Revenue Update**
Kenneth Phipps
11. **Public Comments**

At this time, members of the public may address the Board of Directors regarding any items within the subject matter jurisdiction of the Board of Directors, but no action may be taken on off-agenda items unless authorized by law. Comments shall be limited to three (3) minutes per speaker, unless different time limits are set by the Chairman subject to the approval of the Board of Directors.

12. **Chief Executive Officer's Report**
13. **Directors' Reports**
14. **Closed Session**

A. Pursuant to Government Code Section 54956.9 (a) to discuss Safeway Towing Services, Inc., dba Bob's Towing v. OCTA; OCSC No 00125512.

B. Pursuant to Government Code Section 54956.9 (c).

15. **Adjournment**

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, August 24, 2009**, at the OCTA Headquarters.

Minutes of the Meeting of the
Orange County Transportation Authority
Orange County Service Authority for Freeway Emergencies
Orange County Local Transportation Authority
Orange County Transit District
Board of Directors
July 27, 2009

Call to Order

The July 27, 2009, regular meeting of the Orange County Transportation Authority and affiliated agencies was called to order by Chairman Buffa at 9:02 a.m. at the Orange County Transportation Authority Headquarters, Orange, California.

Roll Call

Directors Present: Peter Buffa, Chairman
Jerry Amante, Vice Chairman
Patricia Bates
Arthur C. Brown
Bill Campbell
Carolyn Cavecche
William J. Dalton
Richard Dixon
Cathy Green
Allan Mansoor
John Moorlach
Janet Nguyen
Curt Pringle
Miguel Pulido
Gregory T. Winterbottom
Cindy Quon, Governor's Ex-Officio Member

Also Present: James S. Kenan, Interim Chief Executive Officer
Wendy Knowles, Clerk of the Board
Laurena Weinert, Assistant Clerk of the Board
Kennard R. Smart, Jr., General Counsel
Members of the Press and the General Public

Directors Absent: Paul Glaab
Chris Norby

Invocation

Director Moorlach gave the invocation.

Pledge of Allegiance

Vice Chair Amante led the Board and audience in the Pledge of Allegiance.

Public Comments on Agenda Items

Chairman Buffa announced that members of the public who wished to address the Board of Directors regarding any item appearing on the agenda would be allowed to do so by completing a Speaker's Card and submitting it to the Clerk of the Board.

Special Matters

1. Presentation of Resolutions of Appreciation for Employees of the Month for July 2009

Chairman Buffa presented Orange County Transportation Authority Resolutions of Appreciation Nos. 2009-44, 2009-45, 2009-46 to James Da Vanzo, Coach Operator; Hieu Tran, Maintenance; and Luis Perez, Administration, as Employees of the Month for July 2009.

Consent Calendar (Items 2 through 19)

Chairman Buffa stated that all matters on the Consent Calendar would be approved in one motion unless a Board Member or a member of the public requested separate action on a specific item.

Orange County Transportation Authority

2. Approval of Minutes

Director Campbell pulled this item and referred to Item 17, Page 9, of the minutes. He felt there was confusion regarding the decision to change Night Owl service in December 2009. Discussion followed and by consensus, it was agreed to re-address this area of service at the next Board meeting.

A motion was made by Director Campbell, seconded by Director Green, and declared passed by those present, to approve the minutes of the Orange County Transportation Authority and affiliated agencies' regular meeting of July 13, 2009.

Director Pulido was not present for the vote on this item.

Director Green abstained from voting on this item.

3. Approval of Board Member Travel

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to approve Director Brown's request to travel to Salt Lake City, UT, August 2-5, 2009, to participate in the American Public Transportation Association Sustainability and Public Transportation Workshop.

4. Amendment to Agreements for Price Review Audit Services

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to authorize the Chief Executive Officer to execute the first of two option terms for price review services through amendments to the following agreements: Agreement No. C-8-0309 with Thompson, Cobb, Bazilio & Associates, PC; Agreement No. C-8-0935 with Mayer Hoffman McCann, PC; Agreement No. C-8-0936 with KNL Support Services; and Agreement No. C-8-0937 with Mendoza Berger & Company, LLP in amounts not to exceed a total of \$80,000 for fiscal year 2009-10, bringing the total of each contract to \$200,000.

Director Moorlach abstained from voting on this item.

5. Grants Management and Accounting Review

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to direct staff to implement recommendations in the Grants Management and Accounting Review, Internal Audit Report No. 08-018.

6. State Legislative Status Report

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to receive and file this information item.

7. Federal Legislative Status Report

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to adopt the following recommended position on legislation: Support H.R. 467 (Speier, D-CA and Eshoo, D-CA), the Equitable Treatment of State and Local Governments Act of 2009, which would direct the Secretary of the Treasury to purchase at face value debt instruments issued by Lehman Brothers Holding, Inc., which were held by any state or local government on September 15, 2008, and continuously thereafter, and which are subject to the bankruptcy proceedings of that financial institution.

Director Bates abstained from voting on this item.

8. Approval of the Amended and Restated Orange County Council of Governments Joint Powers Agreement

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to:

- A. Approve the Amended and Restated Joint Powers Agreement Establishing the Orange County Council of Governments.
- B. Authorize the Chief Executive Officer to execute the Amended and Restated Joint Powers Agreement Establishing the Orange County Council of Governments.

Director Moorlach abstained from voting on this item.

9. Transportation Enhancement Program and Transportation Development Act Programming Actions

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to:

- A. Authorize a one-time, 18-month extension to previously approved and programmed Transportation Enhancement Program and Transportation Development Act projects.
- B. Authorize staff to amend the Regional Transportation Improvement Plan and execute any necessary agreements, as required, to program and implement projects.

10. Fiscal Year 2008-2009 Procurement Status Report

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to receive and file this information item.

11. Second Quarter 2009 Debt and Investment Report

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to receive and file the Quarterly Investment Report prepared by the Treasurer as an information item.

12. Transit Security Grant Award Authorization for 2008 and 2009

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to adopt Orange County Transportation Authority resolutions No. 2009-47 and No. 2009-48 authorizing the Chief Executive Officer to accept grant funds and file grant-related agreements with the United States Department of Homeland Security to update security and preparedness plans, conduct staff training, exercises, and public awareness campaign.

Orange County Local Transportation Authority Consent Calendar Matters

13. Combined Transportation Funding Program - March 2009 Semi-Annual Review

Director Campbell pulled this item and inquired if this report should become a quarterly report, rather than semi-annual.

A motion was made by Director Campbell, seconded by Director Brown, and declared passed by those present, to approve adjustments to the Combined Transportation Funding Program project allocations as presented and to have this report return to the Board quarterly.

Director Pulido was not present for the vote on this item.

14. Katella Avenue and Imperial Highway (State Route 90) Smart Streets – Project Funding Transfers

Director Moorlach pulled this item and stated that Proposition 1B funds have been allocated by the County to insure Katella Avenue is synchronized and would like to know how this item affects those efforts.

Kia Mortazavi, Executive Director of Development, responded that OCTA had pursued one of the elements of Proposition 1B state/local partnership to supplement the project funding. That program at this time is tied up due to the State budget issues. Therefore, to keep the project moving, staff has worked with the cities of La Habra and Anaheim, and monies are being moved between their other projects to keep this project on-target.

A motion was made by Director Moorlach, seconded by Director Campbell, and declared passed by those present, to:

- A. Approve the City of Anaheim's request to transfer up to an additional \$8,000,000 from its Brookhurst Street Master Plan of Arterial Highways widening project to a new Master Plan of Arterial Highways allocation created for the Katella Avenue Smart Street projects.

14. (Continued)

- B. Authorize staff to transfer all savings from other Anaheim Smart Street project phases to the right-of-way and construction phases of the Katella Avenue Smart Street projects.
- C. Approve the City of La Habra's request to transfer an additional \$3,618,362 from its Lambert Road Master Plan of Arterial Highways widening project to a new Master Plan of Arterial Highways allocation created for the Imperial Highway (State Route 90) Smart Street Project.
- D. Approve a change to the Combined Funding Transportation Program guidelines for smart street projects only to allow use of up to 100 percent of the savings from one phase of an agency's smart street project to fund any other of the same agency's smart street project phases that is or has encountered cost overruns.
- E. Approve a change to the Combined Funding Transportation Program guidelines for smart street projects only to allow an agency to cancel a current Master Plan of Arterial Highways allocation, in whole or in part, and transfer that allocation to a Smart Street Program project that is or has encountered cost overruns.

Director Pringle requested a status report be prepared regarding this project in its entirety. Staff agreed to return to the next Board meeting with this information.

15. Selection of Consultant for Orange County Metrolink Stations Parking Management Study

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to authorize the Chief Executive Officer to execute Agreement No. C-9-0267 between the Orange County Transportation Authority and IBI Group for a nine-month contract, in an amount not to exceed \$281,490, to conduct an Orange County Metrolink stations parking management study on 11 Metrolink stations in Orange County.

16. Selection of Consultants for On-Call Commuter Rail Planning Support Services

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to authorize the Chief Executive Officer to execute agreements between the Orange County Transportation Authority and Booz Allen Hamilton (Agreement No. 9-0356), PB Americas, Inc. (Agreement No. 9-0581), STV Incorporated (Agreement 9-0582), and Wilbur Smith Associates (Agreement 9-0583), in an aggregate amount not to exceed \$900,000, for a three-year contract term plus one two-year option to provide on-call services for commuter rail planning support.

17. Maintenance Services for the Orange County Transportation Authority's Operating Railroad Right-of-Way

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to direct staff to continue to provide right-of-way maintenance services for the operating railroad rights-of-way rather than transfer to Southern California Regional Rail Authority.

18. Renewed Measure M Progress Report

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to receive and file this information item.

Orange County Transit District Consent Calendar Matters

19. Review of Vanpool Program

A motion was made by Vice Chairman Amante, seconded by Director Winterbottom, and declared passed by those present, to direct staff to implement recommendations made in the Review of Vanpool Program, Internal Audit Report No. 08-023.

Regular Calendar

Orange County Transportation Authority Regular Calendar Matters

20. Candidate Project for Transportation Investment Generating Economic Recovery Funding

Kia Mortazavi, Executive Director of Development, provided an overview and planned timeline for the submittal of projects for Transportation Investment Generating Economic Recovery (TIGER) funding.

Chairman Buffa stated that the double-tracking issue was extremely important and he wanted to remind staff to keep that project as a priority.

A motion was made by Director Brown, seconded by Director Cavecche, and declared passed by those present, to:

- A. Review and approve a substitute project nomination for Transportation Investment Generating Economic Recovery funding.
- B. Direct the Chief Executive Officer to include the substitute project as part of a statewide list for Transportation Investment Generating Economic Recovery funding.

21. Garden Grove Freeway (State Route 22) Continuous Access High-Occupancy Vehicle Lane Follow-up Survey

Fernando Chavarria, External Affairs' Community Relations Officer, provided a presentation on this survey and its findings. Mr. Chavarria introduced Mark McCourt, President, Redhill Group, who was in the audience, adding that Mr. McCourt served as the lead consultant for the follow-up telephone survey. This survey was initiated in November 2008, which was approximately 18 months after the lanes opened and one year after the complete implementation of the traffic detection system on the freeway.

Mr. Chavarria provided information and updated findings on the perceptions and opinions surveyed from customers.

A motion was made by Vice Chairman Amante, seconded by Director Green, and declared passed by those present, to receive and file this information item.

Discussion Items

22. High-Occupancy Vehicle Lane Continuous Access Update

James Pinheiro, Caltrans District 12, presented this update for the Board as to the status of the continuous access projects for the high-occupancy vehicle (HOV) lanes and explained the process involved in the conversion of these lanes.

Director Campbell inquired as to the Interstate 5 (I-5), and Mr. Pinheiro responded that when Caltrans engaged in the project study reports, they worked with OCTA staff and discussions were held regarding the I-5. At that time, it was agreed that there was a great deal of concrete barrier and bridge supports separating the HOV lane from the mixed-flow lanes, and that it was not prudent to engage in a project study report at that time.

Director Campbell asked if the I-5 should be reconsidered now and requested that Caltrans return to the Board and revisit the continuous access issue in respect to the I-5 Freeway.

Director Pringle stated that this presentation had been given to the Highways Committee and studies showed that safety was defined as being enhanced with continuous access. He further stated that a motion was made at the Highways Committee meeting to direct staff to seek necessary funding to complete the State Route 55 project.

Kia Mortazavi, Executive Director of Development, stated that staff has looked at available Measure M1 freeway revenues, and those revenues are lower than were projected; the program is approximately \$11 million below earlier projections. The project limits were such that it did not fit the limits of this project. Staff is looking at Measure M2 for possible funding sources for more work.

23. Public Comments

At this time, Chairman Buffa stated that members of the public may address the Board of Directors regarding any items within the subject matter jurisdiction of the Board of Directors, but no action would be taken on off-agenda items unless authorized by law.

No public comments were offered.

24. Interim Chief Executive Officer's Report

James S. Kenan, Interim Chief Executive Officer, asked Kristine Murray, Executive Director of Government Relations, to provide an update regarding the State budget.

25. Directors' Reports

Director Brown commented that the Interstate-5 Gateway Project is 75 percent complete; Beach Boulevard should open with both sides in September. He requested information regarding the affect budget cuts will have on Maintenance of Efforts turnback funds out of Measure M.

Director Campbell requested that a list of OCTA funding sources provided to him by transit advocates be analyzed and a report made through the Transit and Finance Committees as to their potential use in the bus service reductions issue.

Director Cavecche reported that she traveled to Sacramento on July 22 on behalf of OCTA to attend the Regional Targets Advisory Committee meeting. She stated that a positive result was that the Committee held a discussion regarding potentially sending a letter to the leadership of the Legislature regarding Senate Bill 375 and the need to continue funding transit services.

Vice Chairman Amante stated that he had an opportunity to talk to Members of the Legislature over the past few days regarding the budget and urged caution be taken with studies related to budget issues and to be sure numbers are as accurate and conservative as possible.

Members expressed their appreciation to Mr. Kenan for his tenure as the Interim Chief Executive Officer and a job very well done.

Mr. Kenan reported that Mr. Kempton begins as OCTA's CEO on Monday, August 3.

26. Closed Session

A Closed Session was held pursuant to Government Code Section 54956.9 (b) (1).

A report was not made out of the Closed Session.

27. Adjournment

The meeting was adjourned at 10:20 a.m. The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, August 10, 2009**, at the OCTA Headquarters.

ATTEST

Wendy Knowles
Clerk of the Board

Peter Buffa
OCTA Chairman



MEMO

August 5, 2009


To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: **Board Committee Transmittal for Agenda Item**

The following item is being discussed at a Committee meeting which takes place subsequent to distribution of the Board agenda. Therefore, you will be provided a transmittal following that Committee meeting (and prior to the Board meeting) informing you of Committee action taken.

Thank you.



August 6, 2009

To: Legislative and Communications Committee
From: James S. Kenan, Interim Chief Executive Officer 
Subject: State Legislative Status Report

Overview

An overview of the recently approved state budget package is provided.

Recommendation

Receive and file as an information item.

Discussion

On July 24, the Legislature passed a budget package to address the state's \$23.1 billion deficit. The 30 bill budget package contains \$15.6 billion in program cuts, \$3.9 billion in additional revenue, \$2.1 billion in borrowing, and \$1.2 billion in payment deferrals. Two of the most controversial proposals, the diversion of local transportation revenue and the "securitization" of redevelopment funds did not pass out of the Legislature. The budget package also makes a number of reforms to several health and human services programs and continues monthly three-day furloughs for state workers. Overall, the budget package reduces General Fund expenditures down to approximately \$84.1 billion, an 18 percent decrease from two years ago.

Transportation Related Impacts

Proposition 42

The budget package does not suspend Proposition 42 nor change Proposition 42 allocations. As a result, Proposition 42 funding will remain at \$1.7 billion and is distributed as follows:

- \$680 million to the State Transportation Improvement Program (STIP)
- \$340 million to the Public Transportation Account (PTA)
- \$680 million to local cities and counties

Due to the five year suspension of the State Transit Assistance (STA) Program, Proposition 42 PTA allocations will not be transferred to transit operations. Rather, funds will be allocated to regional center transportation, transportation debt service, and other PTA expenditures.

Spillover

The budget package modifies the existing fiscal year (FY) 2009-2010 distribution formula for spillover revenue (a calculation of the difference between a portion of the state sales tax on all goods and the sales tax on gasoline) to divert all revenue totaling \$225 million for the current fiscal year to the Mass Transportation Fund (MTF). The MTF provides debt service payments for transportation-related general obligation bonds. Budget bill language is also included to divert all spillover revenues to the MTF for FYs 2009-2010 through 2012-2013. Previous spillover formulas diverted portions of spillover revenue to the MTF with remaining revenues being deposited into the PTA.

The recent California Court of Appeal ruling in the lawsuit filed by the California Transit Association (CTA) which stated that the diversion of transportation dollars for General Fund expenditures violates the State Constitution was not considered in this round of budget negotiations. The Governor's Office has stated its intent to appeal this decision, which continues to leave open the issue of the legality of the state's diversion of transportation dollars. If the State Supreme Court concurs with the Appeals Court sometime within the current fiscal year, further negotiations will need to occur as it is still unclear as to how and when transit funds will be restored and whether repayment of previous year revenue diversions will take place.

Cuts to Local Government

The budget package agreed upon by legislative leaders and the Governor would have diverted nearly \$4 billion from local agencies to offset General Fund expenditures. While the Senate approved a \$1 billion diversion in state gasoline excise tax (gas tax) dedicated to local agencies, the Assembly struck down the gas tax subvention leaving a \$1 billion gap in the General Fund. Other local funding diversions include a Proposition 1A suspension and a shift in redevelopment funds to offset a portion of K-12 education funding.

The approved Proposition 1A (2004) suspension will borrow approximately \$2 billion in property tax revenues from counties, municipalities, and special districts. As required in Proposition 1A, the \$2 billion is to be paid back with

interest to local agencies within three years from the time the money is borrowed (June 2013). Budget language is also included which provides a "securitization" mechanism which allows local agencies to borrow against future repayments as a method to avoid any actual reduction in revenues. Additionally, the budget provides special provisions which allow local agencies to file for an exemption upon proof of economic "hardships" such as a city in danger of filing for bankruptcy. The Department of Finance may grant "hardship suspensions" totaling up to 10 percent of the total Proposition 1A amount in any county.

The Assembly voted down two budget measures approved by the Senate. The Senate passed a budget proposal to shift approximately \$1 billion in local transportation funds to be used for transportation debt service. California currently levies an 18 cent per gallon gas excise tax (gas tax). Approximately one-third of gas tax revenues are transferred into the Highway Users Tax Account (HUTA) which is used to allocate gas tax revenues to cities and counties through a variety of formulas. Although, initially proposed as a diversion, the Senate approved budget language to modify the diversion into a HUTA loan with repayment over 10 years.

The Assembly's failure to approve the gas tax subvention creates a \$1 billion shortfall in the budget package which proposed to bring the General Fund into balance. Although legislative leaders have openly stated that the approved budget measures may not keep the State's General Fund balanced for FY 2009-2010, the Assembly's HUTA rejection created an immediate \$1 billion shortfall in the General Fund. Prior to signing the budget package, the Governor used his line-item veto authority to reduce General Fund expenditures by \$489 million to offset the HUTA shortfall and build a \$500 reserve. At the time of the signing, numerous stakeholders groups have threatened to file lawsuits due to the legality of the cuts.

The budget package also included a "trigger" provision for the Proposition 1A suspension, HUTA subvention, and redevelopment shift. The Senate approved, but the Assembly rejected, a budget measure to provide redevelopment agencies with the option to extend redevelopment projects to 35 or 40 additional years with 10 percent of the redevelopment agency's tax increment going back to the state. The state Infrastructure and Economic Development Bank (Bank) would then develop a mechanism where bonds could be sold and backed by the abovementioned revenue stream. If the Bank could determine that this funding mechanism would generate at least \$7.4 billion for General Fund expenditures then the Proposition 1A suspension, HUTA diversion, and redevelopment shifts would not occur.

As part of the bill package, budget trailer bill SBX4 16 authorizes a series of payment deferrals in order for the State Controller to maintain sufficient cash resources. SBX4 16 includes language to defer HUTA funds from July through December 2009 to January 2010. Additionally, SBX4 16 defers Proposition 42 October 2009 and January 2010 allocations to local agencies until May 2010. Provisions are included, however, to allow local agencies to use available Proposition 1B local streets and roads dollars without penalty if the revenue is backfilled upon May's Proposition 42 payment.

High-Speed Rail

The budget package approves \$139.1 million in Proposition 1A high-speed rail bond funds for the FY 2009-2010.

Streamlining of Project Initiation Documents

Under existing law, major projects on the state highway system require a project initiation document (PID) before the California Transportation Commission (CTC) can recommend a project to be programmed for funding. The information contained in a PID includes such things as the scope, scheduling, and costs associated with a project. Under current processes, local transportation agencies can create the PID, with oversight work completed by the California Department of Transportation (Caltrans), or a local agency can also authorize Caltrans to complete the PID. Currently, costs incurred by Caltrans for work related to the development or oversight of a PID are to be paid through Caltrans resources.

The proposed budget directs Caltrans, by October 1, 2009, to convene a working group, in coordination with local agencies, to develop strategies for sharing and lowering costs, streamlining procedures, and reducing delays associated with the development of PIDs. A report is due to the Joint Legislative Budget Committee by March 1, 2010. In the meantime, the proposed budget allocates about \$36.5 million to Caltrans to continue work associated with the development of PIDs for the remainder of the fiscal year. Orange County Transportation Authority (OCTA) staff has already indicated to Caltrans staff its interest in participating in all discussions related to the development of streamlining procedures, with initial working group discussions expected to begin next month.

Proposition 84 Funding

Last year, SB 732 (Chapter 729, Statutes of 2008) established the Strategic Growth Council (Council), which is made up of representatives from the

Governor's Office of Planning and Research (OPR); California Resources Agency; California Environmental Protection Agency; Business, Transportation and Housing Agency; California Health and Human Services; and a public member. The primary purpose of the Council is to coordinate planning among its various member agencies, to promote the goals of improving the environment, housing, and transportation, as well as encouraging sustainable growth.

Among the specific duties of the Council, one is to distribute funding provided under Proposition 84, \$90 million of which SB 732 earmarked for activities related to the creation of sustainable communities, including the implementation of SB 375 (Chapter 728, Statutes of 2008). Entities eligible for such funding include metropolitan planning organizations, councils of government, regional transportation agencies, such as OCTA, and local cities and counties.

The proposed budget allocates \$12 million in Proposition 84 funds, specifying that the funds are to be used as planning grants and incentives for the creation of models and other methods of data collection for implementing SB 375, and for purposes of support and local assistance. The funds are to be committed by October 1, 2009. At this time, because no guidelines for the distribution of these funds have been created, it is unknown how these funds will be allocated. However, it is expected that there will be a lot of competition for such funding, with no other funding source for implementing SB 375 identified at this point.

Office of Planning and Research

In addition, pursuant to recommendations by the Governor and the legislative budget committees, it is anticipated that when the Legislature reconvenes in August, a proposal will be brought forth to eliminate the Office of Planning and Research (OPR) and transfer its functions to other state agencies. Initial indications are that OPR responsibilities related to the California Environmental Quality Act may be transferred to the California Air Resources Board. However, because there is no bill language related to this proposal at this time, specifics of this transfer are unknown. Once actual language is released, staff will provide applicable updates.

Impact on Orange County

The approved budget package will have a variety of impacts on OCTA. OCTA is anticipated to receive an estimated \$11.4 million in property tax revenue for FY 2009-2010. The Proposition 1A suspension mandates an 8 percent

reduction in local property tax revenue and as a result, OCTA will lose approximately \$912,000 in revenue which is directly allocated to transit operations. This revenue loss translates into 11,248 revenue vehicle hours (based on direct cost).

Although rejected by the Assembly, the proposed gas tax subvention of HUTA funds would have imposed significant negative impacts to OCTA. As part of the 1995 Orange County bankruptcy agreement, Section 2128 of the Streets and Highways Code stipulates that the County of Orange is to annually allocate \$23 million in gas tax dollars to OCTA until 2013. OCTA in return is to provide \$38 million in Transportation Development Act (TDA) funds to Orange County as also required through bankruptcy legislation.

OCTA would have lost an estimated \$46 million in gas tax revenues over the next two fiscal years if the proposed HUTA subvention had been approved. OCTA gas tax revenues are currently dedicated to the Bristol Street Widening Project for the next three fiscal years. As a result, 36 percent of phase I and phase II funding required for this project would have been eliminated. Additionally, Senate-approved budget language authorized the Department of Finance to continue gas tax subventions for transportation debt service on an ongoing basis. If this measure was approved by the Assembly and exercised by the Administration in future state budgets, the loss of gas tax revenues would have a direct negative impact on OCTA's transit operations.

Due to the deferment of HUTA funds, the tax exchange with cities and the Southern California Regional Rail Authority (SCRRA) will be suspended and payment to the City of Santa Ana for the Bristol Street Widening project will be delayed at least six months.

Lastly, the budget package estimates approximately \$1.3 billion in General Fund savings through state worker furloughs. The three-day per month furlough mandate will reduce staff time by 15 percent at the Department of Transportation (Caltrans) placing OCTA projects at risk of scheduling delays and increasing project costs.

Summary

An overview of the recently approved state budget package is provided.

Attachment

- A. Orange County Transportation Authority Legislative Matrix

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Orange County Transportation Authority Legislative Matrix

2009 State Legislation Session
August 6, 2009

SPONSORED BILL			
BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 454 (Lowenthal – D) Department of Transportation: Division of Rail	Serves as the legislative vehicle for any necessary policy modifications resulting from the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail integration study currently being completed by several Southern California regional transportation agencies	INTRODUCED: 2/26/2009 LOCATION: Senate Rules Committee STATUS: 03/12/2009 To SENATE Committee on RULES	SPONSOR
BILLS WITH POSITIONS			
BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
▶ AB 628 (Block - D) Vehicles: Toll Evasion Violations	Permits agencies to use pay-by-plate processing for toll roads and bridges, <i>and requires the public to be informed of pay-by-plate payment methods, where used.</i> Provides that where the issuing agency permits pay-by-plate toll processing and payment of tolls and other charges, it is prima facie evidence of toll evasion violation for a person to enter the toll road or bridge without lawful money of the United States in the person's immediate possession, a transponder or other electronic payment device, or valid California vehicle plates properly affixed to the vehicle.	INTRODUCED: 02/25/2009 LAST AMENDED: 07/07/2009 LOCATION: Senate Appropriations Committee STATUS: 07/16/2009 Withdrawn from SENATE Committee on PUBLIC SAFETY. 07/16/2009 Re-referred to SENATE Committee on APPROPRIATIONS.	SUPPORT Sponsor: South Bay Expressway (State Route 125) Support: Metropolitan Transportation Commission, Transportation Corridor Agencies

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 729 (Evans - D)</p> <p>Public Contracts: Transit Design-Build Contracts</p>	<p>Amends existing law to extend the January 1, 2011 sunset provision to allow transit operators to enter into design-build contracts for transit capital projects until January 1, 2015. Requires a transit operator that uses the design-build process to report to the Legislative Analyst on each public works project procured through the design-build process within 120 days of the design-build project being put into operation or by a specified date, whichever occurs first</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 06/30/2009 LOCATION: <i>Senate Third Reading File</i></p> <p>STATUS: 07/15/2009 In <i>SENATE. Read second time. To third reading.</i></p>	<p>SUPPORT</p> <p>Sponsor: California Transit Association</p> <p>Support: Foothill Transit, San Diego Association of Governments, Santa Clara Valley Transportation Authority</p>
<p>► AB 1072 (Eng - D)</p> <p>Public Transportation Modernization, Improvement, and Service Enhancement Account</p>	<p>Clarifies that the formula used to calculate an agency's share of Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) is to be the same in future fiscal years (FY) as was used to appropriate funding in the FY 2009-2010 budget. Requires eligible project sponsors to provide the California Department of Transportation a list of projects that they plan to fund with PTMISEA funds that have not yet been appropriated.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 06/18/2009 LOCATION: <i>Senate Appropriations Committee</i></p> <p>STATUS: 07/07/2009 From <i>SENATE Committee on TRANSPORTATION AND HOUSING: Do pass to Committee on APPROPRIATIONS.</i></p>	<p>SUPPORT</p> <p>Sponsor: California Transit Association</p> <p>Support: LAMTA, Foothill Transit, Santa Clara Valley Transportation Authority.</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1403 (Eng – D) Local Transportation Fund: Planning	Relates to local transportation funds planning and programming in the Southern California Association of Governments (SCAG) area. In the multicounty region that is within SCAG, specified percentages of Transportation Development Act annual revenues may be allocated to the statutorily created county transportation commissions in five individual counties, and up to 3/4 of one percent of annual revenues, but not more than \$1,000,000, may be allocated by the commissions in Los Angeles, Orange, Riverside, and San Bernardino counties, proportionately, to SCAG for its transportation planning and programming functions. This bill would delete the \$1,000,000 limitation on allocations of these funds by the four county transportation commissions to SCAG.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/28/2009 LOCATION: Senate Third Reading File STATUS: 06/25/2009 In SENATE. Read second time. To third reading.	SUPPORT Sponsor: SCAG <i>Support: City of Moreno Valley, SANBAG, LAMTA, RCTC</i>
► SB 372 (Kehoe – D) State Parks System	Prohibits the modification or adjustment of state park units, that lie within a unit of the park system, that is incompatible with park purposes and that would reduce public use or the material, cultural, or historic significance of the unit; or the removal of state park units from within the state park system, without the State Park and Recreation Commission making that recommendation to the Legislature and the Legislature enacting legislation <i>or adopting a resolution</i> approving the recommendation. <i>Requires the State Park and Recreation Commission, in making their recommendation, to report to the Legislature how the state park modification will change the purposes of the state park, and certify that no feasible alternative exists, and that the modification serves a public necessity.</i>	INTRODUCED: 02/26/2009 LAST AMENDED: 07/14/2009 LOCATION: Assembly Third Reading File STATUS: 07/16/2009 In ASSEMBLY. Read second time. To third reading.	OPPOSE (partial list) Support: California League of Conservation Voters, Bay Area Open Space Council Oppose: Orange County Board of Supervisors, Transportation Corridor Agencies of Orange County

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► SB 406 (DeSaulnier – D)</p> <p>Land Use: Environmental Quality</p>	<p>Proposes changes to the membership of the Planning Advisory and Assistance Council and requires that the Council work with the State Strategic Growth Council. Authorizes a municipal planning organization or council of governments to levy a motor vehicle registration surcharge on vehicles registered to be used to develop and implement a regional blueprint plan or sustainable communities strategy.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 07/09/2009 LOCATION: <i>Assembly Appropriations Committee</i></p> <p>STATUS: 07/09/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p>	<p>OPPOSE</p> <p>Sponsor: CALCOG</p> <p>Support: American Federation of State, County, and Municipal Employees, AFL-CIO, ABAG</p> <p>Oppose: California New Car Dealer's Association, California Taxpayers' Association, San Diego Association of Governments</p>
<p>► SB 474 (Ducheny – D)</p> <p>Transportation: Reporting Requirements</p>	<p>Relates to the State Department of Transportation authority to enter into agreements for transportation projects under pilot programs using public-private partnerships, design-build. Requires a specified finding by lead agency 90 days after awarding any contract or entering into any agreement for a program involving an alternative contracting or financing method. Requires the California Transportation Commission to provide a report on the progress of savings resulting from the programs and to develop a methodology for benefit determination.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 07/09/2009 LOCATION: <i>Senate Appropriations Committee</i></p> <p>STATUS: 07/09/2009 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p>	<p>OPPOSE</p> <p>Sponsor: Professional Engineers in California Government (PECG)</p> <p>Oppose: American Council of Engineering Companies</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► SB 555 (Kehoe – D)</p> <p>Eminent Domain Law: Conservation Easement</p>	<p>Prohibits a governmental entity from condemning a conservation easement acquired by a state agency or nonprofit land trust, unless specified procedures are followed. The bill would require the governmental entity to give the holder of the easement notice and an opportunity to state any objections to the condemnation. The bill would also require notice, and an opportunity to be heard to be given to any entity that provided funds for the original establishment of the conservation easement. <i>Specifies that the total compensation for the acquisition of all property and interests encumbered by the easement should not be less, and is not to exceed the fair market value of the land as if it were not encumbered by a conservation easement.</i></p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 07/13/2009 LOCATION: Assembly Appropriations Committee</p> <p>STATUS: 07/13/2009 From ASSEMBLY Committee on APPROPRIATIONS with author's amendments. 07/13/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p>	<p>OPPOSE</p> <p>(partial list) Sponsor: California Council of Land Trusts</p> <p>Support: California State Parks Foundation, NRDC, Sierra Club California</p> <p>Oppose: Orange County Board of Supervisors, OC TAX, California Chamber of Commerce</p>
<p>► SB 679 (Wolk - D)</p> <p>State Parks: Acquired Land: Limits on Use</p>	<p>Prohibits land acquired for the state park system, through public funds or gifts, from being disbursed of or used for other than park purposes without providing for the substitution of other lands of equal environmental value or other value for which the park was established, fair market value, and reasonably equivalent usefulness and location to those to be disposed of or used for other than park purposes. Requires the State Parks and Recreation Commission to certify all requests to dispose of or use the land for other than park purposes. Requires that the Commission consider requests only if all practical alternatives have been considered.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 07/07/2009 LOCATION: Assembly Appropriations Committee</p> <p>STATUS: 07/07/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p>	<p>OPPOSE</p> <p>(partial list) Support: California State Parks Foundation, Sierra Club California</p> <p>Oppose: California Chamber of Commerce, Transportation Corridor Agencies of Orange County</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► SB 716 (Wolk – D)</p> <p>Local Transportation Funds</p>	<p>Amends existing law that authorizes a specified portion of local sales and use taxes to be transferred to the local transportation fund. Authorizes local transportation funds to be used for local streets and roads in counties with specified populations. Authorizes in specified counties, the use of transportation funds for specified farm worker vanpool purposes upon a finding by the transportation planning agency that there are no unmet transit needs or unmet transit needs that are reasonable to meet.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 07/14/2009 LOCATION: <i>Assembly Third Reading File</i></p> <p>STATUS: 07/15/2009 <i>In ASSEMBLY. Read second time. To third reading.</i></p>	<p>NEUTRAL</p> <p>Sponsor: California Rural Legal Assistance Foundation</p> <p>Support: Environmental Resources Defense Fund, <i>Green California, Enterprise Rent-A-Car</i></p> <p>Oppose: <i>San Joaquin County, Long Beach Transit, Santa Cruz Metropolitan Transit District, VCTC</i></p>

BILLS BEING MONITORED

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 31 (Price – D)</p> <p>Public Contracts: Small Business Procurement Act</p>	<p>Relates to existing law which permits a state agency to award a contract to a certified small business without complying with competitive bidding requirements. Increases the maximum amount of the contracts from \$100,000 to \$250,000. Requires the contractor upon completion of a public contract for which a commitment to achieve small business or disabled veteran business enterprise participation goals were made, to report the actual percentage of participation that was achieved.</p>	<p>INTRODUCED: 12/01/2008 LAST AMENDED: 07/16/2009 LOCATION: Senate Third Reading File</p> <p>STATUS: 07/16/2009 In SENATE. Read second time and amended. To third reading.</p>	<p>Sponsor: Department of General Services</p> <p>Support: National Federation of Independent Businesses</p>
<p>AB 254 (Jeffries – R)</p> <p>Emergency Vehicles: Payment of Tolls</p>	<p>Exempts emergency vehicles from the payment of a toll or any related charge on a vehicle crossing, toll highway, or high-occupancy toll land and any related fines while engaged in a rescue. Includes when the vehicle is being driven while responding to an urgent or emergency call, participating in an urgent or emergency response, or engaging in a fire station coverage assignment directly related to an emergency response. Provides procedures if the toll operator believes the vehicle was not in compliance.</p>	<p>INTRODUCED: 02/11/2009 LAST AMENDED: 06/26/2009 LOCATION: Senate Third Reading File</p> <p>STATUS: 07/07/2009 In SENATE. Read second time. To third reading.</p>	<p>Support: Fire Districts Association of California, San Bernardino County Fire Department</p> <p>Oppose: Orange County Fire Authority</p>
<p>► AB 282 (Assembly Transportation Committee)</p> <p>Transportation</p>	<p>Requires any interest or other return earned by a city or county from investment of bond funds from Proposition 1B - the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to be expended or reimbursed under the same conditions as are applicable to the bond funds themselves. Extends the time period with which transit operators must file an annual report of their operation with transportation planning agencies having jurisdiction over them and the state Controller from 90 to 110 days after the close of the operator's fiscal year, if the report is filed electronically.</p>	<p>INTRODUCED: 02/12/2009 LAST AMENDED: 07/13/2009 LOCATION: Senate Appropriations Committee</p> <p>STATUS: 07/13/2009 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS. HEARING: 08/17/2009 11:00 am</p>	<p>Support: California Municipal Utilities Association, California State Controller John Chiang , East Bay Municipal Utility District</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 338 (Ma – D)</p> <p>Transit Village Developments: Infrastructure Financing</p>	<p>Recasts the area included in a transit village plan to include all land within at least a half mile of the main entrance to a transit station. Provides that voter approval for the formation of an infrastructure financing district, adoption of a financing plan, and an issuance of bonds for developing and financing a transit facility would be eliminated. A transit village plan financed by these bonds would have to show affordable housing benefits, and include provisions dedicating at least 20 percent of revenues derived from the property tax increment to affordable housing in the transit village. States finding that increased transit use facilitated by transit villages decreases congestion and improves the environment. Also, states that transit villages should be developed in a sustainable manner, meeting green building codes.</p>	<p>INTRODUCED: 02/18/2009 LAST AMENDED: 06/25/2009 LOCATION: <i>Senate Third Reading File</i></p> <p>STATUS: 07/09/2009 In SENATE. Read second time. To third reading.</p>	<p>Sponsor: San Francisco Bay Area Rapid Transit District</p> <p>Support: American Federation of State, County, and Municipal Employees</p> <p>Oppose: Howard Jarvis Taxpayers Association</p>
<p>► AB 652 (Skinner – D)</p> <p>Vehicles: Vehicle Length Limitations</p>	<p>Authorizes the Alameda-Contra Costa Transit District to install front-mounted bicycle racks meeting certain requirements on its buses. Requires that if the district installs the racks, it would be required to report to specified legislative committees regarding safety issues and mobility improvements. Requires the district, prior to installing a rack on a bus of a specified length, to establish a route review committee in order to determine which routes are suitable for the safe operation of such buses.</p>	<p>INTRODUCED: 02/25/2009 LAST AMENDED: 06/15/2009 LOCATION: Assembly Unfinished Business – Concurrence in Senate Amendments</p> <p>STATUS: 06/22/2009 In SENATE. Read third time. Passed SENATE. To ASSEMBLY for concurrence.</p>	<p><i>(partial list)</i></p> <p>Sponsor: Alameda-Contra Costa Transit District</p> <p>Support: Alameda County Congestion Management Agency, American Lung Association of California, California Transit Association, Planning and Conservation League</p>
<p>► AB 672 (Bass – D)</p> <p>Transportation: Bond Funded Projects</p>	<p>Authorizes a regional or local agency that is a lead agency for a project or project component for which bond funding has been programmed or otherwise approved by the administrative agency or is otherwise targeted to be available to apply to the agency for a letter of no prejudice that would make the agency eligible to be subsequently reimbursed from bond funds for expenditures of funds under its control for the project or project component under certain conditions.</p>	<p>INTRODUCED: 02/25/2009 LAST AMENDED: 06/02/2009 LOCATION: <i>Senate Appropriations Committee</i></p> <p>STATUS: 07/07/2009 From SENATE Committee on TRANSPORTATION AND HOUSING: Do pass to Committee on APPROPRIATIONS.</p>	<p>Sponsor: Metropolitan Transportation Commission</p> <p>Support: Santa Clara Valley Transportation Authority</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 732 (Jeffries – R) Transportation Projects: Design-Sequencing Contracts	Extends the operative date of existing law which authorizes the Department of Transportation to conduct the second phase of a pilot project through the utilization of design sequencing contracts for the design and construction of transportation projects, taking into consideration specified geographical consideration. Specifies that the project consist of not more than a specified number of transportation projects.	INTRODUCED: 02/26/2009 LAST AMENDED: 06/16/2009 LOCATION: Senate Appropriations Committee STATUS: 06/29/2009 In SENATE Committee on APPROPRIATIONS: To Suspend File	Sponsor: California Department of Transportation Support: Automobile Club of Southern California, California Association of Councils of Governments
▶ AB 733 (Galgiani – D) High Speed Rail Authority	Authorizes the High-Speed Rail Authority to consider the creation of jobs in the state when awarding major contracts or purchasing high speed trains.	INTRODUCED: 02/26/2009 LOCATION: Senate Second Reading File STATUS: 07/23/2009 From SENATE Committee on APPROPRIATIONS: To second reading without further hearing pursuant to Senate Rule 28.8.	None Listed
▶ AB 744 (Torrice – D) Transportation: Toll Lanes: Express Lane Network	<i>Authorizes the Bay Area Toll Authority to develop and maintain a Bay Area Express Lane Network within the bay area counties and to establish a related fee structure. Prohibits the conversion of nontolled lanes to express lanes. Authorizes related bonds. Requires certain entities to transfer their rights to high occupancy toll lane projects to the authority. Authorizes the authority to receive bridge toll revenue. Relates to cash-based toll opportunities for users. Authorizes an increase in vehicle occupancy on such lanes.</i>	INTRODUCED: 02/26/2009 LAST AMENDED: 07/15/2009 LOCATION: Senate Appropriations Committee STATUS: 07/16/2009 From SENATE Committee on TRANSPORTATION AND HOUSING: Do pass to Committee on APPROPRIATIONS.	Sponsor: Metropolitan Transportation Commission Support: AAA of Northern California Oppose: Paul Thiebaut (individual)
▶ AB 798 (Nava – D) Transportation Financing Authority: Toll Facilities	Creates the Transportation Financing Authority with specified powers and duties relative to the issuance of bonds to fund transportation projects. Bonds are proposed to be backed in whole or in part, by various revenues streams of transportation funds and toll revenues in order to increase the construction of new capacity or improvements for the state transportation system.	INTRODUCED: 02/26/2009 LAST AMENDED: 06/24/2009 LOCATION: Senate Appropriations Committee STATUS: 07/23/2009 In SENATE Committee on APPROPRIATIONS: Not heard.	Sponsor: California State Treasurer Bill Lockyer Support: California Labor Federation, Cal COG, Associated General Contractors of California

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 881 (Huffman – D)</p> <p>Sonoma Transportation Authority: Greenhouse Gas Emissions</p>	<p>Authorizes the Sonoma County Transportation Authority to implement programs and projects to comply with statewide or federal greenhouse gas emission mandates, in cooperation with other local agencies that elect to participate. Makes legislative findings and declarations with respect to the exercise of that authority by the Authority.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 06/25/2009 LOCATION: <i>Senate Second Reading File</i></p> <p>STATUS: 07/23/2009 From SENATE Committee on APPROPRIATIONS: To second reading without further hearing pursuant to Senate Rule 28.8.</p>	<p>Co-Sponsors: Sonoma County Transportation Authority, County of Sonoma</p> <p>Support: City of Healdsburg, City of Rohnert Park</p>
<p>► AB 892 (Furutani – D)</p> <p>Goods Movement Emission Reduction Program</p>	<p>Authorizes an applicant for Proposition 1B Air Quality funds to reallocate these funds to backup projects covered by the same grant agreement, or these funds revert to the state board for reallocation consistent with guidelines to be developed by the State Air Resources Board. Funds reallocated either by the applicant or the Air Resources Board must be liquidated within four years of the date of the award of the original contract, or the funds revert to the California Ports Infrastructure, Security, and Air Quality Improvement Account for allocation upon appropriation by the Legislature.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 07/09/2009 LOCATION: <i>Senate Appropriations Committee</i></p> <p>STATUS: 07/13/2009 From SENATE Committee on ENVIRONMENTAL QUALITY: Do pass to Committee on APPROPRIATIONS. HEARING: 08/17/2009 11:00 am</p>	<p>Sponsor: South Coast Air Quality Management District</p> <p>Support: Automobile Club of Southern California, Bay Area Air Quality Management District</p>
<p>► AB 1085 (Mendoza - D)</p> <p>State Air Resources Board: Regulations</p>	<p>Requires the State Air Resources Board to make available to the public each technical, theoretical, and empirical study, report, or similar document, on which the agency relies, related to, but not limited to, air emissions, public health impacts, and economic impacts before the comment period for any regulation proposed for adoption by the board.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 07/15/2009 LOCATION: <i>Senate Special Consent Calendar</i></p> <p>STATUS: 07/15/2009 In SENATE. Read second time and amended. To third reading. 07/15/2009 In SENATE. To Special Consent Calendar.</p>	<p>Support: California Chamber of Commerce, California Forestry Association, California Grocers Association</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 1086 (Miller - R)</p> <p>Public Contracts and Bids</p>	<p>Relates to existing law which prohibits a state or local governmental agency or entity responsible for letting a public works contract from drafting bid specifications for that contract in a manner that limits the bidding to any one concern or product unless the specification is followed by the words "or equal". Encourages new and ingenious material production.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 05/18/2009 LOCATION: <i>Enrolled</i></p> <p>STATUS: 07/21/2009 <i>Enrolled</i></p>	<p>None Listed</p>
<p>► AB 1364 (Evans - D)</p> <p>Public Contracts: State Bonds: Grant Agreements</p>	<p>Provides that any state agency that has entered into a contract where the agency has or may be unable to comply with the terms of that contract because of the suspension of programs by the Pooled Money Investment Board shall have authority to either renegotiate the deadlines and timetables for the deliverables within the agreement that may not be met in order to preserve the validity of the agreement or to invalidate the agreement.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 04/29/2009 LOCATION: <i>Senate Appropriations Committee</i></p> <p>STATUS: 07/08/2009 <i>From SENATE Committee on GOVERNMENTAL ORGANIZATION: Do pass to Committee on APPROPRIATIONS</i></p>	<p>None Listed</p>
<p>AB 1381 (Perez - D)</p> <p>High-occupancy Toll Lanes</p>	<p>Requires the Los Angeles County Metropolitan Transportation Authority (MTA) high-occupancy toll lanes program to be implemented with the active participation of the Department of the California Highway patrol. Requires the Los Angeles County Metropolitan Transportation Authority to establish appropriate performance measures for the purpose of ensuring optimal use of the high-occupancy toll lanes without adversely affecting other traffic on the state highway system. States that MTA is not entitled to compensation for the adverse effects on toll revenue due to these facilities.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 04/15/2009 LOCATION: Senate Third Reading File</p> <p>STATUS: 06/30/2009 In SENATE. Read second time. To third reading.</p>	<p>Co-Sponsors: California Department of Transportation, LAMTA</p> <p>Support: Professional Engineers in California Government</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1471 (Eng – D) Procurement: L.A. Metropolitan Transportation Authority	Deletes specified provisions relating to contracting by the Los Angeles County Metropolitan Transportation Authority. Authorizes the authority to purchase supplies, equipment, and materials from a public auction sale using the procedures established for all other participants in the auction. Authorizes the authority to participate in a cooperative procurement agreement with other public agencies under specified conditions.	INTRODUCED: 02/27/2009 LAST AMENDED: 07/09/2009 LOCATION: Senate Appropriations Committee STATUS: 07/09/2009 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS. HEARING: 08/17/2009 11:00 am	Sponsor: LAMTA
► AB 1500 (Lieu – D) High Occupancy Lanes: Single Occupancy Vehicles	Existing law authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles, which may also be used by low-emission and hybrid vehicles. AB 1500 extends the date from January 1, 2011 to January 1, 2014 that these specified vehicles can use high-occupancy lanes.	INTRODUCED: 02/27/2009 LAST AMENDED: 07/14/2009 LOCATION: Senate Appropriations Committee STATUS: 07/14/2009 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.	Support: California Natural Gas Vehicle Coalition
ACA 1 (Silva – R) Legislature	Proposes an amendment to the Constitution to provide that no bill that would result in more than \$150,000 of annual expenditure by the state may be passed unless, by roll call vote entered in the journal, two thirds of the membership of each house concurs.	INTRODUCED: 12/01/2008 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS; Heard, remains in Committee	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
ACA 3 (Blakeslee – R) Initiatives: Bond Funding Source	Requires an initiative measure that would authorize the issuance of state general obligation bonds in a total amount exceeding \$1 billion to either provide additional tax or fee revenues, the elimination of existing programs, or both, as necessary to fully fund the bonds, as determined by the Legislative Analyst, in order to be submitted to the voters or take effect.	INTRODUCED: 12/01/2008 LAST AMENDED: 06/16/2009 LOCATION: Assembly Appropriations Committee STATUS: 07/01/2009 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File	None Listed
► ACA 5 (Calderon – D) Initiatives: State General Obligation Bonds	<i>Proposes an amendment to the Constitution to specify that an initiative measure authorizing the issuance of state general obligation bonds would require approval of 55% of the voters.</i>	INTRODUCED: 12/15/2008 LAST AMENDED: 07/14/2009 LOCATION: Assembly Appropriations Committee STATUS: 07/14/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.	None Listed
► ACA 9 (Huffman – D) Local Government Bonds: Special Taxes: Voter Approval	Changes the two-thirds voter-approval requirement for special taxes to, instead, authorize a city, county, or special district to impose a special tax with the approval of 55 percent of its voters voting on the tax. Lowers the voter-approval threshold for a city, county, or city and county to incur general obligation bonded indebtedness for amounts exceeding in one year the income and revenue provided in that year to 55 percent.	INTRODUCED: 02/06/2009 LAST AMENDED: 06/26/2009 LOCATION: Assembly Appropriations Committee STATUS: 07/08/2009 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File.	(partial list) Support: League of California Cities, CSAC, CALCOG Oppose: Cal-Tax, California Association of Realtors, Howard Jarvis Taxpayers Association

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
ACR 14 (Niello – R) Global Warming Solutions Act of 2006	Calls upon the State Air Resources Board, prior to any regulatory action being taken consistent with the scoping plan for the implementation of the Global Warming Solutions act of 2006, to perform an economic analysis that will give the State a more complete picture of costs and benefits of the implementation. Calls upon the Governor to use the authority granted by the act to adjust any applicable deadlines.	INTRODUCED: 01/27/2009 LAST AMENDED: 03/27/2009 LOCATION: Assembly Natural Resources Committee STATUS: 04/27/2009 In ASSEMBLY Committee on NATURAL RESOURCES: Failed passage	Support: California Grocers Association, California Council for Environmental and Economic Balance, California Manufacturers and Technology Association Oppose: Planning and Conservation League
SB 27 (Hancock – D) Local Agencies: Sales and Use Tax: Reallocation	Prohibits a local agency from entering into any agreement with a retailer, or any other person that would involve the payment, transfer, diversion or rebate of any amount of local tax proceeds if the agreement results in a reduction in the amount of revenue received by another agency from a retailer located within the jurisdiction of that other agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of the other local agency. Provides exceptions.	INTRODUCED: 12/02/2008 LAST AMENDED: 02/23/2009 LOCATION: Chaptered STATUS: 06/05/2009 Signed by GOVERNOR 06/05/2009 Chaptered by Secretary of State. Chapter No. 4	(partial list) Support : City of Livermore (sponsor), American Federation of State, County, and Municipal Employees; California State Association of Counties; City of Industry; League of Cities; California Peace Officers Association; California Professional Firefighters
► SB 104 (Oropeza – D) Global Warming Solutions Act of 2006: Greenhouse Gases	Amends the Global Warming Solutions Act of 2006 to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. Includes nitrogen trifluoride and any other anthropogenic gas, one metric ton of which makes the same or greater contribution to global warming as one metric ton of carbon dioxide. Includes a procedure by which any person could petition for a designation. Requires the State Air Resources Board to adopt appropriate regulations.	INTRODUCED: 01/27/2009 LAST AMENDED: 04/30/2009 LOCATION: Assembly Third Reading File STATUS: 07/16/2009 In ASSEMBLY. Read second time. To third reading.	Support: American Federation of State, County, and Municipal Employees, AFL-CIO, Sierra Club California

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► SB 205 (Hancock – D)</p> <p>Traffic Congestion: Motor Vehicle Registration Fees</p>	<p>Authorizes a countywide transportation planning agency to impose an annual fee on motor vehicles registered within the county for programs and projects for certain purposes; requires voter approval; requires the Department of Motor Vehicles to collect the additional fee and distribute the net revenues to the agency. Requires that fees be used only to pay for programs and projects <i>bearing a relationship or benefit to the owners of motor vehicles paying the fee and</i> are consistent with a regional transportation plan.</p>	<p>INTRODUCED: 02/23/2009 LAST AMENDED: 07/13/2009 LOCATION: Assembly Appropriations Committee</p> <p>STATUS: 07/13/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p>	<p>(partial list) Sponsor; Alameda County Congestion Management Agency</p> <p>Support: Santa Clara Valley Transportation Authority</p> <p>Oppose: Automobile Club of Southern California</p>
<p>SB 333 (Hancock – D)</p> <p>Voluntary Greenhouse Gas Emission Offset Program</p>	<p>Creates the Voluntary Greenhouse Gas Emission Offset Program Fund, and provides that funds received by the state on a voluntary basis from the federal government, individuals, or other sources for the mitigation of climate change impacts related to greenhouse gas emissions be deposited in this fund. Requires that moneys from the fund be directed to the California Conservation Corps and local conservation corps for specified projects.</p>	<p>INTRODUCED: 02/25/2009 LAST AMENDED: 05/04/2009 LOCATION: Senate Appropriations Committee</p> <p>STATUS: 05/28/2009 In SENATE Committee on APPROPRIATIONS: Not heard</p>	<p>None Listed</p>
<p>► SB 391 (Liu – D)</p> <p>California Transportation Plan</p>	<p>Requires the California Transportation Plan to be updated to address how the state will achieve maximum feasible emission reductions in order to attain a statewide reduction of greenhouse gas emissions to 1990 levels by 2020 and 80 percent below 1990 levels by 2050. Also requires the plan to identify a statewide integrated multimodal transportation system needed to achieve greenhouse gas reductions.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 05/04/2009 LOCATION: Assembly Appropriations Committee</p> <p>STATUS: 07/08/2009 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File</p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► SB 409 (Ducheny – D) Department of Railroads</p>	<p>Creates the Department of Railroads within the Business, Transportation, and Housing Agency. Transfers responsibilities for various state railroad programs currently administered by other agencies to the Department. Provides that the Department shall be the only state agency eligible to apply for and receive grant and loan funds from the federal government for intercity rail, high speed rail, or freight rail purposes.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 05/21/2009 LOCATION: Senate Appropriations Committee STATUS: 07/23/2009 In SENATE Committee on APPROPRIATIONS: To Suspense File.</p>	<p>Oppose: California Public Utilities Commission</p>
<p>► SB 425 (Simitian – D) Personal and corporate income taxes: ridesharing</p>	<p>Disallows an income tax deduction for expenses of specified employers for parking subsidies unless all employees provided with a parking subsidy are offered a parking cash-out program. Authorizes a personal and corporate income tax credit for qualified commute reduction expenditures for specified small-business taxpayers.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 07/23/2009 LOCATION: Senate Appropriations Committee STATUS: 07/23/2009 In SENATE Committee on APPROPRIATIONS: To Suspense File. 07/23/2009 From SENATE Committee on APPROPRIATIONS with author's amendments. 07/23/2009 In SENATE. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.</p>	<p>Support: Natural Resources Defense Council, Los Angeles Chamber of Commerce, San Mateo County Transit District</p>
<p>► SB 455 (Lowenthal – D) High Speed Rail</p>	<p>Would require the Governor's appointments to the California High Speed Rail Authority to be based on the advice and consent of the Senate. Requires the Authority to ensure the selected projects, including right-of-way acquisition are consistent with the criteria as specified in the approved high speed rail bond. Waives specific state approval processes for capital outlay purchases by the Authority.</p>	<p>INTRODUCED: 02/26/2009 LAST AMENDED: 04/16/2009 LOCATION: Assembly Inactive File STATUS: 07/24/2009 In ASSEMBLY. To Inactive File.</p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 545 (Cedillo – D) Freeway Construction	Amends existing law which exempts the Department of Transportation from entering into an agreement prior to closure of a city street or county highway due to construction of a freeway segment within the jurisdiction of the Los Angeles County Metropolitan Transportation Authority. Limits this exception to construction of a segment that consists solely of a subsurface transportation facility. Requires that an agreement is not possible because an impasse has existed after an initial route was adopted.	INTRODUCED: 02/27/2009 LAST AMENDED: 06/30/2009 LOCATION: Assembly Appropriations Committee STATUS: 07/06/2009 From ASSEMBLY Committee on TRANSPORTATION: Do pass to Committee on APPROPRIATIONS	None Listed
► SB 575 (Steinberg – D) Local Planning: Housing Element	Requires metropolitan planning organizations to have meetings to present a draft of the sustainable communities strategy and alternative planning strategy. Requires certain local governments to adopt the 5th revision of the housing element after a specified date to revise the housing elements of their general plan. Specifies the schedule for all local governments to adopt revisions of the housing element. Requires the Department of Transportation to publish a schedule of transportation plan adoption dates. Relates to the implementation of SB 375 (Chapter 728, Statutes of 2008).	INTRODUCED: 02/27/2009 LAST AMENDED: 07/13/2009 LOCATION: Assembly Appropriations Committee STATUS: 07/13/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on APPROPRIATIONS.	None Listed
► SB 632 (Lowenthal – D) Ports: Congestion Relief: Air Pollution Mitigation	Requires the Ports of Los Angeles, Long Beach, and Oakland beginning January 1, 2010, to assess their infrastructure and air quality improvement needs, including but not limited to, projects that improve the efficiency of the movement of cargo, reduce congestion impacts associated with movement of cargo, and reduce pollution associated with the movement of cargo. Requires the Ports to provide this assessment to the Legislature by July 1, 2010 and to include in the assessment the total costs of infrastructure and air quality improvements, possible funding options for these projects, and estimated timelines for implementation.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/30/2009 LOCATION: Assembly Inactive File STATUS: 07/13/2009 In ASSEMBLY. To Inactive File.	Support: Bay Area Air Quality Management District, Breathe California

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>SB 696 (Wright – D)</p> <p>Air Quality: Regional Districts: Emission Reductions</p>	<p>Exempts from the requirements of the State Environmental Quality Act, the adoption and implementation of specified air pollution control district or air quality management district rules related to emission credits.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 06/17/2009 LOCATION: Senate Environmental Quality Committee</p> <p>STATUS: 06/17/2009 In SENATE. Read second time and amended. Re-referred to Committee on ENVIRONMENTAL QUALITY.</p>	<p>Sponsor: South Coast Air Quality Management District</p>
<p>► SB 734 (Lowenthal – D)</p> <p>Transportation</p>	<p>Relates to the \$2 billion Proposition 1B dollars allocated to cities and counties for specified street and road improvements. The act requires a city or county to reimburse the state for funds it receives if it fails to comply with certain conditions applicable to the expenditure of the bond funds. SB 734 requires any interest or other return earned by a city or county from investment of bond funds received under these provisions to be expended or reimbursed under the same conditions as are applicable to the bond funds themselves.</p>	<p>INTRODUCED: 02/27/2009 LAST AMENDED: 06/22/2009 LOCATION: Assembly Third Reading File</p> <p>STATUS: 07/16/2009 In ASSEMBLY. From Consent Calendar. To third reading.</p>	<p>None Listed</p>
<p>► SB 802 (Leno – D)</p> <p>Public Contracts: Retention Proceeds</p>	<p>Relates to public contracts and retention proceeds. Prohibits retention proceeds from exceeding five percent of the payment for all contracts entered into after January 1, 2010 between a public entity and an original contractor, between an original contractor and a subcontractor, and between all subcontractors thereunder. Requires the Department of General Services to withhold not more than five percent of the contract price until final completion and acceptance of a public work or improvement.</p>	<p>INTRODUCED: 02/27/2009 LOCATION: Assembly Appropriations Committee</p> <p>STATUS: 07/07/2009 From ASSEMBLY Committee on BUSINESS AND PROFESSIONS: Do pass to Committee on APPROPRIATIONS</p>	<p>(Partial List) Sponsor: CA Association of Sheet Metal & Air Conditioning Contractors</p> <p>Support: State Building and Construction Trades Council, California State Association of Electrical Workers, California State Pipe Trades Council</p> <p>Oppose: CSAC, California Special Districts Association, California Association of Sanitation Agencies</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SCA 14 (Ducheny – D) Initiative Measures: Funding Source	Proposes an amendment to the Constitution to prohibit an initiative measure that would result in a net increase in state government cost from being submitted to the electors or having any effect unless and until the Legislative Analyst and the Director of Finance jointly determine that the initiative provides for additional revenues in an amount that meets or exceeds the net increase in costs.	INTRODUCED: 02/27/2009 LAST AMENDED: 06/23/2009 LOCATION: Senate Appropriations Committee STATUS: 07/06/2009 In SENATE Committee on APPROPRIATIONS: To Suspense File	None Listed
TWO YEAR BILLS			
BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 26 (Hernandez – D) Public Contracts: Bid Preferences: Employee Health Care	Requires a state agency awarding a public works contract to provide a bid preference to a bidder whose employee health care expenditures, and those of its subcontractors, are a percentage of the aggregate Social Security Wages paid to its employees in the state. Requires a bidder and its subcontractors to submit statements certifying that they qualify for the bid preference. Requires the bidder and contractors to continue to make employee health care expenditures.	INTRODUCED: 12/01/2008 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	Sponsor: State Building and Construction Trades Council of California Support: American Federation of State, County and Municipal Employees(AFSCME) Oppose: Associated General Contractors National Federation of Independent Business California State University

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 109 (Feuer – D) Outdoor Advertising	Amends the Outdoor Advertising Act; prohibits an advertising display that is visible from a state, county or city highway from being constructed as, or converted, enhanced, improved, modified, modernized or altered into a digital advertising display; prohibits an official highway changeable message sign from being constructed as or converted, enhanced, improved, modified, modernized or altered into a digital advertising display for the purpose of displaying messages other than traffic operations.	INTRODUCED: 1/13/2009 LAST AMENDED: 04/23/2009 LOCATION: Assembly Governmental Organization Committee. STATUS: 04/30/2009 In ASSEMBLY Committee on GOVERNMENTAL ORGANIZATION: Failed passage 04/30/2009 In ASSEMBLY Committee on GOVERNMENTAL ORGANIZATION: Reconsideration granted	Support: Association of California Insurance Companies, City of Los Angeles, Scenic America Oppose: California Chamber of Commerce, Clear Channel Outdoor
AB 118 (Logue – R) California Global Warming Solutions Act of 2006	Repeals the California Global Warming Solutions Act of 2006, which requires the State Air Resources Board to adopt regulations to require the reporting of greenhouse gases and to adopt a statewide greenhouse gas emissions limit.	INTRODUCED: 01/15/2009 LOCATION: Assembly Natural Resources Committee STATUS: 02/26/2009 To ASSEMBLY Committee on NATURAL RESOURCES	None Listed
AB 153 (Ma - D) High Speed Rail Authority	Specifies that the High-Speed Rail Authority constitutes a governing body for the purpose of adopting a resolution of necessity. Excludes the authority with respect to property acquired for the construction of a high-speed rail system from the requirement that the property be acquired by the State Public Works Board.	INTRODUCED: 01/23/2009 LOCATION: Senate Transportation and Housing Committee STATUS: 06/23/2009 In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard	Sponsor: High Speed Rail Authority Support: California State Association of Counties, State Building and Construction Trades Council

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 216 (Beall – D) Public Contracts: Claims	Provides for a mediation process and binding arbitration process for third party claim disputes between a contractor and a local agency, charter city, or charter county that does not have an alternative dispute process, if those claims remain unresolved after a 105 day time period for review of the claim, 10-day period for a meet and confer conference to occur, and 30 day time period for mediation.	INTRODUCED: 02/03/2009 LAST AMENDED: 05/06/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	(partial list) Support: American Federation of State, County, and Municipal Employees, AFL-CIO Oppose: League of California Cities, American Council of Engineering Companies
AB 231 (Huffman – D) Global Warming Solutions Act of 2006: Trust Fund	Requires the State Air Resources Board to adopt a schedule of fees to be paid by the sources of greenhouse emissions which would be deposited in the Climate Protection Trust Fund for purposes of carrying out the Global Warming Solutions Act of 2006.	INTRODUCED: 02/05/2009 LAST AMENDED: 06/26/2009 LOCATION: Senate Environmental Quality Committee STATUS: 06/26/2009 From SENATE Committee on ENVIRONMENTAL QUALITY with author's amendments 06/26/2009 In SENATE. Read second time and amended. Re-referred to Committee on ENVIRONMENTAL QUALITY	(partial list) Support: Environmental Defense Fund, The Trust for Public Land, AFL-CIO Oppose: California Chamber of Commerce, Cal-Tax, California Retailers Association
AB 251 (Knight – R) L.A. County Metropolitan Transportation Authority	Provides for the appointment of one member of the Los Angeles County Metropolitan Transportation Authority by the city councils of the Cities of Palmdale, Lancaster, and Santa Clarita, and deletes one of the public members appointed by the Mayor of Los Angeles. Excludes the Cities of Palmdale, Lancaster, and Santa Clarita from the selection of the four members appointed from other cities in the county.	INTRODUCED: 02/10/2009 LOCATION: Assembly STATUS: 05/20/2009 From ASSEMBLY Committee on LOCAL GOVERNMENT without further action pursuant to JR 62(a)	Sponsor: L.A. County Supervisor Michael Antonovich Oppose: City of Los Angeles

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 263 (Miller – R) Riverside County Transportation Commission	Authorizes the Riverside County Transportation Commission (RCTC) to approve and award one best-value design-build contract for transportation improvements on the State Highway Route 91 corridor based on criteria established by RCTC.	INTRODUCED: 02/11/2009 LOCATION: Assembly Transportation Committee STATUS: 03/04/2009 To ASSEMBLY Committee on TRANSPORTATION	Sponsor: Riverside County Transportation Commission
AB 266 (Carter – D) Transportation Needs Assessment	Requires the California Transportation Commission to develop an assessment of the unfunded costs of programmed state projects and federally earmarked projects in the state, as well as an assessment of available funding for transportation purposes and unmet transportation needs on a statewide basis.	INTRODUCED: 02/11/2009 LAST AMENDED: 04/20/2009 LOCATION: Senate Rules Committee STATUS: 06/11/2009 To SENATE Committee on RULES	Support: California Transit Association, AFL-CIO, American Federation of State, County, and Municipal Employees
AB 309 (Price – D) Public Contracts: Small Business Participation	Requires state agencies, departments, boards, and commissions to establish and achieve a goal of small business participation in state procurements and contracts and to work with the Department of General Services to help small businesses market their products, goods and services to the state by providing access to information about current bid opportunities on their web sites. Requires the Office of Small Business Advocate to collaborate with the Department of General Services to enhance the states small business program.	INTRODUCED: 02/17/2009 LAST AMENDED: 04/23/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	Sponsor: National Federation of Independent Business California

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 319 (Niello – R) Elections: Ballot Titles	Requires the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters of the state. Requires the Legislative Analyst, instead of the Department of Finance and the Joint Legislative Budget Committee, to prepare any fiscal estimate or opinion required by a proposed initiative measure.	INTRODUCED: 02/18/2009 LAST AMENDED: 04/13/2009 LOCATION: Assembly Elections and Redistricting Committee STATUS: 04/21/2009 In ASSEMBLY Committee on ELECTIONS AND REDISTRICTING: Failed passage 04/21/2009 In ASSEMBLY Committee on ELECTIONS AND REDISTRICTING: Reconsideration granted	Oppose: California School Employees Association , AFL-CIO
AB 397 (Jeffries – R) South Coast Air Quality Management District Election	Requires the members of the South Coast Air Quality Management District governing board to be elected by the divisions commencing with the 2012 general election.	INTRODUCED: 02/23/2009 LOCATION: Assembly Local Government Committee STATUS: 03/12/2009 Withdrawn from ASSEMBLY Committee on NATURAL RESOURCES 03/12/2009 Re-referred to ASSEMBLY Committees on LOCAL GOVERNMENT and NATURAL RESOURCES	None Listed
AB 619 (Blumenfield – D) Transportation Projects: Federal Funds	Requires the Department of Transportation to notify the Legislature when it is determined that a project, including a project designated in the National Corridor Infrastructure Improvement Program, will be delayed beyond its scheduled completion date due to state cash flow or other funding issues, if the places at risk federal funds.	INTRODUCED: 02/25/2009 LOCATION: Senate Transportation and Housing Committee STATUS: 05/21/2009 To SENATE Committee on TRANSPORTATION AND HOUSING	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 726 (Nielson – R) Transportation Capital Improvement Projects	States that local road rehabilitation projects are eligible for transportation capital improvement funds pursuant to the State Transportation Improvement Program.	INTRODUCED: 02/26/2009 LOCATION: Senate Transportation and Housing Committee STATUS: 06/16/2009 In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard	Sponsor: CSAC and Regional Council of Rural Counties Support: League of California Cities
AB 782 (Jeffries - R) Regional Transportation Plans: Sustainable Communities	Provides that upon the California Air Resources Board's (CARB) acceptance that the sustainable communities strategy or an alternative planning strategy, if implemented, will achieve the greenhouse gas emissions reduction targets established by CARB, that acceptance shall be final, and no person or entity may initiate or maintain any judicial proceeding to review the propriety of the CARB's acceptance. Expands the Regional Targets Advisory Committee membership to include commercial builders, the business community, and those involved in transportation funding. Exempts transportation projects funded by Proposition 1B, the American Recovery and Reinvestment Act of 2009, and expands the exemption related to sales tax projects to include measures passed until 2010. Expands California Environmental Quality Act (CEQA) streamlining provisions to additional projects consistent with a sustainable communities strategy or alternative planning scenario.	INTRODUCED: 02/26/2009 LOCATION: Assembly Natural Resources Committee STATUS: 04/27/2009 In ASSEMBLY Committee on NATURAL RESOURCES: Heard, remains in Committee	Support: California Chamber of Commerce, American Council of Engineering Companies Oppose: Breathe California
AB 815 (Ma – D) Public Contracts: Bidding Procedures	Requires a local public entity, charter city, or charter county, before entering into any contract for a project, to provide full, complete, and accurate plans and specifications and estimates of cost, giving such direction as will enable any competent mechanic or other builder to carry them out. Exempts from these provisions any clearly identified design-build projects or design-build portions thereof.	INTRODUCED: 02/26/2009 LAST AMENDED: 06/01/2009 LOCATION: Senate Local Government Committee STATUS: 06/18/2009 To SENATE Committee on LOCAL GOVERNMENT	Oppose: City of Costa Mesa, Governor's Office of Planning and Research, League of California Cities

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 878 (Caballero – D) Infrastructure Financing	Authorizes a local governmental agency to enter into an agreement with a private entity for financing for specified types of revenue-generating infrastructure projects.	INTRODUCED: 02/26/2009 LAST AMENDED: 04/20/2009 LOCATION: Assembly Local Government Committee STATUS: 04/20/2009 From ASSEMBLY Committee on LOCAL GOVERNMENT with author's amendments 04/20/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT	None Listed
AB 1018 (Hill – D) State Finance	Requires the Governor's proposed budget to include estimates of revenues and expenditures for the three subsequent fiscal years. Requires the Director of Finance to submit revised estimates of revenue and expenditures for the current fiscal year and three subsequent fiscal years on or before May 14, July 15, and September 15 of each year. Requires the state Controller and Treasurer to review revised estimates and submit assessment to the fiscal committees of each house and the Director of Finance on or before May 31 of each year.	INTRODUCED: 02/27/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	None Listed
AB 1062 (Garrick - R) Design-build contracts: Labor Compliance Program	Revises the definition of skilled labor force availability for purposes of public works design-build contracting to mean a commitment to training the future construction workforce through apprenticeship and requires the design-build entity to provide specified information from which it intends to request the dispatch of apprentices for use on the design-build contract.	INTRODUCED: 02/27/2009 LOCATION: Assembly Business and Professions Committee STATUS: 03/31/2009 To ASSEMBLY Committees on BUSINESS AND PROFESSIONS and LABOR AND EMPLOYMENT	Support: Western Electrical Contractors Association Oppose: California Labor Federation, AFL-CIO

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1091 (Ruskin - D) Natural Resources: Climate Change	Authorizes the Natural Resources Agency to develop and amend as necessary a climate change adaptation strategy to assess the state's vulnerability to impacts of climate change, including the impacts of projected sea-level rise, on the state's physical and natural infrastructure. Permits the agency to develop or augment the strategy by region. Provides that the strategy is subject to a specified revenue process prior to adaptation or approval.	INTRODUCED: 02/27/2009 LAST AMENDED: 05/06/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee.	Support: Trust for Public Land, Nature Conservancy, Planning and Conservation League
AB 1135 (Skinner - D) Vehicles: Registration Renewal	Requires the owner of a vehicle, upon application for renewal of a vehicle registration, to report the current odometer reading of the vehicle. Requires the information, except for the name of the vehicle owner and the vehicle license plate number, to be public information. Requires the Department of Motor Vehicles to group the information into census blocks and post the data on the department's Internet web site.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/13/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee.	Sponsor: TransFORM California Support: Breathe California, Bay Area Air Quality Management District
AB 1212 (Ruskin - D) Air Resources: Clean Vehicle Incentive Program	Authorizes CARB to adopt and implement a clean vehicle incentive, or feebate, program consisting of one-time rebates and one-time surcharges on the sale of new passenger motor vehicles. CARB is only to establish this program if it funds that the implementation of the program would be beneficial to achieving AB 32 greenhouse gas emission reduction goals. This is to be implemented in such a way that does not result in a levying of a tax, and all revenues are to be deposited into the Air Pollution Control Fund.	INTRODUCED: 02/27/2009 LOCATION: Assembly Transportation Committee STATUS: 03/31/2009 To ASSEMBLY Committee on TRANSPORTATION	None Listed
AB 1229 (Evans - D) Public Contracts: Local Public Agencies	Requires the Contractors State License Board, rather than the Department of Industrial relations, in collaboration with impacted agencies and parties, to develop guidelines and a standardized questionnaire related to qualifying bidders and regulating local public works projects. Factors to be considered in qualifying bidders are to include the size and contract volume of a perspective bidder. Factors are to be used to determine qualifications of a bidder on a weighted basis. Specifies that a prequalifying questionnaire, if used by a public entity, shall remain valid for three years, rather than a year, as long as the public entity determines the information has not substantially changed for that three year period.	INTRODUCED: 02/27/2009 LOCATION: Assembly Business and Professions Committee STATUS: 03/31/2009 To ASSEMBLY Committees on BUSINESS AND PROFESSIONS and LOCAL GOVERNMENT	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1277 (Harkey - R) State Bonds: Sale	Authorizes the Treasurer to delay the sale of state bonds that are subject to the approval under Article 16 of the state constitution if the Treasurer, in consultation with the state Controller and Director of Finance determine that making the principal and interest payments would result in payments from the general fund for total debt service on the bonds would exceed six percent of total general fund revenues for the fiscal year, or if the cost of commercial paper needed to find a start-up loan would be more than three times the normal costs of commercial paper experienced by the Treasurer over the last two fiscal years, or if the Treasurer determines the Pooled Money Investment Account does not have sufficient funds to loan an amount equal to the bond proceeds.	INTRODUCED: 02/27/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/20/2009 In ASSEMBLY Committee on APPROPRIATIONS: To Suspense File	None Listed
AB 1278 (Harkey - R) Elections: Initiatives	Requires the Legislative Analyst to include additional information in the ballot pamphlet for each state initiative measure that proposes the issuance of a state bond. This information is to include the total amount of proposed bond indebtedness, the total amount of interest that would be paid over the term of the proposed bond, state that by approving this measure it is authorizing the state to incur debt, state whether tax revenue will be used to repay the bond, and state that repayment of the proposed bond may take priority over funding provided to local government or provided for public services.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/14/2009 LOCATION: Assembly Elections and Redistricting Committee STATUS: 04/14/2009 From ASSEMBLY Committee on ELECTIONS AND REDISTRICTING with author's amendments 04/14/2009 In ASSEMBLY. Read second time and amended. Re-referred to Committee on ELECTIONS AND REDISTRICTING	None Listed
AB 1299 (Coto - D) State Taxes: Vote Requirement	Clarifies the meaning of state taxes for purposes of the constitutional vote requirement to mean taxes that are imposed by state law, levied and collected by the state, and required by state law to be deposited in the state treasury.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1321 (Eng – D) Advance Infrastructure Mitigation Program	Enacts the Advance Infrastructure Mitigation Program Act. Provides for effective mitigation and conservation of natural resources and natural processes on a landscape, regional, or statewide scale, to expedite the environmental review of planned infrastructure projects and to facilitate the implementation of measures to mitigate the impacts of those projects. Establishes and funds mitigation banks. Authorizes mitigation credits.	INTRODUCED: 02/27/2009 LAST AMENDED: 05/06/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	(partial list) Support: California Council of Land Trust, California League of Conservation Voters, Nature Conservancy
AB 1323 (Lowenthal – D) Workforce Development: Job Information	Requires the Employment Development Department to ensure that information is posted or otherwise made available at all state one-stop career centers regarding any jobs that have been or will be created in the state as result of economic stimulus funding provided to the state pursuant to the American Recovery and Reinvestment Act of 2009, or from the proceeds from the sale of state General Fund Infrastructure Bonds.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/14/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	Support: California Workforce Association
AB 1375 (Galgiani – D) High-speed Rail	Revises and recasts provisions by repealing and reenacting the California High-Speed Train Act. Continues the High-Speed Rail Authority. Would also create the Department of High-Speed Trains within the Business, Transportation and Housing Agency to implement policies related to Proposition 1A (2008) and specifies its duties in relation to the High-Speed Rail Authority. Requires the newly formed department to have control over the annual submission of a six-year high-speed train capital improvement program and progress report to the Legislature.	INTRODUCED: 02/27/2009 LOCATION: Assembly Appropriations Committee STATUS: 04/27/2009 From ASSEMBLY Committee on TRANSPORTATION: Do pass to Committee on APPROPRIATIONS	None Listed
AB 1382 (Niello – R) State Budget	Requires that the state budget submitted by the Governor to the Legislature for the 2011-2012 fiscal year and each following year be developed pursuant to performance-based budgeting methods, for each state agency. Requires the Department of Finance to utilize the annual report on the measurements of performance-based budgeting methods prepared by the Joint Legislative Budget Committee.	INTRODUCED: 02/27/2009 LOCATION: Assembly Appropriations Committee STATUS: 05/28/2009 In ASSEMBLY Committee on APPROPRIATIONS: Heard, remains in Committee	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1411 (Torrico – D) Legislature: Delayed Budget Bill Passage	Prohibits Members from engaging in campaign fundraising activities from July 1 until August 15 or the date on which the Budget Bill is passed by the Legislature and sent to the Governor, whichever occurs first.	INTRODUCED: 02/27/2009 LAST AMENDED: 06/02/2009 LOCATION: Assembly Third Reading File STATUS: 06/02/2009 In ASSEMBLY. Read third time and amended. To third reading.	None Listed
AB 1502 (Eng – D) Vehicles: High-Occupancy Vehicle Lanes	Authorizes the Department of Transportation to designate certain lanes for the exclusive use of high-occupancy vehicles, which may also be used by certain low-emission, hybrid, or alternative fuel vehicles.	INTRODUCED: 02/27/2009 LOCATION: Assembly Transportation Committee STATUS: 04/02/2009 To ASSEMBLY Committee on TRANSPORTATION	None Listed
ACR 16 (Silva – R) Joint Rules: Fiscal Committee	Provides that whenever a bill that would result in net costs for a program is referred or re-referred to the fiscal committee of either house, the bill shall not be heard or acted upon by the committee or either house until the bill either provides for an appropriation or other funding source in an amount that meets or exceeds the net costs.	INTRODUCED: 02/02/2009 LOCATION: Assembly STATUS: 02/02/2009 INTRODUCED	None Listed
SB 31 (Pavley – D) Global Warming Solutions Act	Relates to the Global Warming Solutions Act of 2006. Requires that revenues collected pursuant to compliance mechanisms adopted by the State Air Resources Board be deposited in the Air Pollution Control Fund. Specifies that uses of the revenues collected pursuant to the fee and the compliance mechanisms are to include such things as renewable energy and energy efficiency programs, investments in technologies to reduce greenhouse gas emissions, green jobs development and training, and for administrative costs related to implementing the Act.	INTRODUCED: 12/02/2008 LAST AMENDED: 05/05/2009 LOCATION: Senate Inactive File STATUS: 06/03/2009 In SENATE. Read third time. Failed to pass SENATE. 06/03/2009 In SENATE. Reconsideration granted. 06/03/2009 In SENATE. From third reading. To Inactive File.	Co-Sponsors: Environmental Entrepreneurs, Natural Resources Defense Council (partial list) Support: South Coast Air Quality Management District, Environmental Defense Fund Oppose: California Chamber of Commerce, Southern California Edison

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 225 (Florez – D) Emission Reduction Credits	Authorizes an air quality management district and an air pollution control district to create an emission reduction credit from the emission reductions resulting from a project that is funded from both public and private moneys if specified requirements are met.	INTRODUCED: 02/23/2009 LAST AMENDED: 04/29/2009 LOCATION: Senate Environmental Quality Committee STATUS: 04/29/2009 From SENATE Committee on ENVIRONMENTAL QUALITY with author's amendments 04/29/2009 In SENATE. Read second time and amended. Re-referred to Committee on ENVIRONMENTAL QUALITY	None Listed
SB 295 (Dutton - R) California Global Warming Solutions Act of 2006	Relates to the Global Warming Solutions Act of 2006 that requires reporting and verification of emissions of greenhouse gases and to enforce compliance with reporting and verification. Requires the State Air Resources Board to report on whether the revised analysis regarding greenhouse gas emission reductions has led, or will lead, to any changes to the scoping plan, and whether any changes should be made to the act's timelines. Requires the Legislative Analyst to review the state board's implementation.	INTRODUCED: 02/25/2009 LAST AMENDED: 05/13/2009 LOCATION: Senate Environmental Quality Committee STATUS: 05/20/2009 In SENATE Committee on ENVIRONMENTAL QUALITY: Failed passage 05/20/2009 In SENATE Committee on ENVIRONMENTAL QUALITY: Reconsideration granted	(partial list) Support: Cal-Tax, Greater Riverside Chamber of Commerce, Inland Empire Division of the League of California Cities Oppose: California Teachers Association, Planning and Conservation League.
SB 414 (Correa – D) County Employee Retirement: Boards	Requires a County retirement Board to appoint a replacing alternate member in the same manner as prescribed for the initial appointment of an alternate retired member who shall serve out the remaining term of the leaving member.	INTRODUCED: 02/26/2009 LOCATION: Senate Public Employment and Retirement Committee STATUS: 03/12/2009 To SENATE Committee on PUBLIC EMPLOYMENT AND RETIREMENT	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 476 (Correa – D) Environmental Quality Act: Noncompliance Allegations	Prohibits an action for noncompliance under CEQA from being brought forward unless the alleged grounds for noncompliance were raised either orally or in writing during the public comment period, prior to the close of the public hearing on the project, before the filing, rather than issuance, of the notice of determination.	INTRODUCED: 02/26/2009 LAST AMENDED: 04/30/2009 LOCATION: Assembly Natural Resources Committee STATUS: 05/28/2009 To ASSEMBLY Committees on NATURAL RESOURCES and JUDICIARY	Sponsor: California Business Properties Association Oppose: Planning and Conservation League
SB 518 (Lowenthal – D) Vehicles: Parking Services and Fees	Requires state funds not be used to subsidize parking services for students, employees, and other persons on and after a specified date, and to directly or indirectly subsidize the construction or operations of parking. Authorizes a community college district to exempt specified students who receive financial assistance, who rideshare, or who carpool from paying parking fees. Authorizes the expenditure of any moneys apportioned to cities or counties from the Highway Users Tax Account for transportation demand management measures. Relates to parking meter rate zones	INTRODUCED: 02/26/2009 LAST AMENDED: 05/28/2009 LOCATION: Senate Inactive File STATUS: 06/03/2009 In SENATE. Read third time. Failed to pass SENATE. 06/03/2009 In SENATE. Reconsideration granted. 06/03/2009 In SENATE. From third reading. To Inactive File.	(partial list) Sponsor: Natural Resources Defense Council Support: American Lung Association, California League of Conservation Voters, Genentech
SB 528 (Negrete McLeod – D) Toll Facilities: Lease Agreements	Relates to existing law that authorizes the Department of Transportation and regional transportation agencies to enter into comprehensive development lease agreements with public and private entities. Prohibits a lease agreement entered into after a certain date from providing for compensation for adverse effects of competing projects.	INTRODUCED: 02/27/2009 LOCATION: Senate Transportation and Housing Committee STATUS: 05/12/2009 In SENATE Committee on TRANSPORTATION AND HOUSING: Not heard	Support: Professional Engineers of California Government.

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 553 (Wiggins – D) Payment of State Claims: Nonprofit Corporations	Relates to the Prompt Payment Act which requires timely payment of grants between any state agency and a local government agency or organization authorized to accept grant funding. Provides that, in the event a state agency fails to make timely payment because no Budget Act has been enacted, penalties shall continue to accrue. Provides that nonprofit public benefit corporations are eligible for late payment penalties.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/22/2009 LOCATION: Senate Appropriations Committee STATUS: 05/28/2009 In SENATE Committee on APPROPRIATIONS: Not heard	(partial list) Co-Sponsors: California Council of Land Trusts, California State Parks Foundation, Planning and Conservation League Support: Land Trust Council, California Association of Nonprofits, Central Valley Land Trust Council
SB 560 (Ashburn - R) Regional Transportation Plans: Sustainable Communities	Relates to transportation planning. Provides that greenhouse gas emission credits for counties and cities that permit commercial wind, solar, and biomass projects may be used as credit in the formulation of the sustainable communities strategy or an alternative planning strategy. Excludes transportation trips related to a military installation.	INTRODUCED: 02/27/2009 LOCATION: Senate Environmental Quality Committee STATUS: 03/12/2009 To SENATE Committees on ENVIRONMENTAL QUALITY and TRANSPORTATION AND HOUSING	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 711 (Leno - D) Public Meetings: Sessions: Labor Negotiations	Amends the Ralph M. Brown Act. Requires a local agency, before holding a closed session regarding employee compensation to identify the employee(s) subject to the negotiations, the representatives of the employees, all known negotiation matters, and to make public written proposals. In addition, before an agency commences negotiations for a new collective bargaining agreement or initial proposal for an unrepresented employee, to present, in an open and public session, a new collective bargaining agreement or initial proposal. Requires any vote on the collective bargaining agreement or initial proposal to be taken at an open and public session.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/13/2009 LOCATION: Senate Local Government Committee STATUS: 04/13/2009 From SENATE Committee on LOCAL GOVERNMENT with author's amendments 04/13/2009 In SENATE. Read second time and amended. Re-referred to Committee on LOCAL GOVERNMENT 04/13/2009 Hearing canceled at request of author	Support: California Newspaper Publishers Association, California Aware. Oppose: County of San Bernardino, California Association of Clerks and Elections Officials, American Federation of State, County, and Municipal Employees
SB 721 (Steinberg -D) Energy: Greenhouse Gas Emissions	Creates the Climate Action Team responsible for coordinating the state's overall climate policy and preparing, adopting, and presenting to the Legislature on or before January 1, 2011 and annually thereafter, a strategic research, development, demonstration, and development plan that establishes priorities and identifies key expenditure categories for research, development, demonstration, and development funds to be expended by the state agencies represented on the team.	INTRODUCED: 02/27/2009 LAST AMENDED: 04/23/2009 LOCATION: Senate Appropriations Committee STATUS: 05/28/2009 In SENATE Committee on APPROPRIATIONS: Not heard	Sponsor: Audubon California, Defenders of Wildlife, The Nature Conservancy Support: Clean Water Action, National Parks Conservation Association, Sierra Club California

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 777 (Wolk – D) State Budget	Requires the budget of a state agency submitted to the Department of Finance to utilize a performance based budgeting method. Establishes a task force comprised of the Director of Finance, the Controller, and the Chairperson of the Joint Legislative Budget Committee to develop performance based budgeting guidelines and procedures and in addition, develop a training and education program for state agency personnel involved in the budget process.	INTRODUCED: 02/27/2009 LAST AMENDED: 05/26/2009 LOCATION: Senate Budget and Fiscal Review Committee STATUS: 05/26/2009 From SENATE Committee on BUDGET AND FISCAL REVIEW with author's amendments 05/26/2009 In SENATE. Read second time and amended. Re-referred to Committee on BUSGET AND FISCAL REVIEW	None Listed
SCA 1 (Walters – R) State Budget	Proposes an amendment to the State Constitution. Provides, that if the total amount of General Fund appropriations in a Budget Bill for the ensuing fiscal year combined with all other General Fund appropriations for that fiscal year on the date of passage does not exceed by 5 percent or more the amount of the General Fund appropriations for the immediately preceding fiscal year, the budget bill may be passed by a simple majority.	INTRODUCED: 12/01/2008 LOCATION: Senate Rules Committee STATUS: 01/29/2009 To SENATE Committees on RULES and ELECTIONS, REAPPORTIONMENT AND CONSTITUTIONAL AMENDMENTS	None Listed
SCA 3 (Wyland – R) Transportation Investment Fund	Proposes an amendment to the State Constitution. Deletes current provisions authorizing the transfer of revenues to the Transportation Investment Fund to be suspended during a fiscal emergency. Prohibits a loan of fund revenues under any circumstances. Prohibits any statute that would reduce the extent to which these tax revenues are deposited into the General Fund for transfer to the fund for transportation purposes.	INTRODUCED: 12/01/2008 LOCATION: Senate Revenue and Taxation Committee STATUS: 01/29/2009 To SENATE Committees on REVENUE AND TAXATION; ELECTIONS, REAPPORTIONMENT AND COSTITUTIONAL AMENDMENTS; and APPROPRIATIONS	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SCA 5 (Hancock – D) State Budget	Exempts General Fund appropriations in the Budget Bill from the two-thirds vote requirement.	INTRODUCED: 12/02/2008 LOCATION: Senate Rules Committee STATUS: 01/29/2009 To SENATE Committees on RULES; and ELECTIONS, REAPPORTIONMENT AND CONSTITUTIONAL AMENDMENTS	None Listed
SCA 7 (Maldonado – R) Legislature: Compensation	Proposes an amendment to the State Constitution. Provides that if a Budget Bill is not passed by June 15, Members of the Legislature may not be paid any salary or per diem until the Budget Bill is passed and sent to the Governor.	INTRODUCED: 01/15/2009 LOCATION: Senate Rules Committee STATUS: 02/24/2009 Re-referred to SENATE Committee on RULES	None Listed
SCA 9 (Ducheny – D) Finance: State Budget: Taxes	Proposes an amendment to the Constitution that exempts from the two-thirds vote requirement appropriations made in a Budget Bill, and appropriations made in a bill identified in the Budget Bill containing only changes in law necessary to implement the Budget Bill, and instead be passed by a 55 percent vote in each house.	INTRODUCED: 01/26/2009 LOCATION: Senate Budget & Fiscal Review Committee STATUS: 02/05/2009 To SENATE Committees on BUDGET AND FISCAL REVIEW; and ELECTIONS, REAPPORTIONMENT, AND CONSTITUTIONAL AMENDMENTS	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SCA 15 (Calderon – D) State Budget	Proposes an amendment to the Constitution to exempt General Fund appropriations in the Budget Bill for the ensuing fiscal year from the 2/3 vote requirement of the Legislation if the total amount of General Fund revenues estimated by the Legislative Analyst after a certain date for the current fiscal year is a certain percentage below the estimate of General Fund revenues set forth in the Budget Bill enacted for the current fiscal year	INTRODUCED: 02/27/2009 LAST AMENDED: 04/13/2009 LOCATION: Senate Budget and Fiscal Review Committee STATUS: 04/13/2009 From SENATE Committee on BUDGET AND FISCAL REVIEW with author's amendments 04/13/2009 In SENATE. Read second time and amended. Re-referred to Committee on BUDGET AND FISCAL REVIEW	None Listed



BOARD COMMITTEE TRANSMITTAL

August 10, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: Excess Liability Insurance Renewal

Finance and Administration Committee Meeting of July 22, 2009

Present: Directors Amante, Brown, Buffa, Campbell, Green, and Moorlach
Absent: Director Bates

Committee Vote


This item was passed by all Committee Members present.

Committee Recommendation

Authorize the Chief Executive Officer to issue Purchase Order No. A14151, in an amount not to exceed \$550,000, to Marsh Risk and Insurance Services, Inc., for the purchase of excess liability insurance for the period November 1, 2009 to November 1, 2010.



July 22, 2009

To: Finance and Administration Committee
From: James S. Kenan, Interim Chief Executive Officer 
Subject: Excess Liability Insurance Renewal

Overview

The Orange County Transportation Authority currently has excess liability insurance policies with Everest National Insurance Company and Great American Insurance Company. These policies are scheduled to expire on November 1, 2009.

Recommendation

Authorize the Chief Executive Officer to issue Purchase Order No. A14151, in an amount not to exceed \$550,000, to Marsh Risk and Insurance Services, Inc., for the purchase of excess liability insurance for the period November 1, 2009 to November 1, 2010.

Discussion

The Orange County Transportation Authority (OCTA) has been self-insured for liability claims since 1977 and currently maintains a self-insured retention (SIR) of \$4 million per claim. In addition, OCTA purchases \$35 million in excess liability insurance above the current SIR to provide financial protection against potentially high exposure liability losses.

Excess liability insurance is a type of insurance policy purchased by OCTA to protect against liability claims for bodily injury and property damage arising out of premises, all operations including the 91 Express Lanes, products and completed operations, advertising and personal injury liability, errors and omissions liability (including public official's coverage), employment practices, and employee benefit liability.

The \$35 million in excess liability insurance is provided by two insurance carriers, Everest National Insurance Company (Everest) and Great American Insurance Company (Great American).

Everest provides coverage of \$10 million in excess of OCTA's \$4 million SIR for a premium of \$309,060. In addition, Great American provides an additional \$25 million in coverage to OCTA beyond the Everest policy, for a premium of \$142,778. The total premium for both policies is \$451,838. These policies are scheduled to expire on November 1, 2009.

OCTA's Broker of Record, Marsh Risk and Insurance Services, Inc. (Marsh), will provide marketing and placement of the excess liability insurance coverage for this renewal. Marsh is paid a flat fee of \$110,000 for marketing and placing all property and casualty insurance per Agreement No. C-7-0632 approved by the Board of Directors on May 29, 2007. By agreement, Marsh does not earn any additional compensation or commission for their services. The contract further requires that any commissions offered by insurers will offset OCTA's premiums.

Marsh is currently contacting the insurance market for competitive quotes for the renewal of OCTA's excess liability insurance coverage. Marsh has been directed to explore multi-year policy options to entice carriers to reduce rates in exchange for a possible long-term commitment, and not to disclose broker compensation to prospective insurers to avoid having them net the broker's commission against their quoted premiums.

Fifteen insurance carriers that currently write public transportation excess liability insurance policies are being contacted for renewal quotes. These insurers have the financial capacity to provide the protection OCTA requires and have experience providing coverage to public transportation agencies. These carriers have an AM Best financial rating of A-7 or better:

- ACE American Insurance Company
- Allied World Assurance Company, LTD.
- Arch Insurance Company
- AXIS Insurance Company
- Beazley Insurance Company
- Catlin Specialty Insurance Company
- Discover Reinsurance Casualty Company
- Everest National Insurance Company
- Gemini Insurance Company
- Great American Insurance Company
- Ironshore Insurance Group
- Lexington Insurance Company
- RSUI Indemnity Company
- Swiss Re America Group
- XL America Group

OCTA has been insured for excess liability since 1991 and has experienced only one claim with a value in excess of the prior \$5 million SIR that required payment by an excess liability insurer. This favorable loss history and OCTA's achievements, such as winning the 2007 American Public Transportation Association Safety Award, placed OCTA in a better position to reduce the SIR to the current \$4 million and to further reduce excess liability insurance premiums.

As outlined on page two of Attachment A, Marsh indicates that the current excess liability marketplace can be categorized as "hardening." Due to the current market conditions, Marsh is advising that "OCTA can expect to see the possibility of a moderate rate increase" of the cost of the excess liability program at renewal without any changes to OCTA's current \$4 million SIR. In an effort to avoid increasing rates, Marsh will be directed to make the argument that a rate reduction should be considered as OCTA's recent reductions in bus service will reduce the overall exposure to loss.

OCTA will pursue four possible goals for renewing this policy as outlined in Attachment A. The goals are:

1. Obtain a flat or lower rate renewal at the current SIR level.
2. Provide options for \$2, \$3, and \$4 million SIR levels.
3. Continue to ensure that defense costs are outside the limit of liability.
4. Consider a multiple year program.

Fiscal Impact

The project was approved in the Human Resources and Organizational Development Division, Risk Management Department Fiscal Year 2010 Budget, Account 0040-7562-A0017-DTN, and is funded through the General Fund.

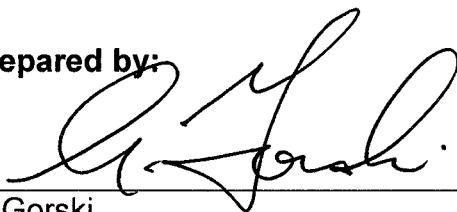
Summary

Based on the information provided, staff recommends the award of Purchase Order No. A14151 to Marsh Risk and Insurance Services, Inc., in the amount not to exceed \$550,000, for the purchase of excess liability insurance for the period of November 1, 2009 to November 1, 2010.

Attachment

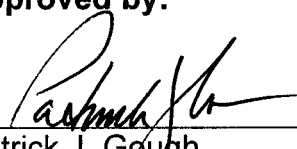
- A. November 1, 2009 Excess Liability Risk Review and Renewal Strategy Plan

Prepared by:

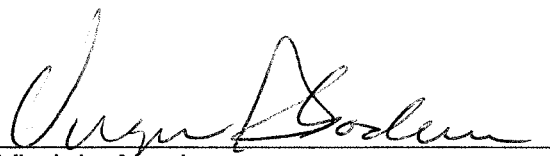


Al Gorski
Department Manager
Risk Management
714-560-5817

Approved by:



Patrick J. Gough
Executive Director, Human Resources
& Organizational Development
714-560-5824



Virginia Abadessa
Director, Contracts Administration and
Materials Management
714-560-5623



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June 29, 2009

Mr. Al Gorski
Chief Risk Officer
Orange County Transportation Authority
550 S. Main Street
Orange, CA 92863-1584

Subject:

November 1, 2009 Excess Liability Risk Review and Renewal Strategy Plan

Dear Al:

Thank you for the time you and Marie spent with Karen and me on Wednesday, June 17, 2009 to outline your renewal goals and objectives for OCTA's November 1, 2009 Excess Liability insurance renewal. The following summarizes our discussion.

Recap of Risk Identification Review Discussion:

- OCTA is the county's primary transportation agency and continues to provide an efficient and safe transportation system for its residents and visitors. There have been no significant changes in OCTA's method of operation over the past year.
- Will Kempton, head of the California Department of Transportation for the past five years, was hired June 22 to become the new chief executive officer of the Orange County Transportation Authority.
- OCTA is being impacted by the financial crisis. Per OCTA's website, a record loss of revenues totaling \$36.4 million in fiscal year 2008-09 is putting OCTA bus operations at risk. As a result OCTA is implementing the following cost cutting measures:
 - Eliminating salary increase and special performance awards for all administrative employees beginning July 1;
 - Implementing hiring limits;
 - Reducing bus services;
 - Eliminating capital expenditures;
 - Cutting services and supplies;
 - Requiring one furlough day for employees in Grades V and above.
- To date there have been 42 layoffs in the rank and file collective bargaining units with additional layoffs expected in September 2009 and March 2010. Least experienced drivers would be more likely to be involved in further layoffs.
- On June 8, OCTA's Board of Director's approved the elimination of 100,000 service hours on 31 routes for the September bus service change, which will result in a savings of \$8.5



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Mr. Al Gorski
Orange County Transportation Authority

million. OCTA staff will return within a month and propose a plan to reduce an additional 300,000 hours necessary to balance the budget during this fiscal year.

Recap of Renewal Strategy Meeting Discussion and Deliverables:

- We reviewed the current excess liability program structure.
 - OCTA's purchases a total of \$35,000,000 excess liability limits above a \$4,000,000 self insured retention.
 - Everest National Insurance Company, new to OCTA's program in 2006, provides the primary excess limit of \$10,000,000. Excess liability insurance is a type of insurance policy purchased by OCTA to protect against liability claims for bodily injury and property damage arising out of premises, operations, products, and completed operations; advertising and personal injury liability; errors and omissions liability (including public official's coverage); employment practices and employee benefit liability.
 - Great American Assurance Company provides the secondary \$25,000,000 limit of excess liability coverage above Everest. Great American's policy follows the underlying Everest policy, but does not include coverage for Employment Practices Liability.
 - Both Everest and Great American are admitted carriers and participated in the California Insurance Guarantee Fund.
- OCTA's historical loss experience has been very good. There is only one claim (DOL 12/14/03) that exceeded OCTA's SIR and was paid by Clarendon, OCTA's previous carrier.
- U.S. property-casualty insurance industry profits fell "dramatically" in 2008 and this year the sector has a negative outlook based on economic and investment uncertainty. This is causing insurers to take a more conservative approach toward underwriting with a trend toward higher insurance rates. However, there isn't a shortage of capacity in this hardening marketplace like there was in previous hard markets. Most insurers are still able to offer the limits of coverage they provided in 2008, unless the insurer has lost reinsurance support. OCTA can expect to see the possibility of a moderate rate increase, but any additional costs from the increased rates will most likely be offset by the reduction in OCTA's revenues, employee count, ridership and miles traveled.
- Our goals for the renewal are:
 - Obtain a flat or lower rate renewal at the current SIR level.
 - Provide options for \$3, \$4 and \$5 million Self Insured Retentions.
 - Continue with Defense Costs outside the limit of liability.

MARSH



MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

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- Consider a multiple year program.
- We agreed to fully market OCTA's Excess Liability program to all markets A-7 or better that have experience with transit agencies. Specifically we will seek proposals from the following insurers:
 - Everett National Ins. Company through C.V. Starr – admitted
 - Allied World Assurance Company, Ltd. – non admitted
 - Beazley (London) – non admitted
 - Gemini – non admitted
 - RSUI Indemnity Company – non admitted
 - Great American Ins. Company – admitted
 - Arch Insurance Company – non admitted
 - Catlin Specialty Ins. Company (London) – non admitted
 - Ironshore – non admitted
 - Swiss Re America Group – non admitted
 - ACE USA – admitted
 - Axis – non admitted
 - Discover Reinsurance Casualty Company – non admitted
 - Lexington Insurance Company – non admitted
 - XL America Group – admitted

In approaching these markets on your behalf, you have further directed Marsh to disclose the following information as part of our negotiating process:

- The names of the incumbent insurers and other prospective insurers to prospective insurers;
- Provide a specific price, range of prices or prioritization of terms that you seek in purchasing insurance;
- The structure, language and/or pricing of the expiring policy;
- Disclose aspects of the quote (including price, structure, and/or policy language) of a prospective insurer to other prospective insurers.

If during the marketing process you would like Marsh to provide the incumbent carriers with an opportunity to submit an improved quote after all other competing final quotes have been received, sometimes referred to as a "last look" please provide me with written direction to that effect.

MARSH



MARSH MERCER KROLL
GUY CARPENTER OLIVER WYMAN

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Our agreed upon timeline reflects these key dates:

Excess Liability

- | | |
|--|----------|
| ▪ Renewal Strategy Meeting | 06/17/09 |
| ▪ Staff Report due | 07/01/09 |
| ▪ F&A Committee Meeting | 07/22/09 |
| ▪ Updated renewal information from OCTA | 07/31/09 |
| ▪ Renewal specifications sent to market | 08/07/09 |
| ▪ Board Meeting | 08/10/09 |
| ▪ Carrier quotes due | 09/18/09 |
| ▪ Presentation to OCTA | 09/23/09 |
| ▪ Quote update to F&A Committee | 10/14/09 |
| ▪ Approval from OCTA to bind coverage | 10/16/09 |
| ▪ Provide confirmation of coverage to OCTA | 10/23/09 |
| ▪ Coverage renews | 11/01/09 |

Thank you for taking the time to discuss the update on your business and to develop our renewal strategy. We look forward to a successful renewal of your program.

Sincerely,

A handwritten signature in cursive script that reads "Craig Morris".

Craig Morris
Senior Vice President



MEMO

August 5, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: **Board Committee Transmittal for Agenda Item**


The following item is being discussed at a Committee meeting which takes place subsequent to distribution of the Board agenda. Therefore, you will be provided a transmittal following that Committee meeting (and prior to the Board meeting) informing you of Committee action taken.

Thank you.



August 5, 2009

To: Executive Committee

From:  James S. Kenan, Interim Chief Executive Officer

Subject: Update on Negotiations with City of Irvine Regarding Marine Way Realignment and Metrolink Maintenance Facility Property

Overview

The Orange County Transportation Authority and the City of Irvine are working cooperatively to plan for realignment of Marine Way and development of a future rail maintenance yard in the Orange County Great Park area. The Orange County Transportation Authority is also providing planning grants to the City of Irvine for the development of local shuttle service.

Recommendation

Authorize the Chief Executive Officer to execute the revised Cooperative Agreement No. C-9-0303 between the Orange County Transportation Authority and the City of Irvine to define each party's roles and responsibilities for service planning of the Irvine Spectrum Shuttle.

Background

The City of Irvine's (City) planning efforts in northern Irvine (including the Orange County Great Park) have identified traffic deficiencies at the San Diego Freeway (Interstate 5)/Sand Canyon Avenue interchange. In response, the City has developed a plan to relocate the existing Marine Way/Sand Canyon Avenue intersection to a new location directly opposite the northbound Interstate 5 on/off-ramp. The realignment of the intersection also necessitates realignment of the Marine Way arterial extending southwest of the relocated intersection. The realignment, as proposed, has substantial impacts to the Orange County Transportation Authority's (OCTA) Irvine Sand Canyon Bus Base.

In a related matter, the City has requested OCTA to amend the Master Plan of Arterial Highways (MPAH) to reflect the proposed realignment of Marine Way and to add other arterials to the MPAH. Consistency between the MPAH and

local plans is a Measure M eligibility requirement for receipt of Measure M funds.

OCTA has been planning to locate a future rail maintenance facility in the vicinity of the Orange County Great Park area adjacent to OCTA's operating railroad right-of-way. The facility will allow OCTA to reduce its future operating cost by minimizing train dead-head time given planned expansion of the Metrolink service. Throughout the development of the Great Park Plan, OCTA has been working with the City regarding identification of a mutually acceptable site for this purpose in the general vicinity.

Lastly, OCTA has awarded a grant to the City for planning of shuttle services connecting the Irvine Station to Spectrum area destinations. As part of the approval of the grant, the OCTA Board of Directors (Board) directed staff to include special language in the cooperative agreement to confirm the City's understanding of OCTA's willingness to improve area transportation.

Discussion

Over the past several months, OCTA and City staff have been meeting regularly to resolve outstanding issues related to Marine Way, the Irvine Sand Canyon Bus Base, and the rail maintenance yard. Attachment A provides a general visual representation of the latest concepts related to the above items. A summary status report and a list of upcoming Board actions are provided below.

- City has developed a plan to mitigate the impacts of the Marine Way realignment on the essential functioning of the Irvine Sand Canyon Bus Base. OCTA Transit Division staff have reviewed the concepts and provided comments. It appears that the concept plan to maintain essential functions of the base is feasible. The plan relies on major capital modifications including the construction of a 288-space automobile parking structure to offset loss of 1.7 acres, relocation of bus fueling islands, and modification of access to and from as well as circulation within the bus base. However, additional future capital modifications may be necessary to restore the base to its full operating capacity.
- OCTA is conducting its review of the traffic analysis in support of the proposed relocation of the Marine Way/Sand Canyon Avenue intersection. This work is being coordinated with the California Department of Transportation given the relationship to the freeway ramps.

- OCTA, County of Orange, the City, and Lennar Corporation staff have been working jointly to develop a concept that reserves a portion of the Orange County Great Park area for the planned OCTA Metrolink maintenance facility use concurrent with a reservation of acreage for the County of Orange. Presently, the parties believe that an acceptable plan has been developed.
- The City recently submitted a letter to OCTA to highlight recent joint accomplishments and express the City's desire to continue to work cooperatively with OCTA on future items (Attachment B).

Next Steps

With the major technical issues resolved, staff will initiate the development of a term-sheet as a basis for a future master cooperative agreement. This agreement will formalize agency roles and responsibilities and define the terms and timetables to complete the various elements. A critical component of the term-sheet will be a juxtaposition of the impacts and costs to OCTA for the Irvine Sand Canyon Bus Base with the value and costs to the City for the future Metrolink maintenance facility property.

OCTA staff plans to present a draft term-sheet for initial Board review and approval within the next 90 days. Concurrently, County of Orange staff and City staff will be making reports to each agencies' governing bodies regarding progress to date and next steps.

Lastly, considering the letter from the City highlighting its recognition of OCTA efforts, staff believes no further revisions to the OCTA cooperative agreement with the City for the Go Local service planning is warranted. Staff is recommending approval of revised Cooperative Agreement No. C-9-0303 as presented to the Board on April 13, 2009 (Attachment C).

Summary

OCTA and the City are working to reach closure on realignment of Marine Way, mitigation of the Marine Way realignment impacts on the OCTA-Irvine Sand Canyon Bus Base, and identification of a future rail maintenance site within the Orange County Great Park area. A number of technical issues have been worked out and the next step is to develop specific terms and timelines to implement the respective projects.

Attachments

- A. Marine Way Realignment Vicinity Map
- B. Letter from City of Irvine Regarding Planned Transit Activities,
Dated June 18, 2009
- C. Revised Cooperative Agreement No. C-9-0303 Between Orange County
Transportation Authority and City of Irvine for Go Local Bus/Shuttle
Service Planning

Prepared by:



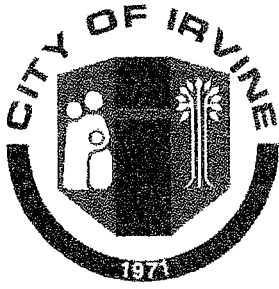
Kia Mortazavi
Executive Director, Development
(714) 560-5741



for Virginia Abadessa
Director, Contracts Administration and Materials
(714) 560-5623

Marine Way Realignment Vicinity Map





Sukhee Kang, Mayor

www.ci.irvine.ca.us

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92619-9575 (949) 754-6200

June 18, 2009

Honorable Chairman Peter Buffa
Orange County Transportation Authority
600 S Main St
Orange, CA 92868

Dear Chairman Buffa:

Since being sworn in as Mayor of City of Irvine in December, 2008, I have found the collaboration between Irvine and the OCTA among the most rewarding experiences of these past six months. Thank you for your partnership to advance many of Irvine's ambitious transit visions. I am particularly appreciative of the progress we have made together to preserve Proposition 116 funding for the mutual benefit of Irvine and the member cities of the OCTA. I am inspired by the progress we have made to date and I eagerly accept my responsibility for providing transit and transportation policy leadership in Orange County in the months and years ahead.

I would like to take this opportunity to update you on the current and planned transit activities of the City of Irvine as well as provide background information on the continued excellent partnership of the Irvine City Council and OCTA.

The City of Irvine supports a countywide vision for creating an efficient and well integrated transportation system. This was clearly reflected in the **73.4% approval of the Measure M** extension by our citizens. The overwhelming Irvine voter support was critical in reaching the necessary two-thirds countywide voter approval for the successful passage of M 2. The City also provides 9.3% of all sales taxes generated throughout the county which helps support sales tax revenue bonds issued by OCTA.

Additionally, on February 19, 2009, the California Transportation Commission (CTC) approved the transfer of Proposition 116 funds to OCTA as well as the programming of the \$121.3 million to five Orange County Commuter/Intercity rail projects. With the CTC action, we have collectively accomplished that these State funds will continue to be available for Orange County projects. In addition to the successful transfer of our Proposition 116 funds, the City is engaged in the following regionally significant transit activities:

The Shuttle program: The *i* shuttle service was initiated by the City of Irvine in June, 2009 to support the planned expansion of Metrolink service. The commuter service routes have been well received as a convenient and efficient way to access commuter rail service to and from the Tustin Metrolink Station. The *i* Shuttle is part of a citywide transit vision that recognizes the importance of connecting regional transit systems with local businesses, residents, universities and airports.

The Citywide Transit Vision: In April the City Council adopted a 30-year Citywide Transit Vision which balances need and cost, and recommends expansion of the transit service in future phases by

providing efficient peak-period service linking employees, residents, and visitors to the Tustin and Irvine Metrolink stations. This vision recommends a series of shuttle services to be implemented in three phases as part of the OCTA "Go Local" and Measure M Transit programs with the initial phase recommending a new shuttle service connecting the Irvine Spectrum Area to the Irvine Station.

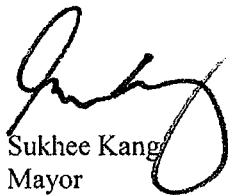
Irvine Station Expansion: City staff is working with OCTA staff on a cooperative agreement identifying roles and responsibilities for receiving \$2.6 million of RSTP funds from OCTA for the planning and environmental phases of the Irvine Station expansion. Irvine station is among the two busiest Metrolink and Amtrak stations in Orange County serving as a hub for regional rail, bus and local shuttle services. Our project will expand the Irvine Station to 25 acres to accommodate planned Metrolink and Amtrak passenger rail service expansions. This expanded station will also provide an Orange County base of operations for OCTA Bus Rapid Transit Program, FlyAway service to regional airports, and supporting passenger and station facilities that may be needed for a high-speed rail system.

Metrolink Rail Yard on City property at the Great Park: Our organizations are working on siting a Metrolink Rail Yard on City property at the Great Park. Our respective staffs have been diligently working on this project and several related issues over the last two months. I anticipate a successful resolution to all of these issues shortly. I will champion approval of an equitable resolution to this project. This Irvine City Council has a long history of supporting rail and transit; I will assist OCTA in developing a Rail Maintenance Facility that meets everyone's needs. As OCTA increases the number of Metrolink trains we understand the need for an optimum sited facility in Orange County.

In collaborating on the above mentioned projects, I am committed to advancing our vision of successful regional transit and transportation programs by continually partnering with OCTA and Orange County City leadership because I value the many benefits of regional collaboration.

I think it is important the OCTA and the City continue developing and maintaining positive working relationships; and on behalf of the entire City Council, I want to personally thank the OCTA Board and staff for the continued support and cooperation of the City's transit and transportation activities. Let me reiterate my desire to continue to work with you and the other members of the OCTA Board of Directors to advance our collective transit and transportation vision.

Respectfully,



Sukhee Kang
Mayor

cc: Orange County Transportation Authority Board of Directors
Sean Joyce, City Manager
Wally Kreutzen, Assistant City Manager
Manuel Gomez, Director of Public Work

1 REVISED

2 COOPERATIVE AGREEMENT NO. C-9-0303

3 BETWEEN

4 ORANGE COUNTY TRANSPORTATION AUTHORITY

5 AND

6 CITY OF IRVINE

7 FOR

8 GO LOCAL BUS/SHUTTLE SERVICE PLANNING

9 THIS AGREEMENT, is effective on this _____ day of _____

10 2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box
11 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter
12 referred to as "AUTHORITY"), and the City of Irvine, 1 Civic Center Plaza, Irvine, CA 92623, a
13 municipal corporation duly organized and existing under the constitution and laws of the State of
14 California (hereinafter referred to as "CITY").

15 RECITALS:

16 **WHEREAS**, the AUTHORITY's Go Local Program is a four-step program to plan and implement
17 city-initiated transit extensions to the Metrolink commuter rail line in Orange County; and

18 **WHEREAS**, AUTHORITY and CITY wish to work as partners to further develop a community-
19 based transit vision that increases the use of Metrolink by CITY residents, visitors and employees; and

20 **WHEREAS**, the AUTHORITY's Board of Directors directed that Step One mixed-flow
21 bus/shuttle proposals that met the Go Local evaluation criteria would be advanced to Step Two to
22 undergo detailed service planning; and

23 **WHEREAS**, the AUTHORITY's Board of Directors, on October 27, 2008 approved the
24 bus/shuttle proposal dated February 29, 2008 submitted by the CITY to advance to Step Two for
25 further study entitled "Spectrum Shuttle Study" (hereinafter referred to as "BUS/SHUTTLE
26 PROPOSAL"); and

1 **WHEREAS**, the AUTHORITY will evaluate bus/shuttle proposals that undergo Step Two
2 detailed service planning for Step Three implementation; and

3 **WHEREAS**, the AUTHORITY has agreed to contract directly with a bench of consultants, which
4 the AUTHORITY has retained, to perform Step Two detailed service planning for the BUS/SHUTTLE
5 PROPOSAL; and

6 **WHEREAS**, this Cooperative Agreement (hereinafter referred to as "AGREEMENT") defines
7 the specific terms, conditions, and roles and responsibilities between the AUTHORITY and CITY only
8 as they may relate to the evaluation of the BUS/SHUTTLE PROPOSAL for Step Two of the
9 AUTHORITY'S Go Local Program and no other purpose; and

10 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and CITY as
11 follows:

12 **ARTICLE 1. COMPLETE AGREEMENT**

13 AGREEMENT, including any exhibits and documents incorporated herein and made applicable
14 by reference, constitutes the complete and exclusive statement of the terms and conditions of the
15 Agreement between AUTHORITY and CITY concerning the BUS/SHUTTLE PROPOSAL and
16 supersedes all prior representations, understandings, and communications between the parties. The
17 above-referenced Recitals are true and correct and are incorporated by reference herein.

18 **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

19 AUTHORITY agrees to the following responsibilities for the BUS/SHUTTLE PROPOSAL:

20 A. Procure and manage the consultant of the AUTHORITY to work directly with the CITY to
21 develop comprehensive service plans for the BUS/SHUTTLE PROPOSAL to include an analysis of:
22 Passenger Demands and Needs, Route Segment Performance; System Performance; Impacts to
23 Existing Fixed Route Service, including transit centers and transfer points; Compliance with American
24 Disabilities Act (ADA) and Impacts to Paratransit Service; Boardings/Revenue Vehicle Hour and
25 Passenger Loads; Market Research and Segmentation Analysis; and Resource Requirements and
26 Financial Parameters, including fare type and farebox recovery estimate, operating and capital costs
and service cost-benefit analysis (hereinafter, referred to as "SERVICE PLANNING ACTIVITIES"); and

1
2 B. Participate in service planning team meetings with CITY and consultant for
3 BUS/SHUTTLE PROPOSAL and provide AUTHORITY-generated transit planning data and transit
4 planning support where AUTHORITY deems necessary; and

5 C. Receive and evaluate final Go Local Step Two Report summarizing SERVICE
6 PLANNING ACTIVITIES and funding plans for the CITY's BUS/SHUTTLE PROPOSAL upon approval
7 by a CITY Council resolution and in anticipation of CITY's request to advance the BUS/SHUTTLE
8 PROPOSAL to Step Three of the Go Local Program; and

9 D. Invoice CITY on a quarterly basis for proportionate share, ten percent (10%), of actual
10 SERVICE PLANNING ACTIVITIES cost, for the CITY's BUS/SHUTTLE PROPOSAL; and

11 E. AUTHORITY does not guarantee that the BUS/SHUTTLE PROPOSAL will be selected
12 to advance to Step Three of the Go Local Program; and

13 F. AUTHORITY shall indemnify, defend and hold harmless CITY, its officers, directors,
14 employees, and agents from and against any and all claims (including attorney's fees and reasonable
15 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage
16 to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by
17 AUTHORITY, its officers, directors, employees, or agents in connection with or arising out of the
18 performance of this Agreement.

19 **ARTICLE 3. RESPONSIBILITIES OF CITY**

20 CITY agrees to the following responsibilities for the BUS/SHUTTLE PROPOSAL:

21 A. Work collaboratively with AUTHORITY's consultant to perform the SERVICE
22 PLANNING ACTIVITIES for the BUS/SHUTTLE PROPOSAL; and

23 B. Supply all requested data, reports and plans to support service planning of
24 BUS/SHUTTLE PROPOSAL in a timely manner; and

25 C. Participate in service planning team meetings for BUS/SHUTTLE PROPOSAL with
26 AUTHORITY and consultant; and

D. Participate in the development of a comprehensive service planning report, which will be
Page 3 of 7

1
2 led by the consultant, for the BUS/SHUTTLE PROPOSAL that addresses all the SERVICE PLANNING
3 ACTIVITIES and is accompanied by a CITY Council resolution indicating support and approving the
4 final service planning report and funding plan for the BUS/SHUTTLE PROPOSAL; and

5 E. Provide eligible local matching funds, excluding in-kind sources, for CITY's proportionate
6 share (ten percent (10%) of actual SERVICE PLANNING ACTIVITIES cost for the BUS/SHUTTLE
7 PROPOSAL); and

8 F. Pay AUTHORITY, on a quarterly basis, within 30 days of receipt of invoice for CITY's
9 proportionate share (ten percent (10%) of actual SERVICE PLANNING ACTIVITIES cost, for the
10 BUS/SHUTTLE PROPOSAL); and

11 G. CITY shall indemnify, defend and hold harmless AUTHORITY, its officers, directors,
12 employees, and agents from and against any and all claims (including attorney's fees and reasonable
13 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage
14 to or loss of use of property caused by the negligent acts, omissions, or willful misconduct by CITY, its
15 officers, directors, employees, or agents in connection with or arising out of the performance of this
16 Agreement.

17 **ARTICLE 4. IT IS MUTUALLY UNDERSTOOD AND AGREED:**

18 All parties agree to the following mutual responsibilities regarding BUS/SHUTTLE PROPOSAL:

19 A. This Agreement shall continue in full force and effect through acceptance of final service
20 planning report for the BUS/SHUTTLE PROPOSAL or 18 months from effective date of this Agreement,
21 whichever is sooner. This Agreement may only be extended upon written mutual agreement by both
22 parties.

23 B. This Agreement may be amended in writing at any time by the mutual consent of both
24 parties. No amendment shall have any force or effect unless executed in writing by both parties.

25 C. The persons executing this Agreement on behalf of the parties hereto warrant that they
26 are duly authorized to execute this Agreement on behalf of said parties and that, by so executing this
Agreement, the parties hereto are formally bound to the provisions of this Agreement.

1
2 D. All notices hereunder and communications regarding the interpretation of the terms of
3 this Agreement, or changes thereto, shall be effected by delivery of said notices in person or by
4 depositing said notices in the U.S. mail, registered, or certified mail and addressed as follows:

5 To CITY:	To AUTHORITY:
6 Public Works Department	Orange County Transportation Authority
7 City of Irvine	550 South Main Street
8 1 Civic Center Plaza	P. O. Box 14184
9 Irvine, CA 92623	Orange, CA 92863-1584
10 Attention: Shohreh Dupuis	Attention: Jennifer Bergener
11 Transit Programs Manager	Manager, Local Initiatives
12 Telephone: (949) 724-7526	Telephone; (714)560- 5462
13 e-mail: sdupuis@ci.irvine.ca.us	e-mail: jbergener@octa.net

15 E. The headings of all sections of this Agreement are inserted solely for the convenience of
16 reference and are not part of and not intended to govern, limit, or aid in the construction or interpretation
17 of any terms or provision thereof.

18 F. The provision of this Agreement shall bind and insure to the benefit of each of the
19 parties hereto and all successors or assigns of the parties hereto.

20 G. If any term, provision, covenant, or condition of this Agreement is held to be invalid, void
21 or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this
22 Agreement shall not be affected thereby, and each term, provision, covenant or condition of this
23 Agreement shall be valid and enforceable to the fullest extent permitted by law.

24 H. This Agreement may be executed and delivered in any number of counterparts, each of
25 which, when executed and delivered shall be deemed an original and all of which together shall
26 constitute the same agreement. Facsimile signatures will be permitted.

I. Neither this Agreement, nor any of a Party's rights, obligations, duties, or authority

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hereunder may be assigned in whole or in part by either Party without the prior written consent of the other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent assignment.

J. Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood, acts of God, commandeering of material, products, plants or facilities by the federal, state or local government, national fuel shortage, or a material act or omission by the other party, when satisfactory evidence of such cause is presented to the other party, and provided further that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

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This Agreement shall be made effective upon execution by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0303 to be executed on the date first above written.

CITY OF IRVINE

**ORANGE COUNTY TRANSPORTATION
AUTHORITY**

By: _____

By: _____

Sean Joyce
City Manager

Will Kempton
Chief Executive Officer

ATTEST:

APPROVED AS TO FORM

By: _____

By: _____

Sharie Apodaca
City Clerk

Kennard R. Smart, Jr.
General Counsel

APPROVED AS TO FORM:

APPROVAL RECOMMENDED:

By: _____

By: _____

Phil Kohn
City Attorney

Darrell Johnson
Executive Director, Rail Programs

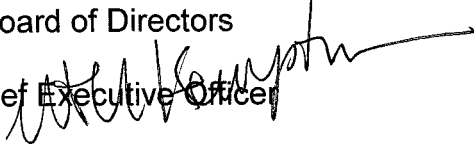
Dated: _____

Dated: _____



August 10, 2009

To: Members of the Board of Directors

From: Will Kempton, Chief Executive Officer 

Subject: Approval for Release of Request for Proposals for On-Call Architectural and Engineering Design and Construction Support Services for Facility Modification Projects

Overview

Staff has developed a request for proposals to initiate a competitive procurement process to retain on-call architectural and engineering design and construction support services for facility modification projects.

Recommendations

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 9-0589 for the selection of consultant services.
- B. Approve the release of Request for Proposals 9-0589 for the on-call architectural and engineering design and construction support services for facility modifications.

Discussion

Architectural and engineering (A&E) services will be required for upcoming facility modification projects. Miscellaneous facility modifications are required at all bus bases and transportation centers. Consultant services will be required for the design and construction support of facility modification projects. Facility modification projects proposed for this fiscal year include liquefied natural gas venting, concrete repairs, elevator upgrades, and seal coat/pavement striping projects.

Services under this agreement will be requested on an "as-needed" basis and authorized through the issuance of contract task orders (CTO). These CTOs are site specific, work quantified, and time constrained. Each CTO will specifically define the work to be performed, the total cost of performance, and any other information that may be needed to perform the services required.

Procurement Approach

Pursuant to current procurement policies and procedures adopted by the Orange County Transportation Authority (Authority) Board of Directors (Board), staff is hereby submitting the evaluation criteria and weights for Board approval and requesting authorization to release the request for proposals (RFP). The following evaluation criteria and weights will be used to evaluate the construction support services proposals received:

- Qualifications of the Firm 35 percent
- Staffing and Project Organization 40 percent
- Work Plan 25 percent

The evaluation criteria are consistent with weightings developed for similar on-call procurements for A&E services. In developing the criteria weights, several factors were considered. Staff is proposing giving the greatest importance to staffing and project organization, as the qualifications of the personnel and other staff are critical to the successful performance of the projects. Likewise, staff has assigned a high level of importance to the qualifications of the firm because of the need to have a firm experienced in providing design and construction support services. The work plan is weighted the least because this is an on-call procurement and as such the scope of work is less defined. Staff will be looking at the firm's approach in handling a typical CTO. As this is an A&E procurement, price is not an evaluation criteria pursuant to state and federal law.

The RFP will be released upon Board approval of these recommendations.

Fiscal Impact

Funding for on-call A&E services is included in the Authority's Fiscal Year 2009-10 Budget, Rail Programs Division, Account 1722-7629-D3107-2BT, and will be funded through Section 5307 formula funds with the local 20 percent match funded through the Orange County Transit District.

Summary

Board approval is requested to release RFP 9-0589 for professional services to provide on-call A&E design and construction support services for facility modification projects.

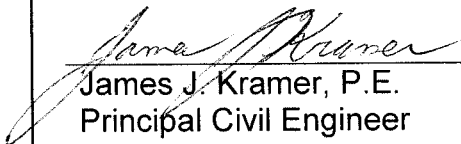
**Approval for Release of Request for Proposals for On-Call
Architectural and Engineering Design and Construction
Support Services for Facility Modification Projects**

Page 3

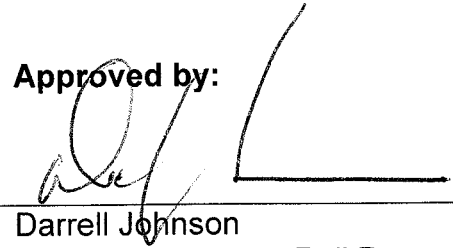
Attachment


- A. Request for Proposals (RFP) 9-0589 – On-Call Architectural and Engineering and Construction Support Services for Facility Modification Projects

Prepared by:


James J. Kramer, P.E.
Principal Civil Engineer
(714) 560-5866

Approved by:


Darrell Johnson
Executive Director, Rail Programs
(714) 560-5343


Virginia Abadessa
Director, Contracts Administration and
Materials Management
(714) 560-5623

REQUEST FOR PROPOSALS (RFP) 9-0589

**ON-CALL ARCHITECTURAL AND ENGINEERING
DESIGN AND CONSTRUCTION SUPPORT SERVICES
FOR FACILITY MODIFICATION PROJECTS**



**ORANGE COUNTY TRANSPORTATION AUTHORITY
550 South Main Street
P.O. Box 14184
Orange, CA 92863-1584
(714) 560-6282**

Key RFP Dates

Issue Date:	August 10, 2009
Pre-Proposal Conference Date:	August 18, 2009
Question Submittal Date:	August 28, 2009
Proposal Submittal Date:	September 17, 2009
Interview Date:	October 8, 2009

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August 10, 2009

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS
RFP 9-0589: "ON-CALL ARCHITECTURAL AND
ENGINEERING DESIGN AND CONSTRUCTION SUPPORT
SERVICES FOR FACILITY MODIFICATION PROJECTS**

BOARD OF DIRECTORS

*Peter Buffa
Chairman*

*Jerry Amante
Vice-Chairman*

*Patricia Bates
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*Art Brown
Director*

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Director*

*Carolyn V. Cavecche
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*William J. Dalton
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*Richard Dixon
Director*

*Paul G. Glaab
Director*

*Cathy Green
Director*

*Allan Mansoor
Director*

*John Moorlach
Director*

*Janet Nguyen
Director*

*Chris Norby
Director*

*Curt Pringle
Director*

*Miguel Pulido
Director*

*Gregory T. Winterbottom
Director*

*Cindy Quon
Governor's
Ex-Officio Member*

CHIEF EXECUTIVE OFFICE

*Will Kempton
Chief Executive Officer*

Gentlemen/Ladies:

The Orange County Transportation Authority acting on behalf of the Orange County Transit District invites proposals from qualified consultants to provide on-call design and construction support services for a variety of bus base facility modifications.

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on September 17, 2009.

Proposals delivered in person or by means other than the U.S. Postal Service shall be submitted to the following:

**Orange County Transportation Authority
Contracts Administration and Materials Management
600 South Main Street, 4th Floor
Orange, California 92868
Attention: Sarah L. Strader, Senior Contract Administrator**

Proposals delivered using the U.S. Postal Service shall be addressed as follows:

**Orange County Transportation Authority
Contracts Administration and Materials Management
P.O. Box 14184
Orange, California 92863-1584
Attention: Sarah L. Strader, Senior Contract Administrator**

Proposals, and amendments to proposals, received after the date and time specified above will be returned to the Offerors unopened.

Firms interested in obtaining a copy of this Request for Proposals (RFP) 9-0589 may do so by faxing their request to (714) 560-5792, or e-mail your request to rfp_ifb_Requests@octa.net or calling (714) 560-5922. Please include the following information:

- Name of Firm
- Address
- Contact Person
- Telephone and Facsimile Number
- Request For Proposal (RFP) 9-0589

All firms interested in doing business with the Authority are required to register their business on-line at CAMMNet, the Authority's interactive website. The website can be found at www.octa.net. From the site menu, click on CAMMNet to register.

To receive all further information regarding this RFP 9-0589, firms must be registered on CAMMNet with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Commodities for this solicitation are:

<u>Category(s):</u> Professional Services Construction	<u>Commodity(s):</u> Engineering - Architectural Engineering - Civil Engineering - General Construction - Management Services
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A pre-proposal conference will be held on **August 18, 2009**, at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104 at 1:00 p.m.. All prospective Offerors are encouraged to attend the pre-proposal conference.

Offeror's are asked to submit written statements of technical qualifications and describe in detail their work plan for completing the work specified in the Request for Proposal. **No cost proposal or estimate of work hours is to be included in this phase of the RFP process.**

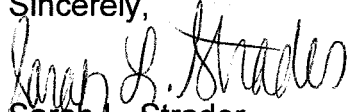
The Authority has established October 8, 2009, as the date to conduct interviews. All prospective Offeror's will be asked to keep this date available.

Offerors are encouraged to subcontract with small businesses to the maximum extent possible.

The Offeror will be required to comply with all applicable equal opportunity laws and regulations.

The award of this contract is subject to receipt of federal, state and/or local funds adequate to carry out the provisions of the proposed agreement including the identified Scope of Work.

Sincerely,



Sarah L. Strader

Senior Contract Administrator

Contracts Administration and Materials Management

SECTION I
INSTRUCTIONS TO OFFERORS

SECTION I. INSTRUCTIONS TO OFFERORS**A. PRE-PROPOSAL CONFERENCE**

A pre-proposal conference will be held on August 18, 2009, at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 103/104 at 1:00 p.m. All prospective Offerors are strongly encouraged to attend the pre-proposal conference.

B. EXAMINATION OF PROPOSAL DOCUMENTS

By submitting a proposal, Offeror represents that it has thoroughly examined and become familiar with the work required under this RFP and that it is capable of performing quality work to achieve the Authority's objectives.

C. ADDENDA

Any Authority changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting Agreement. The Authority will not be bound to any modifications to or deviations from the requirements set forth in this RFP as the result of oral instructions. Offeror's shall acknowledge receipt of addenda in their proposals.

D. AUTHORITY CONTACT

All questions and/or contacts with Authority staff regarding this RFP are to be directed to the following Contract Administrator:

Sarah L. Strader, Senior Contract Administrator
Contracts Administration and Materials Management Department
600 South Main Street, P.O. Box 14184
Orange, CA 92863-1584
Phone: 714.560.5633, Fax: 714.560.5792, or E-Mail: sstrader@octa.net

E. CLARIFICATIONS**1. Examination of Documents**

Should an Offeror require clarifications of this RFP, the Offeror shall notify the Authority in writing in accordance with Section E.2 below. Should it be found that the point in question is not clearly and fully set forth, the Authority will issue a written addendum clarifying the matter, which will be sent to all firms registered on CAMMNet under the commodity codes specified in this RFP.

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and must be received by the Authority no later than 2:00 p.m., August 28, 2009.
- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Authority is not responsible for failure to respond to a request that has not been labeled as such Sarah L. Strader, Senior Contract Administrator.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
 - (1) U.S. Mail: Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584.
 - (2) Personal Courier: Contracts Administration and Materials Management Department, 600 South Main Street, 4th Floor, Orange, California.
 - (3) Facsimile: The Authority's fax number is (714) 560-5792.
 - (4) E-Mail: Sarah L. Strader, Senior Contract Administrator e-mail address is: sstrader@octa.net.

3. Authority Responses

Responses from the Authority will be posted on CAMM NET, the Authority's interactive website, no later than September 1, 2009. Offerors may download responses from CAMM NET at www.octa.net/cammnet, or request responses be sent via U.S. Mail by e-mailing or faxing the request to Sarah L. Strader, Senior Contract Administrator.

To receive e-mail notification of Authority responses when they are posted on CAMM NET, firms must be registered on CAMM NET with at least one of the following commodity codes for this solicitation selected as part of the vendor's on-line registration profile:

Commodities for this solicitation are:

Category(s):
Professional Services

Commodity(s):
Engineering - Architectural
Engineering - Civil
Engineering - General
Engineering - Structural

Construction

Construction – Management
Services

Inquiries received after 2:00 p.m. on August 28, 2009, will not be responded to.

F. SUBMISSION OF PROPOSALS

1. Date and Time

Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on September 17, 2009.

Proposals received after the above specified date and time will be returned to Offerors unopened.

2. Address

Proposals delivered in person or by a means other than the U.S. Postal Service shall be submitted to the following:

**Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
600 South Main Street, 4th Floor
Orange, California 92868
Attention: Sarah L. Strader, Senior Contract Administrator**

Proposals delivered using the U.S. Postal Services shall be addressed as follows:

**Orange County Transportation Authority
Contracts Administration and Materials Management (CAMM)
P.O. Box 14184
Orange, California 92863-1584
Attention: Sarah L. Strader, Senior Contract Administrator**

Firms must obtain a visitor badge from the Receptionist in the lobby of the 600 Building prior to delivering any information to CAMM.

3. Identification of Proposals

Offeror shall submit one **original and 6 copies** of its proposal in a sealed package, addressed as shown above, bearing the Offeror's name and address and clearly marked as follows:

**"RFP 9-0589: ON-CALL ARCHITECTURAL & ENGINEERING DESIGN
AND CONSTRUCTION SUPPORT SERVICES FOR FACILITY
MODIFICATION PROJECTS"**

4. Acceptance of Proposals

- a. The Authority reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Authority reserves the right to withdraw or cancel this RFP at any time without prior notice, and the Authority makes no representations that any contract will be awarded to any Offeror responding to this RFP.
- c. The Authority reserves the right to postpone proposal openings for its own convenience.
- d. Proposals received by the Authority are public information and must be made available to any person upon request.
- e. Submitted proposals are not to be copyrighted.

G. PRE-CONTRACTUAL EXPENSES

The Authority shall not, in any event, be liable for any pre-contractual expenses incurred by Offeror in the preparation of its proposal. Offeror shall not include any such expenses as part of its proposal.

Pre-contractual expenses are defined as expenses incurred by Offeror in:

1. Preparing its proposal in response to this RFP;
2. Submitting that proposal to the Authority;
3. Negotiating with the Authority any matter related to this proposal; or
4. Any other expenses incurred by Offeror prior to date of award, if any, of the Agreement.

H. JOINT OFFERS

Where two or more Offerors desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture. The Authority intends to contract with a single firm and not with multiple firms doing business as a joint venture.

I. TAXES

Offerors' proposals are subject to State and Local sales taxes. However, the Authority is exempt from the payment of Federal Excise and Transportation Taxes.

J. PROTEST PROCEDURES

The Authority has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting the Contract Administrator responsible for this procurement. Any protests filed by an Offeror in connection with this RFP must be submitted in accordance with the Authority's written procedures.

K. CONTRACT TYPE

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a firm-fixed price Contract Task Order (CTO) based contract specifying firm-fixed prices for individual CTOs.

This RFP is issued to create an on-call list of qualified firms under a master CTO agreement. As the need for consulting services arises during the term of this agreement, CTOs may be issued at the Authority's sole discretion. All qualified CTO firms will receive a Scope of Work and will be asked to submit a price quote based on the rates shown in the master agreement. The CTO will be awarded to the lowest responsive offeror whose quote conforms to the Authority's requirements.

L. PREVAILING WAGES

Certain labor categories under this project are subject to prevailing wages as identified in the State of California Labor Code commencing in Section 1770 et. seq. It is required that all mechanics and laborers employed or working at the site be paid not less than the basic hourly rates of pay and fringe benefits as shown in the current minimum wage schedules. Offerors must use the wage schedules applicable at the time the contract is awarded.

M. CONFLICT OF INTEREST

All Offerors responding to this Request For Proposals must avoid organizational conflicts of interest which would restrict full and open competition in this procurement. An organizational conflict of interest means that due to other activities, relationships or contracts, an Offeror is unable, or potentially unable to render impartial assistance or advice to the Authority; an Offeror's objectivity in performing the work identified in the Scope of Work is or might be otherwise impaired; or an Offeror has an unfair competitive advantage. Conflict of Interest issues must be fully disclosed in the Offeror's proposal.

SECTION II
PROPOSAL CONTENT

SECTION II. PROPOSAL CONTENT AND FORMS

A. PROPOSAL FORMAT AND CONTENT

1. Presentation

Proposals shall be typed, with 12 pt font, double spaced and submitted on 8 1/2 x 11" size paper, using a single method of fastening. Charts and schedules may be included in 11" x 17" format. Offers should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise. Proposals should not exceed fifty (50) pages in length, excluding any appendices.

2. Letter of Transmittal

The Letter of Transmittal shall be addressed to Sarah L. Strader, Senior Contract Administrator, and must, at a minimum, contain the following:

- a. Identification of Offeror that will have contractual responsibility with the Authority. Identification shall include legal name of company, corporate address, telephone and fax number. Include name, title, address, and telephone number of the contact person identified during period of proposal evaluation.
- b. Identification of all proposed subcontractors including legal name of company, contact persons name and address, phone number and fax number. Relationship between Offeror and subcontractors, if applicable.
- c. Acknowledgment of receipt of all RFP addenda, if any.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 180 days from the date of submittal.
- e. Signature of a person authorized to bind Offeror to the terms of the proposal.
- f. Signed statement attesting that all information submitted with the proposal is true and correct.

3. Technical Proposal

a. Qualifications, Related Experience and References of Offeror

This section of the proposal should establish the ability of Offeror to satisfactorily perform the required work by reasons of: experience in performing work of the same or similar nature; Demonstrated

experience working with local agencies and cities directly involved in this project; strength and stability of the Offeror; staffing capability; work load; record of meeting schedules on similar projects; and supportive client references. Equal weighting will be given to firms for past experience performing work of a similar nature whether with the Authority or elsewhere.

Offeror to:

- (1) Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size and location of offices; number of employees.
- (2) Provide a general description of the firm's financial condition, identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
- (3) Describe the firm's experience in performing work of a similar nature to that solicited in this RFP, and highlight the participation in such work by the key personnel proposed for assignment to this project.
- (4) Describe experience in working with the various government agencies that may have jurisdiction over the approval of the work specified in this RFP. Please include specialized experience and professional competence in areas directly related to this RFP.
- (5) Provide a list of past joint work by the Offeror and each subcontractor, if applicable. The list should clearly identify the project and provide a summary of the roles and responsibilities of each party.
- (6) Provide as a minimum of three (3) references should be provided. Furnish the name, title, address and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed. Offeror may also supply references from other work not cited in this section as related experience.

b. Proposed Staffing and Project Organization

This section of the proposal should establish the method that will be used by the Offeror to manage the project as well as identify key personnel assigned.

Offeror to:

- (1) Provide education, experience and applicable professional credentials of project staff. Include applicable professional credentials of "key" project staff.
- (2) Furnish brief resumes (not more than two [2] pages each) for the proposed Project Manager and other key personnel.
- (3) Identify key personnel proposed to perform the work in the specified tasks and include major areas of subcontract work. Include the person's name, current location, and proposed position for this project, current assignment, and level of commitment to that assignment, availability for this assignment and how long each person has been with the firm.
- (4) Include a project organization chart that clearly delineates communication/reporting relationships among the project staff, including subconsultants.
- (5) Include a statement that key personnel will be available to the extent proposed for the duration of the project, acknowledging that no person designated as "key" to the project shall be removed or replaced without the prior written concurrence of the Authority.

c. Work Plan

The Offeror shall provide a narrative, which addresses the Scope of Work and shows its understanding of Authority's needs and requirements. The Offeror shall:

- (1) Describe its general approach to completing the tasks and sub-tasks specified in the Scope of Work. This description shall be thorough and sufficiently detailed to demonstrate the Offeror's ability to accomplish the objectives of the services.
- (2) Outline sequentially the activities that would typically be undertaken to perform a Contract Task Order (CTO).
- (3) Identify methods that the Offeror will use to ensure quality control as well as budget and schedule control for a CTO.
- (4) Identify any special issues or problems that are likely to be encountered in performing the Scope of Work tasks and sub-tasks, and how the Offeror would propose to address them.

The Offeror is encouraged to propose enhancements or procedural or technical innovations to the Scope of Work that do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

State any exceptions to or deviations from the requirements of this RFP, segregating "technical" exceptions from "contractual" exceptions. Where Offeror wishes to propose alternative approaches to meeting the Authority's technical or contractual requirements, these should be thoroughly explained. If no contractual exceptions are noted, Offeror will be deemed to have accepted the contract requirements as set forth in Section IV. Proposed Agreement.

4. Cost and Price Proposal

Offerors are asked to submit only the technical qualifications as requested in this RFP. **No cost proposal or work hours are to be included in this phase of the RFP process.** Upon completion of the initial evaluations and interviews, if conducted, the highest ranked Offeror will be asked to submit a detailed cost proposal and negotiations will commence based on both the cost and technical proposals.

5. Appendices

Information considered by Offeror to be pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Offerors are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials; appendices should be relevant and brief.

B. FORMS

1. Party and Participant Disclosure Forms

In conformance with the statutory requirements of the State of California Government Code Section 84308, part of the Political Reform Act and Title 2, California Code of Regulations 18438 through 18438.8, regarding campaign contributions to members of appointed Boards of Directors, Offeror is required to complete and sign the Party and Participant Disclosure forms provided in this RFP and submit as part of the proposal. Offeror is required to submit only **one** copy of the completed forms as part of its proposal and it should be included in only the **original** proposal. The form entitled "Party Disclosure Form" must be completed by the prime consultant and subcontractors. The form entitled "Participant Disclosure Form" must be completed by lobbyists or agents representing the prime

consultant in this procurement. Reporting of Campaign Contributions is required up and until the Authority's Board of Directors makes a selection. Therefore, the prime consultant, subcontractors and agents will be required to report all campaign contributions from the date of proposal submittal up and until the Board takes action, which is currently scheduled for November 23, 2009.

2. Status of Past and Present Contracts Form

Offeror is required to complete and sign the form entitled "Status of Past and Present Contracts" provided in this RFP and submit as part of the proposal. Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years and the contract has ended or will end in a termination, settlement, or litigation. A separate form must be completed for each contract. Offeror shall provide an accurate name and telephone number for each contract and indicate the term of the contract and the original contract value. If the contract was terminated, Offeror must list the reason for termination. Offeror must identify and state the status of any litigation, claims or settlement agreements related to any of the contracts. Each form must be signed by the Offeror confirming the information that the information provided is true and accurate. Offeror is required to submit one copy of the completed form(s) as part of its proposals and it should be included in only the original proposal.

3. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS – EXHIBIT F

Primary Participant and Lower-Tier Participants

a. Policy

Unless otherwise permitted by law, any person or firm that is debarred, suspended, or voluntarily excluded, as defined in the Federal Highway Administration (FHWA) Circular 2015.1, may not take part in any federally funded transaction, either as a participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, the Authority, may not enter into any transaction with such debarred, suspended, or voluntarily excluded persons or firms during such period.

A certification process has been established by 49 CFR Part 29, as a means to ensure that debarred suspended or voluntarily excluded persons or firms do not participate in Federally assisted projects. The inability to provide the required certification will not necessarily result in denial of participation in a covered transaction. A person or firm that is unable to provide a positive certification as required

by this solicitation, must submit a complete explanation attached to the certification. FHWA will consider the certification and any accompanying explanation in determining whether or not to provide assistance for the project. Failure to furnish a certification or an explanation may disqualify that person or firm from participating in the project.

b. Submission Requirements

Each Offeror shall complete the certification, "Certification of Primary Participant Regarding Debarment, Suspension and other Responsibility Matters," Exhibit F, included in this RFP, for itself and its principals, and submit this certification with its proposal. Failure to do so may result in rejection of the proposal.

If the Offeror plans to use subcontractors on the project, the Offeror, shall have all subcontractors with contracts in excess of \$100,000 complete a certification for lower-tier participation and submit the certification with its proposal.

If a prime or subcontractor learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances, immediate written notice shall be provided to the Authority.

4. RESTRICTIONS ON LOBBYING FORM – EXHIBIT G

As a recipient of federal funds, the Authority is required to certify compliance with the influencing restrictions and efforts of Offeror to influence federal officials regarding specific procurements in excess of \$100,000.00 that must be disclosed pursuant to section 1352, Title 31, U.S. Code.

This RFP includes, under Exhibit G, the following: a certification form entitled "Certification of Restrictions on Lobbying," the Office of Management and Budget (OMB) Standard Form LLL entitled "Disclosure of Lobbying Activities," and a document entitled "Limitation on Payments to Influence Certain Federal Transactions."

The Offeror to this solicitation will be required to complete and submit to the Authority in their proposal, the certification form entitled "Certification of Restrictions on Lobbying" whether or not any lobbying efforts took place. If the Offeror did engage in lobbying activities, then OMB Standard Form LLL "Disclosure of Lobbying Activities" must also be completed and submitted to the Authority.

5. DBE SOLICITATION PROVISIONS – DBE PARTICIPATION LISTING FORM EXHIBIT H-2, AND BIDDERS LIST EXHIBIT H-3

Offeror shall complete Exhibit H-2 and Exhibit H-3 per the instructions set forth in Section I: "Instructions to Offerors" and Exhibit H: "Disadvantaged Business Enterprises".

SECTION III
EVALUATION AND AWARD

SECTION III. EVALUATION AND AWARD

A. EVALUATION CRITERIA

The Authority will evaluate the offers received based on the following criteria:

1. **Qualifications of the Firm** **35%**
 Technical experience in performing work of a closely similar nature; experience working with public agencies; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors; assessment by client references.

2. **Staffing and Project Organization** **40%**
 Qualifications of project staff, particularly "key personnel", especially the Project Manager, including their relevant past experience. Key personnel's level of involvement in performing related work cited in "Qualifications of the Firm" section; adequacy of labor commitment; references from past projects; logic of project organization; concurrence in the restrictions on changes in key personnel.

3. **Work Plan** **25%**
 Depth of Offeror's understanding of Authority's requirements and overall quality of work plan; logic, clarity and specificity of work plan; appropriateness of labor distribution among the tasks; ability to meet the project deadline; reasonableness of proposed schedule; utility of suggested technical or procedural innovations.

B. EVALUATION PROCEDURE

An evaluation committee will be appointed to review all proposals for this RFP. The evaluation committee is comprised of Authority staff and may include outside personnel. The committee members will evaluate the written proposals. Each member of the evaluation committee will then evaluate each proposal using the criteria identified in Section III. A. to arrive at a "proposal score" for each proposal. Based on the proposal scores, a list of Offeror's within a competitive range will be developed based upon the totals of each committee member's score for each proposal. During the evaluation period, the Authority may interview some or all of the proposing firms. The Authority has established October 8, 2009, as the date to conduct interviews. All prospective Offerors will be asked to keep this date available. No other interview dates will be provided, therefore, if an Offeror is unable to attend the interview on this date, its proposal may be eliminated from further consideration. The interview may consist of a short presentation by the Offeror after which the evaluation committee will ask questions related to the Offeror's proposal and qualifications.

At the conclusion of the evaluation process, the evaluation committee will rank proposals and will recommend to the appropriate Board Committee, the Offeror(s) with the highest ranking. The Board Committee(s) will review the evaluation committee's recommendation and forward its recommendation to the Board of Directors for final action.

C. AWARD

In conjunction with its action of selecting a firm, the Authority's Board of Directors will authorize staff to request a cost proposal from the selected Offeror and to negotiate a contract price and other terms and conditions. The Board will also grant staff the ability to terminate negotiations with the selected Offeror if no satisfactory agreement can be reached and to begin negotiations with the next highest-ranked Offeror until a satisfactory agreement has been achieved. The selected Offeror may be asked to submit a Best and Final Offer (BAFO). In the BAFO request, the Offeror may be asked to provide additional information, confirm or clarify issues and submit a final cost/price offer. A deadline for submission of the BAFO will be stipulated.

The Authority reserves the right to award its total requirements to one Offeror or to apportion those requirements among several Offerors as the Authority may deem to be in its best interest. In addition, negotiations may or may not be conducted with Offerors; therefore, the proposal submitted should contain Offeror's most favorable terms and conditions, since the selection and award may be made without discussion with any Offeror.

The selected Offeror will be required to submit to an audit of its financial records to confirm its financial stability and the Offeror's accounting system.

D. NOTIFICATION OF AWARD AND DEBRIEFING

Offerors who submit a proposal in response to this RFP shall be notified via CAMNET regarding the Offeror who was awarded the contract. Such notification shall be made within three (3) days of contract award.

Offerors who were not awarded the contract may obtain a debriefing concerning the strengths and weaknesses of their proposal. Unsuccessful Offerors who wish to be debriefed, must request the debriefing in writing or electronic mail and it must be received by the Authority within three (3) days of notification of the award of contract.

SECTION IV
PROPOSED AGREEMENT

1 **AGREEMENT NO. C-9-0589**

2 **BETWEEN**

3 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

4 **AND**

5 _____
6 **THIS AGREEMENT** is effective as of this ____ day of _____, 2009, by
7 and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184,
8 Orange, CA 92863-1584, a public corporation of the state of California (hereinafter referred to as
9 "AUTHORITY"), acting on behalf of the Orange County Transit District (hereinafter referred to as
10 "DISTRICT") and _____, _____, (hereinafter referred to as "CONSULTANT").

11 **WITNESSETH:**

12 **WHEREAS**, AUTHORITY requires assistance from CONSULTANT to provide on-call design
13 and construction support services; and

14 **WHEREAS**, said work cannot be performed by the regular employees of AUTHORITY; and

15 **WHEREAS**, CONSULTANT has represented that it has the requisite personnel and experience,
16 and is capable of performing such services; and

17 **WHEREAS**, CONSULTANT wishes to perform these services; and

18 **WHEREAS**, AUTHORITY's Board of Directors approved this Agreement on _____;

19 **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and CONSULTANT
20 as follows:

21 **ARTICLE 1. COMPLETE AGREEMENT**

22 A. This Agreement, including all exhibits and documents incorporated herein and made
23 applicable by reference, constitutes the complete and exclusive statement of the terms and conditions
24 of the agreement between AUTHORITY and CONSULTANT and it supersedes all prior
25 representations, understandings and communications. The invalidity in whole or in part of any term or
26 condition of this Agreement shall not affect the validity of other terms or conditions.

1 B. AUTHORITY's failure to insist in any one or more instances upon CONSULTANT's
2 performance of any terms or conditions of this Agreement shall not be construed as a waiver or
3 relinquishment of AUTHORITY's right to such performance or to future performance of such terms or
4 conditions and CONSULTANT's obligation in respect thereto shall continue in full force and effect.
5 Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when
6 specifically confirmed in writing by an authorized representative of AUTHORITY by way of a written
7 amendment to this Agreement and issued in accordance with the provisions of this Agreement.

8 **ARTICLE 2. AUTHORITY DESIGNEE**

9 The Chief Executive Officer of AUTHORITY, or designee, shall have the authority to act for and
10 exercise any of the rights of AUTHORITY as set forth in this Agreement.

11 **ARTICLE 3. SCOPE OF WORK**

12 A. CONSULTANT shall perform the work necessary to complete in a manner satisfactory to
13 AUTHORITY the services set forth in Exhibit A, entitled "Scope of Work," attached to and, by this
14 reference, incorporated in and made a part of this Agreement and as specified in the Contract Task
15 Orders ("CTOs") issued to CONSULTANT. All services shall be provided at the times and places
16 designated by AUTHORITY.

17 B. CONSULTANT shall provide the personnel listed below to perform the above-specified
18 services, which persons are hereby designated as key personnel under this Agreement.

19 **Names** **Functions**

20
21
22
23
24 C. No person named in paragraph B of this Article, or his/her successor approved by
25 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function
26 or level of commitment hereunder be changed, without the prior written consent of AUTHORITY.

1 Should the services of any key person become no longer available to CONSULTANT, the resume and
2 qualifications of the proposed replacement shall be submitted to AUTHORITY for approval as soon as
3 possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key
4 person, unless CONSULTANT is not provided with such notice by the departing employee.
5 AUTHORITY shall respond to CONSULTANT within seven (7) calendar days following receipt of these
6 qualifications concerning acceptance of the candidate for replacement.

7 **ARTICLE 4. TERM OF AGREEMENT**

8 This Agreement shall commence upon the effective date of this Agreement, and shall continue
9 in full force and effect through December 31, 2012, unless earlier terminated or extended as provided in
10 this Agreement.

11 **ARTICLE 5. CONTRACT TASK ORDERS (CTO) AND PAYMENT**

12 A. This Agreement is issued to place CONSULTANT, {INSERT OTHER FIRMS NAMES AND
13 AGREEMENT NOS} on an on-call list ("ON-CALL FIRMS"). As the need for consulting services arises
14 during the term of these Agreements, CTO's may be issued to CONSULTANT and/or other ON-CALL
15 FIRMS at AUTHORITY's sole discretion. Each CTO will be issued on a competitive basis specifically
16 define the Scope of Work, the total cost of the CTO to be paid CONSULTANT, and any other
17 information, which may be needed to perform the services. AUTHORITY does not guarantee that
18 CONSULTANT or any of the ON-CALL FIRMS will receive an assignment, nor that the firms will receive
19 an equal number of assignments, nor does the AUTHORITY make any guarantee that the CTO
20 budgeted amount will be expended.

21 B. CONSULTANT shall submit to AUTHORITY, a written technical proposal and cost estimate
22 within 48 hours from AUTHORITY's request. CONSULTANT shall submit a final written technical
23 proposal and cost proposal within five (5) working days from AUTHORITY's initial request. No work
24 shall commence until a written CTO has been executed by both AUTHORITY and CONSULTANT.
25 Failure of the CONSULTANT to perform in accordance with this provision may result in CONSULTANT
26 forfeiture of retention monies and/or termination of this Agreement.

1 C. For CONSULTANT's full and complete performance of its obligations under this Agreement,
2 and subject to the maximum cumulative payment obligation provisions set forth in Article 6,
3 AUTHORITY shall pay CONSULTANT on a Firm Fixed Price basis in accordance with the following
4 provisions.

5 1. For each CTO issued under this Agreement and the services satisfactorily
6 performed by CONSULTANT's personnel under this Agreement, AUTHORITY shall pay
7 CONSULTANT at the firm fixed price identified in the individual CTO. The firm fixed price established in
8 each CTO shall incorporate the hourly rates specified in Exhibit B, entitled "Schedule I – Hourly Rate
9 Schedule," and "Schedule II – Other Direct Costs," which is attached to and by this reference,
10 incorporated in and made a part of this Agreement. These rates shall remain fixed for the term of this
11 Agreement and are acknowledged to include CONSULTANT's direct labor costs, indirect costs and
12 profit.

13 2. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments
14 corresponding to the work performed by CONSULTANT. Work completed shall be documented in a
15 monthly progress report prepared by CONSULTANT, which report shall accompany each invoice
16 submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be
17 requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY
18 may decline to make full payment for any work until such time as CONSULTANT has documented to
19 AUTHORITY's satisfaction, that CONSULTANT has fully completed all work required. AUTHORITY's
20 payment in full for any work completed shall not constitute AUTHORITY's final acceptance of
21 CONSULTANT's work under such task; final acceptance shall occur only when AUTHORITY's release
22 of the retention described in paragraph 3.

23 3. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its
24 obligations under this Agreement, AUTHORITY shall retain percent (10%) of the amount of each
25 invoice submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY
26 and shall be paid to CONSULTANT within sixty (60) calendar days of payment of final invoice, unless

1 AUTHORITY elects to audit CONSULTANT's records in accordance with Article 16 of this Agreement.
2 If AUTHORITY elects to audit, retained funds shall be paid to CONSULTANT within thirty (30) calendar
3 days of completion of such audit in an amount reflecting any adjustment required by such audit.

4 4. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be
5 submitted in duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied
6 by the monthly progress report specified in paragraph 1 of this Article. AUTHORITY shall remit
7 payment within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall
8 include the following information:

- 9 a) Agreement No. C-9-0589; and CTO Number;
- 10 b) Specify the work for which payment is being requested;
- 11 c) Total monthly invoice (including project-to-date cumulative invoice amount)
- 12 d) Monthly Progress Report;
- 13 e) Certification signed by the CONSULTANT or his/her designated alternate that i.)

14 The invoice is a true, complete and correct statement of reimbursable costs and progress; ii.) The
15 backup information included with the invoice is true, complete and correct in all material respects; iii.)
16 All payments due and owing to subcontractors and suppliers have been made; iv.) Timely payments
17 will be made to subcontractors and suppliers from the proceeds of the payments covered by the
18 certification and; v.) The invoice does not include any amount which CONSULTANT intends to withhold
19 or retain from a subcontractor or supplier unless so identified on the invoice; and

20 f) Any other information as agreed or requested by AUTHORITY to substantiate
21 the validity of an invoice.

22 **ARTICLE 6. MAXIMUM OBLIGATION**

23 Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and
24 CONSULTANT mutually agree that AUTHORITY's maximum cumulative payment obligation for all of
25 the ON-CALL FIRMS under this Agreement, (including obligation for CONSULTANT'S profit), shall be
26 _____ Dollars (\$0.00) which shall include all amounts payable to CONSULTANT and

1 the ON-CALL FIRMS for subcontracts, leases, materials and costs arising from, or due to termination
2 of, this Agreement and the ON-CALL FIRMS Agreements.

3 **ARTICLE 7. NOTICES**

4 All notices hereunder and communications regarding the interpretation of the terms of this
5 Agreement, or changes thereto, shall be effected by delivery of said notices in person or by depositing
6 said notices in the U.S. mail, registered or certified mail, returned receipt requested, postage prepaid
7 and addressed as follows:

8 To CONSULTANT:

To AUTHORITY:

9 Orange County Transportation Authority

10 550 South Main Street

11 P.O. Box 14184

12 Orange, CA 92863-1584

13 ATTENTION:

ATTENTION: Sarah L. Strader

14 Senior Contract Administrator

15 (714) 560 – 5633; e-mail: *sstrader@octa.net*

16 **ARTICLE 8. INDEPENDENT CONTRACTOR**

17 CONSULTANT's relationship to AUTHORITY in the performance of this Agreement is that of an
18 independent contractor. CONSULTANT's personnel performing services under this Agreement shall at
19 all times be under CONSULTANT's exclusive direction and control and shall be employees of
20 CONSULTANT and not employees of AUTHORITY. CONSULTANT shall pay all wages, salaries and
21 other amounts due its employees in connection with this Agreement and shall be responsible for all
22 reports and obligations respecting them, such as social security, income tax withholding, unemployment
23 compensation, workers' compensation and similar matters.

24 /

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1 **ARTICLE 9. INSURANCE**

2 A. CONSULTANT shall procure and maintain insurance coverage during the entire term of this
3 Agreement. Coverage shall be full coverage and not subject to self-insurance provisions.
4 CONSULTANT shall provide the following insurance coverage:

5 1. Commercial General Liability, to include Products/Completed Operations,
6 Independent Contractors', Contractual Liability, and Personal Injury and Property Damage with a
7 minimum limit of \$1,000,000.00 per occurrence and \$2,000,000.00 general aggregate.

8 2. Automobile Liability to include owned, hired and non-owned autos with a combined
9 single limit of \$1,000,000.00 each accident;

10 3. Workers' Compensation with limits as required by the State of California including a
11 waiver of subrogation in favor of AUTHORITY, its officers, directors, employees and agents;

12 4. Employers' Liability with minimum limits of \$1,000,000.00; and

13 5. Professional Liability with minimum limits of \$1,000,000.00 per claim.

14 B. Proof of such coverage, in the form of an insurance company issued policy endorsement
15 and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of
16 any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days
17 from the effective date of this Agreement with AUTHORITY, its officers, directors, employees and
18 agents designated as additional insured on the general and automobile liability. Such insurance shall
19 be primary and non-contributive to any insurance or self-insurance maintained by AUTHORITY.
20 Furthermore, AUTHORITY reserves the right to request certified copies of all related insurance policies.

21 C. CONSULTANT shall include on the face of the Certificate of Insurance the Agreement
22 Number C-9-0589; and, Sarah L. Strader, Senior Contract Administrator.

23 D. CONSULTANT shall also include in each subcontract agreement the stipulation that
24 subcontractors shall maintain insurance coverage in the amounts required from CONSULTANT as
25 provided in this Agreement.

26 /

1 **ARTICLE 10. ORDER OF PRECEDENCE**

2 Conflicting provisions hereof, if any, shall prevail in the following descending order of
 3 precedence: (1) the CTO's issued to CONSULTANT; (2) the provisions of this Agreement, including all
 4 exhibits; (3) the provisions of RFP 9-0589; (4) CONSULTANT's proposal dated _____; (5) all other
 5 documents, if any, cited herein or incorporated by reference.

6 **ARTICLE 11. CHANGES**

7 By written notice or order, AUTHORITY may, from time to time, order work suspension and/or
 8 make changes in the general scope of this Agreement, or to the specific contract task order, including,
 9 but not limited to, the services furnished to AUTHORITY by CONSULTANT as described in the Scope
 10 of Work. If any such work suspension or change causes an increase or decrease in the price of this
 11 Agreement, the price of the specific contract task order or in the time required for its performance,
 12 CONSULTANT shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten
 13 (10) calendar days after the change or work suspension is ordered, and an equitable adjustment shall
 14 be negotiated. However, nothing in this clause shall excuse CONSULTANT from proceeding
 15 immediately with the agreement as changed.

16 **ARTICLE 12. DISPUTES**

17 A. Except as otherwise provided in this Agreement, any dispute concerning a question of fact
 18 arising under this Agreement which is not disposed of by supplemental agreement shall be decided by
 19 AUTHORITY's Director, Contracts Administration and Materials Management (CAMM), who shall
 20 reduce the decision to writing and mail or otherwise furnish a copy thereof to CONSULTANT. The
 21 decision of the Director, CAMM, shall be final and conclusive.

22 B. The provisions of this Article shall not be pleaded in any suit involving a question of fact
 23 arising under this Agreement as limiting judicial review of any such decision to cases where fraud by
 24 such official or his representative or board is alleged, provided, however, that any such decision shall
 25 be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous
 26 as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any

1 appeal proceeding under this Article, CONSULTANT shall be afforded an opportunity to be heard and
2 to offer evidence in support of its appeal.

3 C. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with
4 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
5 CMM. This Disputes clause does not preclude consideration of questions of law in connection with
6 decisions provided for above. Nothing in this Agreement, however, shall be construed as making final
7 the decision of any AUTHORITY official or representative on a question of law, which questions shall be
8 settled in accordance with the laws of the state of California.

9 **ARTICLE 13. TERMINATION**

10 A. AUTHORITY may terminate this Agreement for its convenience any time, in whole or part,
11 by giving CONSULTANT written notice thereof. Upon said notice, AUTHORITY shall pay
12 CONSULTANT its allowable costs incurred to date of termination and those allowable costs determined
13 by AUTHORITY to be reasonably necessary to effect such termination. Thereafter, CONSULTANT
14 shall have no further claims against AUTHORITY under this Agreement.

15 B. AUTHORITY may terminate this Agreement for CONSULTANT's default if a federal or state
16 proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT
17 makes an assignment for the benefit of creditors, or if CONSULTANT breaches any term(s) or violates
18 any provision(s) of this Agreement and does not cure such breach or violation within ten (10) calendar
19 days after written notice thereof by AUTHORITY. CONSULTANT shall be liable for any and all
20 reasonable costs incurred by AUTHORITY as a result of such default, including but not limited to
21 reprourement costs of the same or similar services defaulted by CONSULTANT under this Agreement.

22 **ARTICLE 14. INDEMNIFICATION**

23 CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, its officers, directors,
24 employees and agents from and against any and all claims (including attorneys' fees and reasonable
25 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage
26 to or loss of use of property caused by the negligent acts, omissions or willful misconduct by

1 CONSULTANT, its officers, directors, employees, agents, subcontractors or suppliers in connection
2 with or arising out of the performance of this Agreement.

3 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

4 A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by
5 CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be
6 subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by
7 AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all
8 terms and conditions of this Agreement.

9 B. AUTHORITY hereby consents to CONSULTANT's subcontracting portions of the Scope of
10 Work to the parties identified below for the functions described in CONSULTANT's proposal.
11 CONSULTANT shall include in the subcontract agreement the stipulation that CONSULTANT, not
12 AUTHORITY, is solely responsible for payment to the subcontractor for the amounts owing and that the
13 subcontractor shall have no claim, and shall take no action, against AUTHORITY, its officers, directors,
14 employees or sureties for nonpayment by CONSULTANT.

15 **Subcontractor Name/Addresses**

Type of Services

- 16 1.
- 17 2.

18 **ARTICLE 16. AUDIT AND INSPECTION OF RECORDS**

19 CONSULTANT shall provide AUTHORITY, the U.S. Department of Transportation (DOT), the
20 Comptroller General of the United States, or other agents of the AUTHORITY, such access to
21 CONSULTANT's accounting books, records, payroll documents and facilities of the CONSULTANT
22 which are directly pertinent to the Agreement for the purposes of examining, auditing and inspecting all
23 accounting books, records, work data, documents and activities related hereto. CONSULTANT shall
24 maintain such books, records, data and documents in accordance with generally accepted accounting
25 principles and shall clearly identify and make such items readily accessible to such parties during
26 CONSULTANT's performance hereunder and for a period of four (4) years from the date of final

1 payment by AUTHORITY. AUTHORITY's right to audit books and records directly related to this
2 Agreement shall also extend to all first-tier subcontractors identified in Article 15 of this Agreement.
3 CONSULTANT shall permit any of the foregoing parties to reproduce documents by any means
4 whatsoever or to copy excerpts and transcriptions as reasonably necessary.

5 **ARTICLE 17. CONFLICT OF INTEREST**

6 CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict
7 of interest means that due to other activities, relationships or contracts, the CONSULTANT is
8 unable, or potentially unable to render impartial assistance or advice to the Authority;
9 CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be
10 otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is
11 obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they
12 are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY
13 pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this
14 Agreement.

15 **ARTICLE 18. CODE OF CONDUCT**

16 CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to Third
17 Party Contracts which is hereby referenced and by this reference is incorporated herein.
18 CONSULTANT agrees to include these requirements in all of its subcontracts.

19 **ARTICLE 19. FEDERAL, STATE AND LOCAL LAWS**

20 CONSULTANT warrants that in the performance of this Agreement, it shall comply with all
21 applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and
22 regulations promulgated thereunder.

23 **ARTICLE 20. EQUAL EMPLOYMENT OPPORTUNITY**

24 In connection with its performance under this Agreement, CONSULTANT shall not discriminate
25 against any employee or applicant for employment because of race, religion, color, sex, age or national
26 origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that

1 employees are treated during their employment, without regard to their race, religion, color, sex, age or
2 national origin. Such actions shall include, but not be limited to, the following: employment, upgrading,
3 demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other
4 forms of compensation; and selection for training, including apprenticeship.

5 **ARTICLE 21. CIVIL RIGHTS ASSURANCE**

6 During the performance of this Agreement, CONSULTANT, for itself, its assignees and
7 successors in interest agree as follows:

8 A. Compliance with Regulations: CONSULTANT shall comply with the Regulations relative
9 to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter,
10 "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time,
11 (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a
12 part of this Agreement.

13 B. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the
14 Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and
15 retention of subcontractors, including procurements of materials and leases of equipment. The
16 CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by
17 Section 21.5 of the Regulations, including employment practices when the Agreement covers a
18 program set forth in Appendix B of the Regulations.

19 C. Solicitations for Subcontracts, Including Procurement of Materials and Equipment: In all
20 solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be
21 performed under a subcontract, including procurements of materials or leases of equipment, each
22 potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's
23 obligations under this Agreement and the Regulations relative to the DBE participation goal set by the
24 Authority.

25 D. Information and Reports: CONSULTANT shall provide all information and reports
26 required by the Regulations or directives issued pursuant thereto, and shall permit access to its books,

1 records, accounts, other sources of information and its facilities as may be determined by the
 2 AUTHORITY to be pertinent to ascertain compliance with such Regulations, orders and instructions.
 3 Where any information required of a CONSULTANT is in the exclusive possession of another who fails
 4 or refuses to furnish this information the CONSULTANT shall so certify to the AUTHORITY as
 5 appropriate, and shall set forth what efforts it has made to obtain the information.

6 F. Sanctions for Noncompliance: In the event of the CONSULTANT's noncompliance with
 7 nondiscrimination provisions of this Agreement, the AUTHORITY shall impose Agreement sanctions as
 8 it may determine to be appropriate, including, but not limited to:

9 1. Withholding of payments to the CONSULTANT under the Agreement until the
 10 CONSULTANT complies; and/or

11 2. Cancellation, termination, or suspension of the Agreement, in whole or in part.

12 G. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs
 13 (A) through (F) in every subcontract, including procurements of materials and leases of equipment,
 14 unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take
 15 such action with respect to any subcontract or procurement as the AUTHORITY may direct as a means
 16 of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the
 17 event a CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or
 18 supplier as a result of such direction, the CONSULTANT may request the AUTHORITY to enter into
 19 such litigation to protect the interests of the AUTHORITY, and, in addition, the CONSULTANT may
 20 request the United States to enter into such litigation to protect the interests of the United States.

21 **ARTICLE 22. REQUIREMENTS FOR REGISTRATION OF DESIGNERS**

22 All design and engineering work furnished by CONSULTANT shall be performed by or under
 23 the supervision of persons licensed to practice surveying, engineering or architecture (as applicable) in
 24 the state of California, by personnel who are careful, skilled, experienced and competent in their
 25 respective trades or professions, who are professionally qualified to perform the work in accordance
 26 with the contract documents and who shall assume professional responsibility for the accuracy and

1 completeness of the design and construction documents prepared or checked by them.

2 **ARTICLE 23. RACE-NEUTRAL DBE CONTRACT PROVISIONS**

3 **I. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION**

4 *Race-Neutral DBE Participation*

5 **[[INTERNAL NOTE: USE THE FOLLOWING LANGUAGE IF CONSULTANT HAS PROPOSED TO**
6 **UTILIZE DBES IN THE PERFORMANCE OF THE CONTRACT.]]**

7
8 At the time of contract execution, the Consultant committed to utilize DBE(s) in the
9 performance of this DOT-assisted contract, and further agrees to ensure that DBE
10 subconsultants listed on the *“DBE Race-Neutral Participation Listing” (Exhibit H-2)*
11 perform work and/or supply materials in accordance with original commitments, unless
12 otherwise directed and/or approved by the Authority prior to the Consultant effectuating any
13 changes to its race-neutral DBE participation commitment(s) *(Refer to Subsection H:*
14 *“Performance of DBE Subconsultants”)*.

15 **[[INTERNAL NOTE: USE THE FOLLOWING LANGUAGE IF CONSULTANT HAS NOT PROPOSED TO**
16 **UTILIZE DBES IN THE PERFORMANCE OF THE CONTRACT.]]**

17 At the time of contract execution, the Consultant did not commit to utilize DBE(s) in the
18 performance of this DOT-assisted contract. However, in the event DBE(s) are utilized in the
19 performance of this contract, the Consultant shall comply with reporting requirements
20 delineated under *Section E: “Race-Neutral DBE Submission and Ongoing Reporting*
21 *Requirements (Post-Award)”*.

22 *DBE Policy and Applicability*

23 In accordance with federal financial assistance agreements with the U.S. Department of
24 Transportation (U.S. DOT), the Orange County Transportation Authority (Authority) has adopted a
25 Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part
26 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Programs”.

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1 The project is subject to these stipulated regulations. In order to ensure that the Authority
2 achieves its overall DBE Program goals and objectives, the Authority encourages the participation of
3 DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S.
4 DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

5 Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT
6 Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's
7 DOT-assisted contracting opportunities.

8 Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and
9 subcontracts.

10 Ensure non-discrimination in the award and administration of Authority's DOT-assisted
11 contracts.

12 Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.

13 Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to
14 participate as DBEs.

15 Help remove barriers to the participation of DBEs in DOT-assisted contracts.

16 Assist in the development of firms that can compete successfully in the marketplace outside the
17 DBE Program.

18 Consultant shall not discriminate on the basis of race, color, national origin, or sex in the award
19 and performance of subcontracts.

20 ***Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the***
21 ***Regulations, shall have the meaning set forth in the Regulations. In the event of any conflicts or***
22 ***inconsistencies between the Regulations and the Authority's DBE Program with respect to***
23 ***DOT-assisted contracts, the Regulations shall prevail.***

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Authority's New Race-Neutral DBE Policy Implementation Directives

Pursuant to recently released Race-Neutral DBE policy directives issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving Co. v. Washington State Department of Transportation*, **the Authority has implemented a wholly Race-Neutral DBE Program.**

A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. Therefore, under a Race-Neutral DBE Program, the Authority does not establish numeric race-conscious DBE participation goals on its DOT-assisted contracts. Consultant shall not be required to achieve a specific level of DBE participation as a condition of contract compliance in the performance of this DOT-assisted contract. However, the Consultant shall adhere to race-neutral DBE participation commitment(s) made at the time of contract award.

Definitions

The following definitions apply to the terms as used in these provisions:

"Disadvantaged Business Enterprise (DBE)" means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

"Small Business Concern" means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.

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1 **"Socially and Economically Disadvantaged Individuals"** means those individuals who are
2 citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans,
3 Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women
4 and any other minorities or individuals found to be disadvantaged by the Small Business Administration
5 pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65.

6 Members of the following groups are presumed to be socially and economically disadvantaged:

7 "Black Americans," which includes persons having origins in any of the Black racial groups of
8 Africa;

9 "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or
10 South American, or other Spanish or Portuguese culture or origin, regardless of race;

11 "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or
12 Native Hawaiians;

13 "Asian-Pacific Americans," which includes persons whose origins are from Japan, China,
14 Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of
15 the Pacific, and the Northern Marianas;

16 "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and
17 Bangladesh; and

18 Women, regardless of ethnicity or race.

19 **"Owned and Controlled"** means a business: (a) which is at least 51 percent owned by one or
20 more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned
21 business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically
22 Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled
23 by one or more such individuals.

24 **"Manufacturer"** means a firm that operates or maintains a factory or establishment that
25 produces on the premises the materials or supplies obtained by the consultant.

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1 **"Regular Dealer"** means a firm that owns, operates or maintains a store, warehouse, or other
2 establishment in which the materials or supplies required for the performance of the contract are
3 bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must
4 engage in, as its principal business, and in its own name, the purchase and sale of the product in
5 question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products
6 need not keep such products in stock if it owns or operates distribution equipment.

7 **"Other Socially and Economically Disadvantaged Individuals"** means those individuals who
8 are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case
9 basis, are determined by Small Business Administration or the Authority to meet the social and
10 economic disadvantage criteria described below.

11 Social Disadvantage

12 The individual's social disadvantage must stem from his/her color, national origin, gender,
13 physical handicap, long-term residence in an environment isolated from the mainstream of American
14 society, or other similar cause beyond the individual's control.

15 The individual must demonstrate that he/she has personally suffered social disadvantage.

16 The individual's social disadvantage must be rooted in treatment, which he/she has experienced
17 in American society, not in other countries.

18 The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting
19 or insignificant.

20 The individual's social disadvantage must have negatively affected his/her entry into and/or
21 advancement in the business world.

22 A determination of social disadvantage must be made before proceeding to make a
23 determination of economic disadvantage.

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1 Economic Disadvantage

2 The individual's ability to compete in the free enterprise system has been
3 impaired due to diminished capital and credit opportunities, as compared to
4 others in the same line of business and competitive market area that are not
5 socially disadvantaged.

6 The following criteria will be considered when determining the degree of
7 diminished credit and capital opportunities of a person claiming social and
8 economic disadvantage:

9 With respect to the individual:

- 10 • availability of financing
- 11 • bonding capability
- 12 • availability of outside equity capital
- 13 • available markets

14 With respect to the individual and the business concern:

- 15 • personal and business assets
- 16 • personal and business net worth
- 17 • personal and business income and profits

18 **Race-Neutral DBE Submission and Ongoing Reporting Requirements (Post-**
19 **Award)**

20 Consultant shall complete and submit the following DBE exhibits (forms) at the times
21 specified:

22 "Monthly Race-Neutral DBE Subconsultants Paid Report Summary and Payment Verification"
23 (Form 103, ATTACHMENT A)

24 If the Consultant is a DBE firm and/or has proposed to utilize DBE firms, the Consultant will
25 be required to complete and submit a Form 103 to the Authority by the 10th of each month until
26 completion of the contract to facilitate reporting of race-neutral DBE participation, following the first

1 month of contract activity. The Consultant shall report the total dollar value paid to DBEs for the
 2 applicable reporting period. The Consultant shall also report the DBE's scope of work and the total
 3 subcontract value of commitment for each DBE reported.

4 Consultant is advised not to report the participation of DBEs toward the Consultant's race-
 5 neutral DBE attainment until the amount being counted has been paid to the DBE.

6 Upon completion of the contract, the Consultant will be required to prepare and submit to
 7 the Authority a "Race-Neutral DBE Subconsultants Paid Report Summary and Payment Verification"
 8 (Form 103, ATTACHMENT B) clearly marked "Final" to facilitate reporting and capturing actual DBE
 9 race-neutral attainments.

10 ***Consultant shall complete and submit a Final Form 103 whether or not DBEs were***
 11 ***utilized in the performance of the contract.***

12 **DBE Eligibility and Commercially Useful Function Standards**

13 ***A DBE must be a small business concern as defined pursuant to Section 3 of the***
 14 ***U.S. Small Business Act and relevant regulations promulgated pursuant thereto.***

15 A DBE may participate as a prime consultant, subconsultant, joint venture partner with a prime
 16 or subconsultant, vendor of material or supplies, or as a trucking company.

17 A DBE joint venture partner must be responsible for specific contract items of work, or clearly
 18 defined portions thereof. Responsibility means actually performing, managing and supervising the work
 19 with its own forces. The DBE joint venture partner must share in the capital contribution, control,
 20 management, risks and profits of the joint venture commensurate with its ownership interest.

21 A DBE must perform a commercially useful function in accordance with 49 CFR 26.55 (i.e.,
 22 must be responsible for the execution of a distinct element of the work and must carry out its
 23 responsibility by actually performing, managing and supervising the work). A DBE should perform at
 24 least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is
 25 performing a commercially useful function.

26 /

1 DBEs must be certified by the California Unified Certification Program (CUCP). Listings of
2 DBEs certified by the CUCP are available from the following sources:

3 The CUCP web site, which can be accessed at <http://www.californiaucp.com>; or the Caltrans
4 "Civil Rights" web site at <http://www.dot.ca.gov/hq/bep>.

5 The CUCP DBE Directory, which may be obtained from the Department of Transportation,
6 Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento,
7 California 95815; Telephone: (916) 445-3520.

8 **DBE Crediting Provisions**

9 When a DBE is proposed to participate in the contract, either as a prime Consultant
10 or Subconsultant, only the value of the work proposed to be performed by the DBE with its
11 own forces may be counted towards race-neutral DBE participation. If the Consultant is a
12 DBE joint venture participant, only the DBE proportionate interest in the joint venture shall
13 be counted.

14 If a DBE intends to subcontract part of the work of its subcontract to a lower tier
15 Subconsultant, the value of the subcontracted work may be counted toward race-neutral
16 DBE participation only if the DBE Subconsultant is a certified DBE and actually performs the
17 work with their own forces. Services subcontracted to a non-DBE firm may not be credited
18 toward the prime Consultant's race-neutral DBE attainment.

19 Consultant is to calculate and credit participation by eligible DBE vendors of
20 equipment, materials, and suppliers toward race-neutral DBE attainment, as follows:

21 Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required
22 under the Contract, obtained from a regular dealer; or

23 One hundred percent (100%) of expenditure(s) for equipment, materials and supplies
24 required under the Contract, obtained from a DBE manufacturer.

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1 The following types of fees or commissions paid to DBE Subconsultants, Brokers,
2 and Packagers may be credited toward the prime Consultant's race-neutral DBE attainment,
3 provided that the fee or commission is reasonable, and not excessive, as compared with
4 fees or commissions customarily allowed for similar work, including:

5 Fees and commissions charged for providing bona fide professional or technical
6 services, or procurement of essential personnel, facilities, equipment, materials, or supplies
7 required in the performance of the Contract;

8 Fees charged for delivery of material and supplies (excluding the cost of materials or
9 supplies themselves) when the licensed hauler, trucker, or delivery service is not also the
10 manufacturer of, or a regular dealer in, the material and supplies;

11 Fees and commissions charged for providing any insurance specifically required in
12 the performance of the Contract.

13 Consultant may count the participation of DBE trucking companies toward race-
14 neutral DBE attainment, as follows:

15 The DBE must be responsible for the management and supervision of the
16 entire trucking operation for which it is responsible on a particular
17 contract.

18 The DBE must itself own and operate at least one fully licensed, insured,
19 and operational truck used on the contract.

20 The DBE receives credit for the total value of the transportation services it
21 provides on the contract using trucks it owns, insures, and operates
22 using drivers it employs.

23 The DBE may lease trucks from another DBE firm, including an owner-
24 operator who is certified as a DBE. The DBE who leases trucks from
25 another DBE receives credit for the total value of the transportation
26 services the lessee DBE provides on the contract.

1 The DBE may also lease trucks from a non-DBE firm, including an owner-
 2 operator. The DBE who leases trucks from a non-DBE is entitled to
 3 credit only for the fee or commission it receives as a result of the lease
 4 arrangement. The DBE does not receive credit for the total value of the
 5 transportation services provided by the lessee, since these services are
 6 not provided by a DBE.

7 For purposes of this paragraph, a lease must indicate that the DBE has
 8 exclusive use of and control over the truck. This does not preclude the
 9 leased truck from working for others during the term of the lease with
 10 the consent of the DBE, so long as the lease gives the DBE absolute
 11 priority for use of the leased truck. Leased trucks must display the
 12 name and identification number of the DBE.

13 If the Consultant listed a non-certified DBE 1st tier Subconsultant to perform work on
 14 this contract, and the non-certified DBE subconsultant subcontracts a part of its work or
 15 purchases materials and/or supplies from a lower tier DBE certified Subconsultant or
 16 Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted
 17 toward race-neutral DBE participation on the contract.

18 **Performance of DBE Subconsultants**

19 DBE subconsultants listed by the Consultant in its ***"DBE Race-Neutral Participation***
 20 ***Listing" (Exhibit H-2)*** submitted at the time of proposal submission shall perform the work
 21 and supply the materials for which they are listed, unless the Consultant has received prior
 22 written authorization from the Authority to perform the work with other forces or to obtain the
 23 materials from other sources.

24 The Consultant shall provide written notification to the Authority in a timely manner of any
 25 changes to its anticipated DBE participation. This notice should be provided prior to the
 26 commencement of that portion of the work.

Additional DBE Subconsultants

In the event Consultant identifies additional DBE subconsultants or suppliers not previously identified by Consultant for race-neutral DBE participation under the contract, Consultant shall notify the Authority by submitting "Request for Additional DBE Firm" to enable Consultant to capture all race-neutral DBE participation. Consultant shall also submit, for each DBE identified after contract execution, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

DBE Certification Status

If a listed DBE subconsultant is decertified during the life of the project, the decertified subconsultant shall notify the Consultant in writing with the date of decertification. If a non-DBE subconsultant becomes a certified DBE during the life of the project, the DBE subconsultant shall notify the Consultant in writing with the date of certification. The Consultant shall furnish the written documentation to the Authority in a timely manner.

Consultant's Assurance Clause Regarding Non-Discrimination

In compliance with State and Federal anti-discrimination laws, the Consultant shall affirm that they will not exclude or discriminate on the basis of race, color, national origin, or sex in consideration of contract award opportunities. Further, the Consultant shall affirm that they will consider, and utilize subconsultants and vendors, in a manner consistent with non-discrimination objectives.

Prompt Payment**Prompt Progress Payments to Subconsultants**

The Authority has adopted a prompt payment provision on all DOT- assisted contracts, to facilitate timely payment to all subconsultants in accordance with regulatory mandates. This provision

1 requires a Consultant to issue payment to all subconsultants (DBEs and non-DBEs), for satisfactory
2 performance of their contracts, no later than ten (10) days from receipt of each payment made to the
3 Consultant by the Authority.

4 Commencing with the Consultant's second Pay Application Request /Invoice, the Consultant
5 shall provide the Authority with evidence, in the form of a signed assurance, that the Consultant has
6 paid all subconsultants all amounts due for work that the subconsultant has satisfactorily performed.
7 The Pay Application statement of compliance, signed under penalty of perjury, shall be included within
8 the Pay Application document.

9 Payment of Retention Withheld from Subconsultant

10 The Authority has also adopted a prompt payment provision on all DOT-assisted contracts to
11 facilitate timely disbursement of retention proceeds withheld by the Consultant, requiring the prompt
12 and full payment of retainage from the Consultant to the subconsultant within 30 days after the
13 subconsultant's work is satisfactory completed. These prompt payment provisions are required to be
14 incorporated in all subcontract agreements issued by the Consultant.

15 The Consultant shall also incorporate in all subcontract agreements "a contract clause providing
16 that the Consultant will not be reimbursed for work performed by subconsultant unless and until the
17 Consultant ensures that the subconsultants are promptly paid for the work they have satisfactorily
18 performed".

19 ***Failure to comply with these prompt payment provisions or delay in issuing***
20 ***payment without prior written approval from the Authority will constitute***
21 ***noncompliance, which will result in the application of appropriate administrative***
22 ***sanctions, including, but not limited to, a penalty of 2% of the amount due per month***
23 ***to the affected subconsultant for every month that payment is not made.***

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1 **ARTICLE 24. PROHIBITED INTERESTS**

2 A. CONSULTANT covenants that, for the term of this Agreement, no director, member, officer
3 or employee of AUTHORITY during his/her tenure in office/employment or for one (1) year thereafter
4 shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

5 B. No member of or delegate to, the Congress of the United States shall have any interest,
6 direct or indirect, in the Agreement or to the benefits thereof.

7 **ARTICLE 25. OWNERSHIP OF REPORTS AND DOCUMENTS**

8 A. The originals of all letters, documents, reports and other products and data produced under
9 this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made
10 for CONSULTANT's records but shall not be furnished to others without written authorization from
11 AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright therein
12 shall be retained by AUTHORITY.

13 B. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings,
14 descriptions, and all other written information submitted to CONSULTANT in connection with the
15 performance of this Agreement shall not, without prior written approval of AUTHORITY, be used for any
16 purposes other than the performance under this Agreement, nor be disclosed to an entity not connected
17 with the performance of the project. CONSULTANT shall comply with AUTHORITY's policies regarding
18 such material. Nothing furnished to CONSULTANT, which is otherwise known to CONSULTANT or is
19 or becomes generally known to the related industry shall be deemed confidential. CONSULTANT shall
20 not use AUTHORITY's name, photographs of the project, or any other publicity pertaining to the project
21 in any professional publication, magazine, trade paper, newspaper, seminar or other medium without
22 the express written consent of AUTHORITY.

23 C. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be
24 released by CONSULTANT to any other person or agency except after prior written approval by
25 AUTHORITY, except as necessary for the performance of services under this Agreement. All press
26 releases, including graphic display information to be published in newspapers, magazines, etc., are to

1 be handled only by AUTHORITY unless otherwise agreed to by CONSULTANT and AUTHORITY.

2 **ARTICLE 26. PATENT AND COPYRIGHT INFRINGEMENT**

3 A. In lieu of any other warranty by AUTHORITY or CONSULTANT against patent or copyright
 4 infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any
 5 claim or suit against AUTHORITY on account of any allegation that any item furnished under this
 6 Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes
 7 upon any presently existing U. S. letters patent or copyright and CONSULTANT shall pay all costs and
 8 damages finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in
 9 writing of the suit or claim and given authority, information and assistance at CONSULTANT's expense
 10 for the defense of same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim
 11 results from: (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form
 12 infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in
 13 combination with other material not provided by CONSULTANT when such use in combination infringes
 14 upon an existing U.S. letters patent or copyright.

15 B. CONSULTANT shall have sole control of the defense of any such claim or suit and all
 16 negotiations for settlement thereof. CONSULTANT shall not be obligated to indemnify AUTHORITY
 17 under any settlement made without CONSULTANT's consent or in the event AUTHORITY fails to
 18 cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at
 19 CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim,
 20 CONSULTANT, at no expense to AUTHORITY, shall obtain for AUTHORITY the right to use and sell
 21 said item, or shall substitute an equivalent item acceptable to AUTHORITY and extend this patent and
 22 copyright indemnity thereto.

23 **ARTICLE 27. FINISHED AND PRELIMINARY DATA**

24 A. All of CONSULTANT's finished technical data, including but not limited to illustrations,
 25 photographs, tapes, software, software design documents, including without limitation source code,
 26 binary code, all media, technical documentation and user documentation, photoprints and other graphic

1 information required to be furnished under this Agreement, shall be AUTHORITY's property upon
 2 payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary
 3 restriction except as elsewhere authorized in this Agreement. CONSULTANT further agrees that it
 4 shall have no interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said
 5 data is subject to the provisions of the Freedom of Information Act, 5 USC 552.

6 B. It is expressly understood that any title to preliminary technical data is not passed to
 7 AUTHORITY but is retained by CONSULTANT. Preliminary data includes roughs, visualizations,
 8 software design documents, layouts and comprehensives prepared by CONSULTANT solely for the
 9 purpose of demonstrating an idea or message for AUTHORITY's acceptance before approval is given
 10 for preparation of finished artwork. Preliminary data title and right thereto shall be made available to
 11 AUTHORITY if CONSULTANT causes AUTHORITY to exercise Article 11, and a price shall be
 12 negotiated for all preliminary data.

13 **ARTICLE 28. ALCOHOL AND DRUG POLICY**

14 A. CONSULTANT agrees to establish and implement an alcohol and drug program that
 15 complies with 41 U.S.C. sections 701-707, (the Drug Free Workplace Act of 1988), which is attached to
 16 this Agreement as ATTACHMENT C. CONSULTANT shall produce any documentation necessary to
 17 establish its compliance with sections 701-707.

18 B. Failure to comply with this Article may result in nonpayment or termination of this
 19 Agreement.

20 **ARTICLE 29. FORCE MAJEURE**

21 Either party shall be excused from performing its obligations under this Agreement during the
 22 time and to the extent that it is prevented from performing by an unforeseeable cause beyond its
 23 control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material,
 24 products, plants or facilities by the federal, state or local government; national fuel shortage; or a
 25 material act or omission by the other party; when satisfactory evidence of such cause is presented to
 26 the other party, and provided further that such nonperformance is unforeseeable, beyond the control

1 and is not due to the fault or negligence of the party not performing.

2 **ARTICLE 30. PRIVACY ACT**

3 CONSULTANT shall comply with, and assures the compliance of its employees with, the
4 information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. §552a.
5 Among other things, CONSULTANT agrees to obtain the express consent of the Federal Government
6 before the CONSULTANT or its employees operate a system of records on behalf of the Federal
7 Government. CONSULTANT understands that the requirements of the Privacy Act, including the civil
8 and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to
9 comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

10 **ARTICLE 31. INCORPORATION OF FTA TERMS**

11 All contractual provisions required by Department of Transportation (DOT), whether or not
12 expressly set forth in this document, as set forth in Federal Transit Administration (FTA) Circular
13 4220.1F, as amended, are hereby incorporated by reference. Anything to the contrary herein
14 notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other
15 provisions contained in this Agreement. CONSULTANT shall not perform any act, fail to perform any
16 act, or refuse to comply with any requests, which would cause AUTHORITY to be in violation of the
17 FTA terms and conditions.

18 **ARTICLE 32. FEDERAL CHANGES**

19 CONSULTANT shall at all times comply with all applicable FTA regulations, policies, procedures
20 and directives, including without limitation those listed directly or by reference in the agreement
21 between the AUTHORITY and FTA , as they may be amended or promulgated from time to time during
22 this Agreement. CONSULTANT's failure to comply shall constitute a material breach of contract.

23 **ARTICLE 33. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES**

24 AUTHORITY and CONSULTANT acknowledge and agree that, notwithstanding any
25 concurrence by the Federal Government in or approval of the solicitation or award of the underlying
26 Agreement, absent the express written consent by the Federal Government, the Federal Government is

1 not a party to this Agreement and shall not be subject to any obligations or liabilities to the
2 AUTHORITY, CONSULTANT, or any other party (whether or not a party to this Agreement) pertaining
3 to any matter resulting from the underlying Agreement. CONSULTANT agrees to include these
4 requirements in all of its subcontracts.

5 **ARTICLE 34. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND**
6 **RELATED ACTS**

7 A. CONSULTANT acknowledges that the provisions of the Program Fraud Civil Remedies Act
8 of 1986, as amended, 31 U.S.C. §§3801 et seq. and U.S. DOT regulations, "Program Fraud Civil
9 Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Accordingly, by signing this
10 Agreement, CONSULTANT certifies or affirms the truthfulness and accuracy of any statement it has
11 made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement of the FTA
12 assisted project for which this Agreement's work is being performed. CONSULTANT also
13 acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement,
14 submission, or certification, the Federal Government reserves the right to impose penalties of the
15 Program Fraud Civil Remedies Act of 1986 on the CONSULTANT to the extent the Federal
16 Government deems appropriate.

17 B. CONSULTANT also acknowledges that if it makes, or causes to be made, a false, fictitious,
18 or fraudulent claim, statement, submission, or certification to the Federal Government under an
19 agreement connected with a project that is financed in whole or part with Federal assistance awarded
20 by FTA under the authority of 49 U.S.C. §5307 et seq., the Government reserves the right to impose
21 the penalties of 18 U.S.C. §1001 and 49 U.S.C. §5307(n) (1) et seq. on the CONSULTANT, to the
22 extent the Federal Government deems appropriate. CONSULTANT agrees to include this requirement
23 in all of its subcontracts.

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1 **ARTICLE 35. RECYCLED PRODUCTS**

2 CONSULTANT shall comply with all the requirements of Section 6002 of the Resource
3 Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the
4 regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the
5 procurement of the items designated in subpart B of 40 CFR Part 247. CONSULTANT agrees to
6 include this requirement in all of its subcontracts.

7 **ARTICLE 36. ENERGY CONSERVATION REQUIREMENTS**

8 CONSULTANT shall comply with mandatory standards and policies relating to energy
9 efficiency, which are contained in the state energy conservation plan issued in compliance with the
10 Energy Policy Conservation Act.

11 **ARTICLE 37. CLEAN AIR**

12 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
13 to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. CONSULTANT shall report each violation
14 to AUTHORITY, who will in turn, report each violation as required to assure notification to FTA and the
15 appropriate EPA Regional Office. CONSULTANT agrees to include this requirement in all of its
16 subcontracts.

17 **ARTICLE 38. CLEAN WATER REQUIREMENTS**

18 CONSULTANT shall comply with all applicable standards, orders or regulations issued pursuant
19 to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONSULTANT shall
20 report each violation to AUTHORITY and understands and agrees that the AUTHORITY who will in
21 turn, report each violation as required to assure notification to FTA and appropriate EPA Regional
22 Office. CONSULTANT agrees to include this requirement in all of its subcontracts.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0589 to be executed on the date first above written.

CONSULTANT

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Will Kempton
Chief Executive Officer

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By _____

Darrell Johnson
Executive Director, Rail Programs

Date _____



MONTHLY RACE-NEUTRAL DBE SUBCONTRACTORS PAID REPORT SUMMARY AND PAYMENT VERIFICATION (Form 103)

Reporting Period (month): _____, 200_____

Contract Number: _____	Form 103 Report No.: _____	Report prepared by: _____
Contract Award Date: _____	Original Contract Award Amount: _____	Title: _____
Prime Name: _____	Current Contract Value: _____ [B]	Report reviewed by: _____
Address: _____	% of Project Complete: [A] divided by [B] #VALUE!	Signature: _____
Telephone No.: _____	Total Dollars Paid to DBEs this Reporting Period: _____	Title: _____
	Total Dollars Paid to DBEs to Date: _____	Prime's RACE-NEUTRAL DBE Attachment to Date: #DIV/0!
	Total Dollars Paid to Prime to Date: _____ [A]	(Total Dollars Paid to DBEs divided by Total Dollars Paid to Prime)

DBE SUBCONTRACTORS	Dollar Amount Paid This Month	Dollar Amount Paid To Date [C]	Type of Work Performed (Scope)	Original Dollar Amount Committed to DBE at Contract Award	\$ +/- Resulting from Change Order Activity	Current Subcontract Value [D]	% of Work Completed [C] divided by [D]	FOR AUTHORITY USE ONLY
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime <input type="checkbox"/> Subcontractor <input type="checkbox"/> Broker <input type="checkbox"/> Supplier: Regular Dealer <input type="checkbox"/> or Manufacturer <input type="checkbox"/> Attach Verification of Payment: <input type="checkbox"/> YES <input type="checkbox"/> NO							#DIV/0!	
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime <input type="checkbox"/> Subcontractor <input type="checkbox"/> Broker <input type="checkbox"/> Supplier: Regular Dealer <input type="checkbox"/> or Manufacturer <input type="checkbox"/> Attach Verification of Payment: <input type="checkbox"/> YES <input type="checkbox"/> NO							#DIV/0!	
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime <input type="checkbox"/> Subcontractor <input type="checkbox"/> Broker <input type="checkbox"/> Supplier: Regular Dealer <input type="checkbox"/> or Manufacturer <input type="checkbox"/> Attach Verification of Payment: <input type="checkbox"/> YES <input type="checkbox"/> NO							#DIV/0!	

COMMENTS/ISSUES: _____



FINAL RACE-NEUTRAL DBE SUBCONSULTANTS PAID REPORT SUMMARY AND PAYMENT VERIFICATION (Form 103)

Reporting Period (month): _____, 200__

Contract Number: _____	Form 103 Report No.: _____	Report prepared by: _____
Contract Award Date: _____	Original Contract Award Amount: _____	Title: _____
Prime Name: _____	Current Contract Value: _____ [B]	Report reviewed by: _____
Address: _____	% of Project Complete: [A] divided by [B] #VALUE!	Signature: _____
Telephone No.: _____	Total Dollars Paid to DBEs this Reporting Period: _____	Title: _____
	Total Dollars Paid to DBEs to Date: _____	Prime's RACE-NEUTRAL DBE Attainment to Date: #DIV/0!
	Total Dollars Paid to Prime to Date: _____ [A]	(Total Dollars Paid to DBEs divided by Total Dollars Paid to Prime)

DBE SUBCONSULTANTS	Dollar Amount Paid This Month	Dollar Amount Paid To Date [C]	Type of Work Performed (Scope)	Original Dollar Amount Committed to DBE at Contract Award	\$ +/- Resulting from Change Order Activity	Current Subcontract Value [D]	% of Work Completed [C] divided by [D]	FOR AUTHORITY USE ONLY
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime <input type="checkbox"/> Subconsultant <input type="checkbox"/> Broker <input type="checkbox"/> Supplier: Regular Dealer <input type="checkbox"/> or Manufacturer <input type="checkbox"/> Attach Verification of Payment: <input type="checkbox"/> YES <input type="checkbox"/> NO							#DIV/0!	
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime <input type="checkbox"/> Subconsultant <input type="checkbox"/> Broker <input type="checkbox"/> Supplier: Regular Dealer <input type="checkbox"/> or Manufacturer <input type="checkbox"/> Attach Verification of Payment: <input type="checkbox"/> YES <input type="checkbox"/> NO							#DIV/0!	
Name: _____ Address: _____ City, State, Zip Code: _____ Telephone Number: () _____ Prime <input type="checkbox"/> Subconsultant <input type="checkbox"/> Broker <input type="checkbox"/> Supplier: Regular Dealer <input type="checkbox"/> or Manufacturer <input type="checkbox"/> Attach Verification of Payment: <input type="checkbox"/> YES <input type="checkbox"/> NO							#DIV/0!	

COMMENTS/ISSUES: _____



DRUG-FREE WORKPLACE ACT OF 1988

THE FEDERAL LAW

This law, enacted November 1988, with subsequent modification in 1994 by the Federal Acquisition Streamlining Act, (*raising the contractor amount from \$25,000 to \$100,000*), requires compliance by all organizations contracting with any U. S. Federal agency in the amount of \$100,000 or more that does not involve the acquisition of commercial goods via a procurement contract or purchase order, and is performed in whole in the United States. It also requires that *all* organizations receiving federal grants, regardless of amount granted, maintain a drug-free workplace in compliance with the Drug-Free Workplace Act of 1988. The Law further requires that all *individual* contractors and grant recipients, regardless of dollar amount/value of the contract or grant, comply with the Law.

Certification that this requirement is being met must be done in the following manner:

By publishing a statement informing all covered employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the covered workplace, and what actions will be taken against employees in the event of violations of such statement.

By providing **ALL** covered employees with a copy of the above-described statement, including the information that as a condition of employment on the Federal contract or grant, the employee must abide by the terms and conditions of the policy statement.

For Federal contractors this encompasses employees involved in the performance of the contract. For Federal grantees all employees must come under this requirement as the act includes all "direct charge" employees (those whose services are directly & explicitly paid for by grant funds), and "indirect charge" employees (members of grantee's organization who perform support or overhead functions related to the grant and for which the Federal Government pays its share of expenses under the grant program).

Among "indirect charge" employees, those whose impact or involvement is insignificant to the performance of the grant are exempted from coverage. Any other person, who is on the grantee's payroll and works in any activity under the

grant, even if not paid from grant funds, is also considered to be an employee. Temporary personnel and consultants who are on the grantee's payroll are covered. Similar workers, who are not on the grantee's payroll, but on the payroll of contractors working for the grantee, are not covered even if physical place of employment is in the grantee's workplace.

By establishing a continuing, drug-free awareness program to inform employees of the dangers of drug abuse; the company's drug-free workplace policy; the penalties for drug abuse violations occurring in the workplace; the availability of any drug counseling, rehabilitation, and/or employee assistance plans offered through the employer.

By requiring each employee directly involved in the work of the contract or grant to notify the employer of any criminal drug statute conviction for a violation occurring in the workplace not less than five (5) calendar days after such conviction.

By notifying the Federal agency with which the employer has the contract or grant of any such conviction within ten (10) days after being notified by an employee or any other person with knowledge of a conviction.

By requiring the imposition of sanctions or remedial measures, including termination, for an employee convicted of a drug abuse violation in the workplace. These sanctions may be participation in a drug rehabilitation program if so stated in the company policy.

By continuing to make a "good-faith" effort to comply with all of the requirements as set forth in the Drug-Free Workplace Act.

All employers covered by the law are subject to suspension of payments, termination of the contract or grant, suspension or debarment if the head of the contracting or granting organization determines that the employer has made any type of false certification to the contracting or grant office, has not fulfilled the requirements of the law, or has excessive drug violation convictions in the workplace. Penalties may also be imposed upon those employing a number of individuals convicted of criminal drug offenses as this demonstrates a lack of good faith effort to provide a drug-free workplace. The contract or grant officer may determine the number on a case-by-case basis. Employers who are debarred are ineligible for other Federal contracts or grants for up to five (5) years. Compliance may be audited by the Federal agency administering the contract or grant.

The Drug-free Workplace Act does not require employers to establish an employee assistance program (EAP) or to implement drug testing as a part of the program.

**RFP C-9-0589
ATTACHMENT C**

Source: Federal Registers April 11, 1988 & May 25, 1990 & the Federal Acquisition Streamlining Act of 1994 (FASA).

SECTION V
SCOPE OF WORK

SCOPE OF WORK
CONSULTANT SERVICES
FOR
DESIGN AND CONSTRUCTION SUPPORT SERVICES
OF
MISCELLANEOUS FACILITY MODIFICATION PROJECTS

1.0 PROJECT BACKGROUND

The Orange County Transportation Authority (AUTHORITY), acting on behalf of the Orange County Transit District (DISTRICT), owns five maintenance and operations facilities, one each in the cities of Anaheim, Garden Grove, Santa Ana, and two in the City of Irvine. Additionally, the DISTRICT owns various transportation centers and park-and-ride facilities throughout Orange County. The AUTHORITY may require architectural/engineering and construction support services at any DISTRICT owned facility or any of the twelve (12) Metrolink stations located in Orange County.

The AUTHORITY is requesting proposals from Consultants for design and construction support services for miscellaneous facility modifications projects at OCTA facilities. The selected firm (CONSULTANT) shall design miscellaneous facility modifications and provide construction support services on an as-needed basis by the AUTHORITY with no guaranteed level of usage.

The projects will be completed in three phases:

1. Design Phase
2. Bidding and Award of Contract Phase
3. Construction Monitoring Phase

2.0 CONSULTANT SERVICES:

2.1 General:

2.1.1 The CONSULTANT's design services shall include, but not be limited to architectural, civil, structural, mechanical, and electrical services for the preparation of plans, specifications, cost estimates, and construction-related support services as hereinafter described.

- 2.12 The CONSULTANT shall coordinate work and obtain approval from various agencies having jurisdiction over the work. CONSULTANT shall assist the AUTHORITY's Project Manager in filing the required documents for obtaining approval from governmental authorities. CONSULTANT shall provide technical support to prepare exhibits, submittals, or other information needed to ensure the ability of AUTHORITY to secure all required agency permits and approvals.
- 2.1.3 Cost Control, including, but not limited to, cost estimates shall be provided by the CONSULTANT throughout all phases of the work.
- 2.1.4 Construction planning shall be provided by the CONSULTANT throughout all phases of the work. The CONSULTANT shall develop a detailed construction plan which will ensure that all construction activities will be carried out by the construction contractor that will allow the AUTHORITY's on-going maintenance and operations activities to continue without interruption.
- 2.1.5 CONSULTANT shall prepare, circulate, file correspondence, and memos as appropriate.
- 2.1.6 Maintain all project files in accordance with acceptable current procedures and standards.
- 2.1.7 In case of conflict, ambiguities, discrepancies, errors or omissions among any of the items of work by the CONSULTANT, the CONSULTANT shall submit the matter to the AUTHORITY for clarification. Any work affected by such conflict, ambiguities, discrepancies, errors or omissions which is performed by the CONSULTANT prior to clarification by AUTHORITY shall be at CONSULTANT's risk. Such conflict, ambiguities, discrepancies, errors or omissions among the references shall not give rise to a claim by the CONSULTANT for extra work unless CONSULTANT can demonstrate that it has incurred additional expenses as a result thereof.
- 2.1.8 A copy of the AUTHORITY's drawing sheet title block information will be furnished by the AUTHORITY upon contract execution
- 2.1.9 CONSULTANT shall comply with all Federal, State, and local laws, ordinances, and regulations applicable to the work. CONSULTANT shall procure all insurance, licenses, permits, etc., necessary for the fulfillment of its obligation under this Contract.
- 2.1.10 The size of the PROJECT and the type and quality of construction are dependent upon the funds available for the project. CONSULTANT shall exercise his best professional judgment in determining the balance between the size of PROJECT, the type of construction, and the quality of construction to

achieve a satisfactory solution within the limitation of AUTHORITY's budget for the construction of the project.

3.0 DESIGN PHASE

- 3.1.1 CONSULTANT shall review with the AUTHORITY's Project Manager the requirements of the PROJECT. The CONSULTANT shall also review all relevant data, criteria, and other information furnished by the Project Manager and make recommendations as considered necessary. CONSULTANT shall be required to provide audits, studies, evaluations, reports, tests, or calculations as required by each individual project.
- 3.1.2 Schematic Design - The CONSULTANT shall prepare schematic preliminary design drawings, and cost estimates for review and approval by AUTHORITY'S Project Manager prior to commencing with the final design. CONSULTANT shall visit the site and verify all dimensions, space limitations, and elevations as required to complete the design work. CONSULTANT shall review AUTHORITY'S Record Drawing for the facility, and incorporate changes from site verification before proceeding with the schematic design.
- 3.1.3 On approval of the schematic design, CONSULTANT shall prepare and submit construction documents for review and approval by the AUTHORITY's Project Manager and the regulatory agency(s). The CONSULTANT shall prepare final and complete drawings, technical specifications, and cost estimates setting forth in detail the requirements for the construction of the PROJECT, consistent with current professional standards as is necessary to obtain approval of project by the agency having jurisdiction over the work, and for the construction of the project. The CONSULTANT shall perform all services in conformance and in compliance with the latest editions of the applicable design standards and codes. The final working drawings shall be prepared using the AutoCAD 2008 or earlier, in accordance with the AUTHORITY approved industry standards for preparation of AutoCAD drawings. The specifications shall be prepared in CSI format on CD ROM in MS Office Word, 2002 format. Specifications shall be prepared using Arial, 11 point font. The Consultant shall submit bid plans and specification in accordance with the AUTHORITY'S Contracts Administration and Material Management (CAMM) department's bid posting standards.
- 3.1.4 CONSULTANT shall be responsible for the working drawings, specifications, and cost estimate. The cross checks of drawings for accuracy, completeness, correctness, and constructibility is the responsibility of the CONSULTANT. CONSULTANT shall provide a Quality Control and Quality Assurance program to ensure accuracy and quality of design work. The CONSULTANT shall be responsible for the quality control, quality assurance, and completeness of the subconsultant's design work.

- 3.1.5 CONSULTANT shall coordinate and comply with all regulatory agency(s) plan check requirements, and obtain approval of project documents from the appropriate agency having jurisdiction over the work. All certifications and approvals of the construction work required by the regulatory agency is the Consultant's responsibility. CONSULTANT shall obtain and pay for all plan check fees incidental to the work to the appropriate regulatory agency(s). Plan check fees for the original plan check submission and one re-submittal will be reimbursed to the CONSULTANT at actual cost excluding any mark-up, by an amendment to the agreement. All other plan check fees shall be the responsibility of the CONSULTANT.
- 3.1.6 Construction documents (plans, specifications, and cost estimates) shall be submitted to the AUTHORITY's Project Manager at various phases (Schematic, design development, and construction document development phase) of design for OCTA'S review and incorporation of OCTA'S comments before final approval of design. All drawings are to be prepared using AutoCAD 2008 or earlier version using approved industry CAD standards. AutoCAD plot files shall be provide to the Authority with each AutoCAD drawing submission.
- 3.1.7 The CONSULTANT shall provide the original of each document for reproduction and an electronic file in PDF file format for posting on the AUTHORITY'S CAMM website. Upon approval of final submittal package, CONSULTANT shall submit two (2) CD's of electronic files of final drawings in both PDF and AutoCAD DWG format, and one bond copy set of design drawings, a hard copy of the final specifications, and an electronic copy of specification in MS Office Word 2002 format on CD ROM.
- 3.1.8 The CONSULTANT shall provide the original of each specification section for reproduction by the AUTHORITY and an electronic file of all specification sections on CD ROM in MS Office Word, 2002 format. The CONSULTANT shall integrate into the specifications the AUTHORITY's standard Safety specification section.
- 3.1.9 Consultant shall also submit a design schedule to the AUTHORITY for approval within ten (10) working days after execution of the Contract Task Order for the project. The schedule shall indicate a logical sequence for completing the work within the allotted time. Upon approval, this schedule shall be designated the Project Design Schedule, from which contract progress shall be tracked. Periodic updates of the schedule to show progress may be required bi-weekly, but not less than monthly.
- 3.1.10 CONSULTANT shall also provide an estimate of working days for the construction of the project

3.1.11 CONSULTANT shall meet with and discuss design at each phase (Schematic, design development, and construction document development phase) with the Authority's Staff before proceeding with the next phase of work

3.2 BIDDING AND AWARD OF CONTRACT PHASE

3.2.1 The CONSULTANT shall revise all originals of construction drawings to include changes incorporated in all addenda issued during the bidding phase prior to the award of the construction contract.

3.2.2 The CONSULTANT may be requested to assist the AUTHORITY in reviewing bids submitted by the date and time specified in the Invitation for Bids documents.

3.2.3 AUTHORITY shall provide all procurement documents and handle the procurement for the General Contractor (CONTRACTOR). AUTHORITY shall provide bidding forms, the general provisions of the contract, and the Agreement between AUTHORITY and CONTRACTOR.

3.2.4 CONSULTANT shall assist the AUTHORITY in answering questions regarding the plans and specifications during the Bidding Phase, and reviewing and evaluating requests for approved equals to the bid documents.

3.3 CONSTRUCTION PHASE

3.3.1 The Construction Phase will commence with the award of the construction contract, and will terminate when "As-Built" drawings have been completed and submitted to AUTHORITY by the CONSULTANT, and the AUTHORITY has made the final payment.

3.3.2 The CONTRACTOR will be responsible for obtaining all appropriate construction permits for governmental authorities having jurisdiction over the project. The CONSULTANT shall immediately, at his expense, make all necessary changes in the plans or specifications as required by governmental agencies in order for the CONTRACTOR to obtain the necessary permits. CONTRACTOR shall be responsible for obtaining all appropriate permits.

3.3.3 CONSULTANT shall conduct inspections of the project site to determine dates of substantial completion and final completion. CONSULTANT shall generate a list of items to be completed by the CONTRACTOR at substantial completion inspection, and distribute it to the AUTHORITY's Project Manager and the CONTRACTOR. CONSULTANT shall also review written guarantees, and project close out documents assembled by CONTRACTOR and shall recommend to the AUTHORITY the issuance of the final certificate for payment.

- 3.3.4 CONSULTANT shall make periodic site visits, not less than monthly, to the PROJECT site to familiarize himself generally with the progress and the quality of the work, and to determine in general if the work is proceeding in accordance with the contract documents. On the basis of his on-site observations, the CONSULTANT shall guard the AUTHORITY against defects and deficiencies in the work of the CONTRACTOR.
- 3.3.5 CONSULTANT shall review and approve in a timely manner all shop drawings, samples, and other submittals for conformance with the design concept of the work, and for compliance with the information given in the Contract documents. The CONSULTANT shall review and respond to the Contractor's Request for Information (RFI) pertaining to the work within five (5) working days.
- 3.3.6 The CONSULTANT shall assist the AUTHORITY'S Project Manager in preparation of Contract Change Orders (CCO's) for any approved changes to the work, and shall prepare sketches and cost estimates related thereto. The sole authority for the approval of Contract Change Orders rests with the AUTHORITY.
- 3.3.7 The CONSULTANT shall recommend to the AUTHORITY'S Project Manager the rejection of work, which does not conform to the contract documents. Whenever in the CONSULTANT's reasonable opinion, the CONSULTANT considers it necessary or advisable to insure the proper implementation of the intent of the contract documents, CONSULTANT will have authority to recommend to the AUTHORITY's Project Manager such special inspection or testing of any work in accordance with the provisions of the contract documents whether or not such work be fabricated, installed, or completed.
- 3.3.8 The CONSULTANT shall not be responsible for the acts or omissions of the CONTRACTOR, or the sub-contractors, or any of the contractor's agents or employees, or any other persons performing the work.
- 3.3.9 The CONSULTANT will be responsible for the preparation of "As-Built" drawings. The "As-Built" information shall be assembled and placed on the original drawings by CONSULTANT as the final revision to the drawings. CONSULTANT shall submit to the AUTHORITY one set of complete "As-Built" drawing files on CD-ROM in both DWG and PDF formats, and one set of drawings on Mylar prior to release of final payment. CONSULTANT shall also submit project related approved calculations (structural, electrical, lighting, energy, etc.), studies, or audits to the AUTHORITY.

3.4 PROFESSIONAL REGISTRATION

CONSULTANT's personnel who are placed in responsible charge of architectural, civil, structural, mechanical, and electrical engineering work shall be Registered Professional Engineers in the State of California to practice in the particular

professional field involved, and shall sign and seal all plans for which each has responsibility.

CONSULTANT shall commence work immediately upon issuance of Contract Task Order (CTO), and shall use diligence in completing the work in the prescribed time.

CONSULTANT shall comply with all Federal, State, local laws, ordinances, codes, and regulations applicable to the work. CONSULTANT shall procure all insurance, licenses, permits, etc., necessary for the fulfillment of its obligations in this scope of work.

SECTION VI

FORMS

PARTY DISCLOSURE FORM

Information Sheet

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

The attached Party Disclosure Form must be completed by applicants for, or persons who are the subject of, any proceeding involving a license, permit, or other entitlement for use pending before the Board of Directors of the Orange County Transportation Authority or any of its affiliated agencies. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are an applicant for, or the subject of, any proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date your application is filed or the proceeding is otherwise initiated, and the prohibition ends three months after a final decision is rendered by the Board of Directors. In addition, no board member or alternate may solicit or accept a campaign contribution of more than \$250 from you during this period.
- B. These prohibitions also apply to your agents, and, if you are a closely held corporation, to your majority shareholder as well. These prohibitions also apply to your subcontractor(s), joint venturer(s), and partner(s) in this proceeding. Also included are parent companies and subsidiary companies directed and controlled by you, and political action committees directed and controlled by you.
- C. You must file the attached disclosure form and disclose whether you or your agent(s) have in the aggregate contributed more than \$250 to any board member or his or her alternate during the 12-month period preceding the filing of the application or the initiation of the proceeding.
- D. If you or your agent have in the aggregate contributed more than \$250 to any individual board member or his/or her alternate during the 12 months preceding the decision on the application or proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the board member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a party in the proceeding. The Party Disclosure Form should be completed and filed with your proposal, or with the first written document, you file or submit after the proceeding commences.

1. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use, all contracts (other than competitively bid, labor or personal employment contracts), and all franchises.
2. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit or other entitlement for use. If an individual acting as an agent is also acting in his or her capacity as an employee or member of a law, architectural, engineering, consulting firm, or similar business entity, both the business entity and the individual are "agents."
3. To determine whether a campaign contribution of more than \$250 has been made by you, campaign contributions made by you within the preceding 12 months must be aggregated with those made by your agent within the preceding 12 months or the period of the agency, whichever is shorter. Contributions made by your majority shareholder (if a closely held corporation), your subcontractor(s), your joint venturer(s), and your partner(s) in this proceeding must also be included as part of the aggregation. Campaign contributions made to different directors or their alternates are not aggregated.
4. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 of the Political Reform Act and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

To be completed only if campaign contributions have been made in the preceding 12 months.

Prime Firm's Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding
Title and Number: _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Peter Buffa, Chair

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

PARTICIPANT DISCLOSURE FORM

Information Sheet

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

The attached Participant Disclosure Form must be completed by participants in a proceeding involving a license, permit, or other entitlement for use. (Please see next page for definitions of these terms.)

IMPORTANT NOTICE

Basic Provisions of Government Code Section 84308

- A. If you are a participant in a proceeding involving a license, permit, or other entitlement for use, you are prohibited from making a campaign contribution of more than \$250 to any board member or his or her alternate. This prohibition begins on the date you begin to actively support or oppose an application for license, permit, or other entitlement for use pending before the Orange County Transportation Authority or any of its affiliated agencies, and continues until three months after a final decision is rendered on the application or proceeding by the Board of Directors.

No board member or alternate may solicit or accept a campaign contribution of more than \$250 from you and/or your agency during this period if the board member or alternate knows or has reason to know that you are a participant.

- B. The attached disclosure form must be filed if you or your agent has contributed more than \$250 to any board member or alternate for the Orange County Transportation Authority or any of its affiliated agencies during the 12-month period preceding the beginning of your active support or opposition. (The disclosure form will assist the board members in complying with the law.)
- C. If you or your agent have made a contribution of more than \$250 to any board member or alternate during the 12 months preceding the decision in the proceeding, that board member or alternate must disqualify himself or herself from the decision. However, disqualification is not required if the member or alternate returns the campaign contribution within 30 days from the time the director knows, or should have known, about both the contribution and the fact that you are a participant in the proceeding.

The Participant Disclosure Form should be completed and filed with the proposal submitted by a party, or should be completed and filed the first time that you lobby in person, testify in person before, or otherwise directly act to influence the vote of the board members of the Orange County Transportation Authority or any of its affiliated agencies.

1. An individual or entity is a "participant" in a proceeding involving an application for a license, permit or other entitlement for use if:
 - a. The individual or entity is not an actual party to the proceeding, but does have a significant financial interest in the Orange County Transportation Authority's or one of its affiliated agencies' decision in the proceeding.

AND

- b. The individual or entity, directly or through an agent, does any of the following:
 - (1) Communicates directly, either in person or in writing, with a board member or alternate of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing the member's vote on the proposal;
 - (2) Communicates with an employee of the Orange County Transportation Authority or any of its affiliated agencies for the purpose of influencing a member's vote on the proposal; or
 - (3) Testifies or makes an oral statement before the Board of Directors of the Orange County Transportation Authority or any of its affiliated agencies.
2. A proceeding involving "a license, permit, or other entitlement for use" includes all business, professional, trade and land use licenses and permits, and all other entitlements for use, including all entitlements for land use; all contracts (other than competitively bid, labor, or personal employment contracts) and all franchises.
3. Your "agent" is someone who represents you in connection with a proceeding involving a license, permit, or other entitlement for use. If an agent acting as an employee or member of a law, architectural, engineering, or consulting firm, or a similar business entity or corporation, both the business entity or corporation and the individual are agents.
4. To determine whether a campaign contribution of more than \$250 has been made by a participant or his or her agent, contributions made by the

participant within the preceding 12 months shall be aggregated with those made by the agent within the preceding 12 months or the period of the agency, whichever is shorter. Campaign contributions made to different members or alternates are not aggregated.

5. A list of the members and alternates of the Board of Directors is attached.

This notice summarizes the major requirements of Government Code Section 84308 and 2 Cal. Adm. Code Sections 18438-18438.8.

ORANGE COUNTY TRANSPORTATION AUTHORITY
AND ITS AFFILIATED AGENCIES

To be completed only if campaign contributions have been made in the preceding 12 months.

Prime's Firm Name: _____

Party's Name: _____

Party's Address: _____

Street

City

State

Zip

Phone

Application or Proceeding
Title and Number: _____

Board Member(s) or Alternate(s) to whom you and/or your agent made campaign contributions and dates of contribution(s) in the preceding 12 months:

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Name of Member: _____

Name of Contributor (if other than Party): _____

Date(s): _____

Amount(s): _____

Date: _____

Signature of Party and/or Agent

**ORANGE COUNTY TRANSPORTATION AUTHORITY
AND AFFILIATED AGENCIES**

Board of Directors

Peter Buffa, Chair

Jerry Amante, Vice Chairman

Patricia Bates, Director

Art Brown, Director

Bill Campbell, Director

Carolyn V. Cavecche, Director

William J. Dalton, Director

Richard Dixon, Director

Paul G. Glaab, Director

Cathy Green, Director

Allan Mansoor, Director

John Moorlach, Director

Janet Nguyen, Director

Chris Norby, Director

Curt Pringle, Director

Miguel Pulido, Director

Gregory T. Winterbottom, Director

STATUS OF PAST AND PRESENT CONTRACTS

On the form provided below, Offeror shall list the status of past and present contracts where the firm has either provided services as a prime contractor or a subcontractor during the past five (5) years in which the contract has ended or will end in a termination, settlement or in legal action. A separate form must be completed for each contract. Offeror shall provide an accurate contact name and telephone number for each contract and indicate the term of the contract and the original contract value.

If the contract was terminated, list the reason for termination. Offeror must also identify and state the status of any litigation, claims or settlement agreements related to any of the identified contracts. Each form must be signed by an officer of the Offeror confirming that the information provided is true and accurate.

Project city/agency/other:	
Contact name:	Phone:
Project award date:	Original Contract Value:
Term of Contract:	
1) Status of contract:	
2) Identify claims/litigation or settlements associated with the contract:	

By signing this Exhibit "Status of Past and Present Contracts," I am affirming that all of the information provided is true and accurate.

Name _____ Date _____
Title _____

CERTIFICATION OF LOWER-TIER PARTICIPANTS
REGARDING
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY
EXCLUSION

The _____
Firm name/principal

certifies, by submission of this bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

If unable to certify to any of the statements in this certification, such participant shall attach an explanation to this bid.

The _____
Firm name/principal

CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

**CERTIFICATION OF
RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on behalf (name of offeror) of
_____ that:
(Firm name)

2. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit the attached Standard Form-LLL, "Disclosure of Lobbying Activities", in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 200_

By _____
(Signature of authorized official)

(Title of authorized official)

Approved by
OMB
003480045

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material changes For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Entity (if individual, last name, first name, MI)	b. Individuals Performing Services (including address if different from No 10a) (last name, first name, MI):	
(attach Continuation Sheet(s) SF - LLL - A if necessary)		
11. Amount of Payment (check all that apply): \$ _____ <input type="checkbox"/> actual <input type="checkbox"/> planned	13. Type of Payment (check all that apply): <input type="checkbox"/> a. retainer <input type="checkbox"/> b. one-time fee <input type="checkbox"/> c. commission <input type="checkbox"/> d. contingent fee <input type="checkbox"/> e. deferred <input type="checkbox"/> f. other specify: _____	
12. Forum of Payment (check all that apply): <input type="checkbox"/> a. cash <input type="checkbox"/> b. in-kind; specify nature: _____ value: _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s) or Member(s) contracted for Payment indicated in Item, 11: (attach Continuation Sheet(s) SF-LLL-A if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: <input type="checkbox"/> Yes <input type="checkbox"/> No		
16. Information requested through this form is authorized by Code 31 U.S.C. Section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.	Signature: _____ Print name: _____ Title: _____ Telephone No: _____ Date: _____	
Federal Use Only		Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

This DISCLOSURE FORMS SHALL BE COMPLETED BY the reporting entity, whether Subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

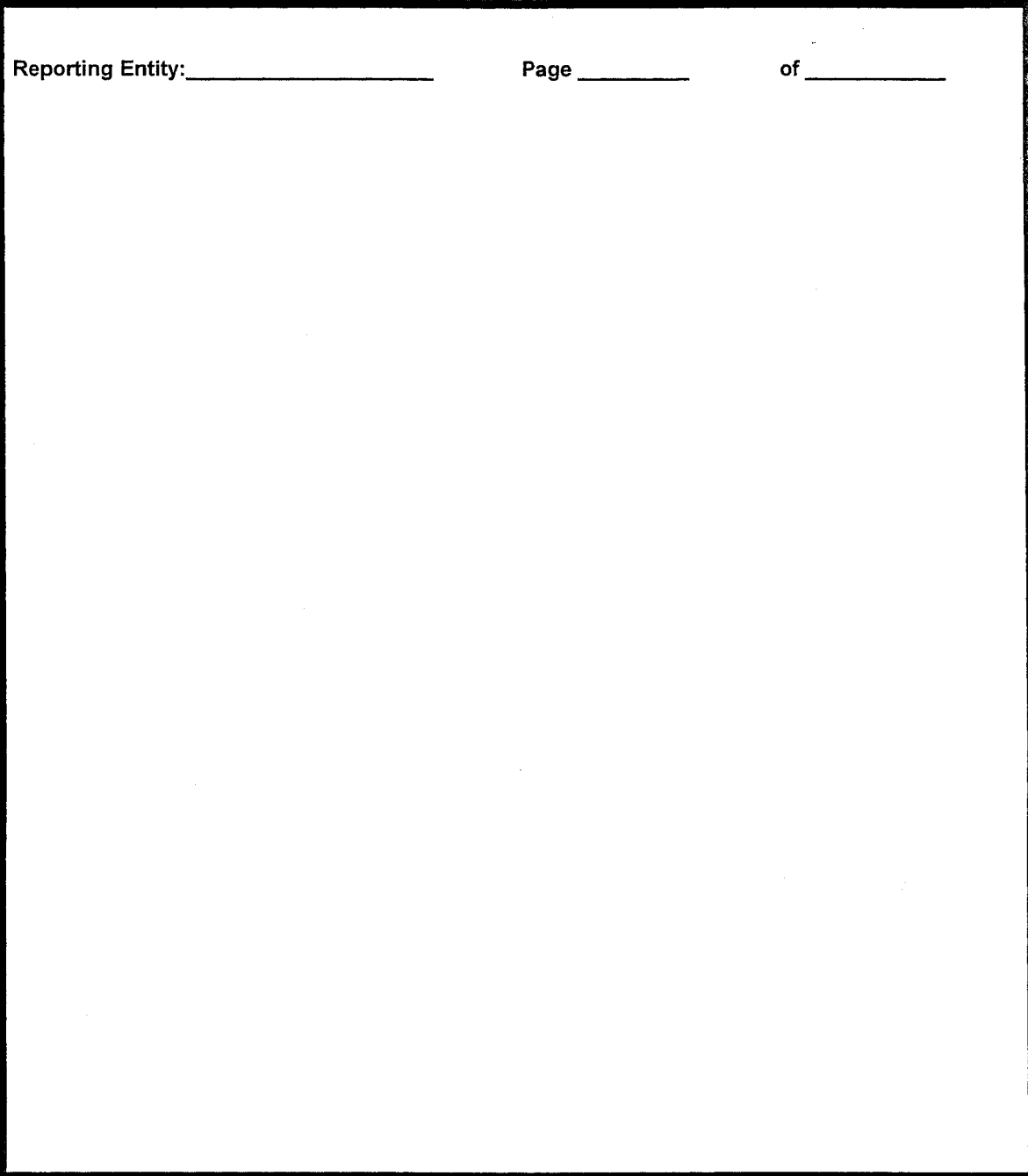
1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address city, state, and zip code of the prime Federal recipient. Include Congressional District.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency, name if known. For example, Department of Transportation, United State Coast Guard.
7. Enter the Federal program name for description of the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g. Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract, grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state, and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a.). Enter Last Name, First Name, and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box (es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box (es). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to the Office of Management and Budget Paperwork Reduction Project (0348-0446), Washington, D.C. 20503.

DISCLOSURE OF LOBBYING ACTIVITIES CONTINUATION SHEET

Reporting Entity: _____ Page _____ of _____



CERTIFICATION
LIMITATION ON PAYMENTS TO INFLUENCE CERTAIN
FEDERAL TRANSACTIONS

E. DEFINITIONS

1. Authority, as used in this clause, means the Orange County Transportation Authority, acting on behalf of the Orange County Transit District.
2. Covered Federal action, as used in this clause, means any of the following Federal actions:
 - The awarding of any Federal contract.
 - The making of any Federal grant.
 - The making of any Federal loan.
 - The entering into of any cooperative agreement.
 - The extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
3. Indian tribe and tribal organization, as used in this clause, have the meaning provided in Section 4 of the Indian self-determination and Education Assistance Act (25 U.S.C. 4508) and include Alaskan Natives.
4. Influencing or attempting to influence, as used in this clause, means making, with the intent to influence, any communication to or appearance before an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any covered Federal action.
5. Local government, as used in this clause, means a unit of government in a State and, if chartered, established, or otherwise recognized by a State for the performance of a governmental duty, including a local public AUTHORITY, a special district, an intrastate district, a council of governments, a sponsor group representative organization, and any other instrumentality of a local government.
6. Officer or employee of an agency, as used in this clause, includes the following individuals who are employed by an agency:
 - (1) An individual who is appointed to a position in the Government under title 5, United States code, including a position under a temporary appointment.

- A member of the uniformed services, as defined in the subsection 101(3), Title 37, United States Code.
 - A special Government employee, as defined in Section 202, Title 18, United States Code.
 - An individual who is a member of a Federal advisory committee, as defined by the Federal Advisory Committee Act, Title 5, United States Code, Appendix 2.
7. Person, as used in this clause, means an individual, corporation, company, association, AUTHORITY, firm, partnership, society, State, and local government, regardless of whether such entity is operated for profit, or not for profit. This term excludes an Indian tribe, tribal organization or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 8. Reasonable compensation, as used in this clause, means with respect to a regularly employed officer or employee of any person, compensation that is consistent with the normal compensation for such officer or employee for work that is not furnished to, not funded by, or not furnished in cooperation with the Federal Government.
 9. Reasonable payment, as used in this clause means, with respect to professional and other technical services, a payment in an amount that is consistent with the amount normally paid for such services in the private sector.
 10. Recipient, as used in this clause, includes the Contractor and all subcontractors. This term excludes an Indian tribe, tribal organization, or any other Indian organization with respect to expenditures specifically permitted by other Federal law.
 11. Regularly employed, as used in this clause, means, with respect to an officer or employee of a person requesting or receiving by such person for at least 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person for receipt of such contract. An officer or employee who is employed by such person for less than 130 working days within one year immediately preceding the date of the submission that initiates agency consideration of such person shall be considered to be regularly employed as soon as he or she is employed by such person for 130 working days.

12. State, as used in this clause, means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, a territory or possession of the United States, an agency or instrumentality of a State, and a multi-State regional or interstate entity having governmental duties and powers.

F. PROHIBITIONS

1. Section 1352 of Title 31, United States Code, among other things, prohibits a recipient of a Federal contract, grant, loan or cooperative agreement from using appropriated funds to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract; the making of any Federal grant; the making of any Federal loan; the entering into of any cooperative agreement; or, the modification of any Federal contract, grant, loan, or cooperative agreement.
2. The Act also requires Contractors to furnish a disclosure if any funds other than Federal appropriated funds (including profit or fee received under a covered Federal transaction) have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a Federal contract, grant, loan or cooperative agreement.
3. The prohibitions of the Act do not apply under the following conditions:
 - b. Agency and legislative liaison by own employees.
 - (1) The prohibition on the use of appropriated funds, in subparagraph B.1. of this clause, does not apply in the case of payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action if the payment is for agency and legislative liaison activities not directly related to a covered Federal action.
 - (2) For purposes of paragraph B.3.a.(1) of this clause, providing any information specifically requested by an agency or Congress is permitted at any time.

- (3) The following agency and legislative liaison activities are permitted any time where they are not related to a specific solicitation for any covered Federal action:

Discussing with an agency (including individual demonstrations) the qualities and characteristics of the person's products or services, conditions or terms of sale, and service capabilities.

Technical discussions and other activities regarding the application of adaptation of the person's products or services for an agency's use.

- (4) The following agency and legislative liaison activities are permitted where they are prior to formal solicitation of any covered Federal action:

Providing any information not specifically requested but necessary for an agency to make an informed decision about initiation of a covered Federal action;

Technical discussions regarding the preparation of an unsolicited proposal prior to its official submission; and,

Capability presentations by persons seeking awards from an agency pursuant to the provisions of the Small Business Act, as amended by Public Law 95-507, and subsequent amendments.

- (5) Only those services expressly authorized by paragraph B.3.a.(1) of this clause are permitted under this clause.

c. Professional and technical services

- (1) The prohibition on the use of appropriated funds, in subparagraph B.1. of this clause, does not apply in the case of:

A payment of reasonable compensation made to an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of

covered Federal action, if payment is for professional or technical services rendered directly in the preparation, submission, or negotiation of any bid, proposal, or application for that Federal action or for meeting requirements imposed by or pursuant to law as condition for receiving that Federal action.

Any reasonable payment to a person, other than an officer or employee of a person requesting or receiving a covered Federal action or an extension, continuation, renewal, amendment, or modification of a covered Federal action if the payment is for professional or technical services rendered directly in the preparation, submission or negotiation of any bid, proposal, or application or that Federal action or for meeting requirements imposed by or pursuant to law as a condition for receiving that Federal action. Persons other than officers or employees of a person requesting or receiving a covered Federal action include consultants and trade associations.

- (2) For purposes of paragraph B.3.a.(1) of this clause, professional and technical services shall be limited to advise and analysis directly applying any professional or technical discipline. For example, drafting of a legal document accompanying a bid or proposal is allowable. Similarly, technical advice provided by an engineer on the performance or operational capability of a piece of equipment rendered directly in the negotiation of a contract is allowable. However, communications with the intent to influence made by a professional (such as a licensed lawyer) or a technical person (such as a licensed accountant) are not allowable under this section unless they provide advice and analysis directly applying their professional or technical expertise and unless the advice or analysis is rendered directly and solely in the preparation, submission, or negotiation of a covered Federal action. Thus, for example, communications with the intent to influence made by a lawyer that do not provide legal advice or analysis directly and solely related to the legal aspects of his or her client's proposal, but generally advocate one proposal over another are not allowable under this section because the lawyer is not providing professional legal services. Similarly, communications with the intent to influence made by an

- (3) engineer providing an engineering analysis prior to the preparation or submission of a bid or proposal are not allowable under this section since the engineer is providing technical services but not directly in the preparation, submission, or negotiation of a covered Federal action.
- (4) Requirements imposed by or pursuant to law as a condition for receiving a covered Federal award include those required by law or regulation and any other requirements in the actual award documents.
- (5) Only those services expressly authorized by paragraph B.3.a.(1) and (2) of this clause are permitted under this clause.
- (6) The reporting requirements of FAR 3.803(a) shall not apply with respect to payments of reasonable compensation made to regularly employed officers or employees of a person.

d. Disclosure

- (1) The Contractor who requests or receives from an agency a Federal contract shall file with that agency a disclosure form OMB standard form LLL, Disclosure of Lobbying Activities, (Attachment to the bid package) if such person has made or had agreed to make any payment using non appropriated funds (to include profits from any covered Federal action), which would be prohibited under subparagraph B.1. of this clause, if paid for with appropriated funds.
- (2) The Contractor shall file a disclosure form at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under subparagraph II.A. of this clause. An event that materially affects the accuracy of the information reported includes:

A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or

A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or

A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

- (3) The Contractor shall require the submittal of a certification, and if required, a disclosure form by any person who requests or receives any subcontract exceeding \$100,000 under the Federal contract.
- (4) All subcontractor disclosure forms (but not certifications) shall be forwarded from tier to tier until received by the prime Contractor. The prime Contractor shall submit all disclosures to the District at the end of the calendar quarter in which the disclosure form is submitted by the subcontractor. Each subcontractor certification shall be retained in the subcontract file of the awarding Contractor.

e. Agreement

The Contractor agrees not to make any payment prohibited by this clause.

f. Penalties

- (1) Any person who makes an expenditure prohibited under paragraph a) of this clause or who fails to file or amend the disclosure form to be filed or amended by paragraph d) of this clause shall be subject to civil penalties as provided for by 31 U.S.C. 1352. An imposition of a civil penalty does not prevent the Government from seeking any other remedy that may be applicable.
- (2) Contractors may relay without liability on the representation made by their subcontractors in the certification and disclosure forms.

g. Cost Allowability:

Nothing in this clause is to be interpreted to make allowable or reasonable any costs, which will otherwise be unallowable or unreasonable. Conversely, costs made specifically unallowable by the requirements in this clause will not be made allowable under any other provisions.

RACE-NEUTRAL DBE SOLICITATION PROVISIONS

- a. FOR
- b. DOT-ASSISTED CONSTRUCTION CONTRACTS

I. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION PROVISIONS

A. DBE Policy and Applicability

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Orange County Transportation Authority (Authority) has adopted a Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs".

This DOT-assisted project is subject to these stipulated regulations. In order to ensure that the Authority achieves its overall DBE Program goals and objectives, the Authority encourages the participation of small businesses, including DBEs as defined in 49 CFR 26, in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these Regulations, it is also the policy of the Authority to:

- Fulfill the spirit and intent of the Federal DBE Program regulations published under U.S. DOT Title 49 CFR, Part 26, by ensuring that DBEs have equitable access to participate in all of Authority's DOT-assisted contracting opportunities.
- Ensure that DBEs can fairly compete for and perform on all DOT-assisted contracts and subcontracts.
- Ensure non-discrimination in the award and administration of Authority's DOT-assisted contracts.
- Create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- Ensure that only firms that fully meet 49 CFR, Part 26 eligibility standards are permitted to participate as DBEs.
- Help remove barriers to the participation of DBEs in DOT-assisted contracts.
- Assist in the development of firms that can compete successfully in the marketplace outside the DBE Program.

Bidders shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the Regulations, shall have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations shall prevail.

B. Authority's New Race-Neutral DBE Policy Implementation Directives

Pursuant to recently released Race-Neutral DBE policy directives issued by the U.S. DOT in response to the Ninth Circuit U.S. Court of Appeals decision in *Western States Paving Co. v. Washington State Department of Transportation*, **the Authority has implemented a wholly Race-Neutral DBE Program.**

A Race-Neutral DBE Program is one that, while benefiting DBEs, is not solely focused on DBE firms. A Race-Neutral Program utilizes measures that can assist a wide variety of small businesses including DBEs, such as arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime Contractors to subcontract portions of work that they might, otherwise, perform with their own forces). However, under a Race-Neutral DBE Program, the Authority may no longer advertise DOT-assisted contracts containing numeric race-conscious goals or require a Bidder to utilize DBEs as a condition of award. Race-neutral DBE participation includes any time a DBE obtains a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE goal.

C. Definitions

The following definitions apply to the terms as used in these provisions:

- i. ***"Disadvantaged Business Enterprise (DBE)"*** means a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- ii. ***"Small Business Concern"*** means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto, except that a small business concern shall not include any

concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has annual average gross receipts in excess of \$19.57 million over the previous three fiscal years.

- iii. **"Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Asian-Indian Americans, women and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act, or by the Authority pursuant to 49 CFR part 26.65. Members of the following groups are presumed to be socially and economically disadvantaged:
- a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas;
 - e. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh; and
 - f. Women, regardless of ethnicity or race.
- iv. **"Owned and Controlled"** means a business: (a) which is at least 51 percent owned by one or more "Socially and Economically Disadvantaged Individuals" or, in the case of a publicly-owned business, at least 51 percent of the stock of which is owned by one or more "Socially and Economically Disadvantaged Individuals"; and (b) whose management and daily business operations are controlled by one or more such individuals.
- v. **"Manufacturer"** means a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

- vi. **"Regular Dealer"** means a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business. The firm must engage in, as its principal business, and in its own name, the purchase and sale of the product in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock if it owns or operates distribution equipment.
- vii. **"Other Socially and Economically Disadvantaged Individuals"** means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who, on a case-by-case basis, are determined by Small Business Administration or the Authority to meet the social and economic disadvantage criteria described below.
- a. Social Disadvantage
- 1) The individual's social disadvantage must stem from his/her color, national origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause beyond the individual's control.
 - 2) The individual must demonstrate that he/she has personally suffered social disadvantage.
 - 3) The individual's social disadvantage must be rooted in treatment, which he/she has experienced in American society, not in other countries.
 - 4) The individual's social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant.
 - 5) The individual's social disadvantage must have negatively affected his/her entry into and/or advancement in the business world.
 - 6) A determination of social disadvantage must be made before proceeding to make a determination of economic disadvantage.
- b. Economic Disadvantage
- 1) The individual's ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities, as compared to others in the same line of business and competitive market area that are not socially disadvantaged.

- 2) The following criteria will be considered when determining the degree of diminished credit and capital opportunities of a person claiming social and economic disadvantage:

With respect to the individual:

- availability of financing
- bonding capability
- availability of outside equity capital
- available markets

With respect to the individual and the business concern:

- personal and business assets
- personal and business net worth
- personal and business income and profits

D. DBE Bid Submission Requirements

1. "DBE Race-Neutral Participation Listing" (Exhibit H-2)

If the Bidder is a DBE or intends to utilize DBE subcontractors and/or purchase goods or services from DBE vendors or DBE suppliers in the performance of this contract, the Bidder shall provide the following information for every DBE firm who will be proposed and/or listed to participate to facilitate capturing race-neutral DBE participation under this contract:

- a. The complete name and address of each DBE who will participate in the contract;
- b. A description of the work that each DBE will perform or provide;
- c. The dollar amount of the work to be performed or provided by the DBE;
- d. Valid DBE Certification eligibility status, in conformance with 49 CFR, Part 26;
- e. The Bidder shall also submit, for each DBE to perform under this contract, a written confirmation from the DBE acknowledging that it is participating in the contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

The "DBE Race-Neutral Participation Listing" information must be submitted on Exhibit H-2, in a sealed envelope, and should be included with the bid submittal; however, in the event that the referenced Exhibit is not included, the Exhibit shall be submitted to the Authority no later than 48 hours following bid opening for the Bidder to be deemed responsive.

In the event that the Bidder is not a DBE and/or does not intend to utilize DBEs in the performance of this contract, the Bidder shall indicate "None" under the column entitled "DBE Firm Name" of the "DBE Race-Neutral Participation Listing" (Exhibit H-2) and submit accordingly.

The “DBE Race-Neutral Participation Listing” form content will not be considered in evaluating the bid or determining award of any contract.

2. “Bidders List” (Exhibit H-3)

The U.S. Department of Transportation (DOT) requires the Authority to create and maintain a “Bidders List” containing information about all firms (DBE and non-DBE) that bid, propose or quote on the Authority’s DOT-assisted contracts, in accordance with 49 CFR Part 26.11, for use in the Authority’s overall annual DBE goal-setting process. Therefore, the Bidder shall provide the requested information for every firm who submitted a bid, proposal or quote, including the primary Bidder, whether successful or unsuccessful in their attempt to obtain a contract:

- a. Firm name;
- b. Firm address;
- c. Firm’s status as a DBE or non-DBE;
- d. Age of the firm;
- e. Type of services provided by the firm; and
- f. Range of annual gross receipts for the last year.

The “Bidders List” information must be submitted on **Exhibit H-3** and should be included with the bid submittal; however, in the event that the referenced Exhibit is not included, the Exhibit shall be submitted to the Authority no later than 48 hours following bid opening for the Bidder to be deemed responsive.

The “Bidders List” content will not be considered in evaluating the bid or determining award of any contract.

E. DBE Certification

The Authority requires all DBEs listed by Bidder for participation to be certified as eligible DBEs at the time of bid submission. Only participation by DBEs certified under the DOT regulations published under 49 CFR Part 26 may be credited towards race-neutral DBE participation. It is the responsibility of the Bidder to verify the DBE certification status of all listed DBEs.

The Authority is a Certifying Member Agency of the California Unified Certification Program (UCP). The Authority will accept DBE certification from other certifying member agencies of the UCP, which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81. A listing of California UCP certifying member agencies is available from the UCP website, which can be accessed at <http://www.californiaucp.com>.

F. DBE Eligibility and Commercially Useful Function Standards

- i. A DBE must be a small business concern as defined pursuant to Section 3 of the U.S. Small Business Act and relevant regulations promulgated pursuant thereto.
- ii. A DBE may participate as a prime contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies, or as a trucking company.
- iii. A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- iv. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55 (i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work). A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume it is performing a commercially useful function.
- v. DBEs must be certified by the California Unified Certification Program (CUCP). Listings of DBEs certified by the CUCP are available from the following sources:
 - a. The CUCP web site, which can be accessed at <http://www.californiaucp.com>; or the Caltrans "Civil Rights" web site at <http://www.dot.ca.gov/hq/bep>.
 - b. The CUCP DBE Directory, which may be obtained from the Department of Transportation, Material Operations Branch, Publication Distribution Unit, 1900 Royal Oaks Drive, Sacramento, California 95815; Telephone: (916) 445-3520.

G. DBE Crediting Provisions

- i. When a DBE is proposed to participate in the contract, either as a prime Contractor or Subcontractor, only the value of the work proposed to be performed by the DBE with its own forces may be counted towards race-neutral DBE participation. If the Contractor is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted.
- ii. If a DBE intends to subcontract part of the work of its subcontract to a lower tier Subcontractor, the value of the subcontracted work may be counted

toward race-neutral DBE participation only if the DBE Subcontractor is a certified DBE and actually performs the work with their own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Contractor's race-neutral DBE attainment.

- iii. Contractor is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward race-neutral DBE attainment, as follows:
 - a. Sixty percent (60%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a regular dealer; or
 - b. One hundred percent (100%) of expenditure(s) for equipment, materials and supplies required under the Contract, obtained from a DBE manufacturer.
- iv. The following types of fees or commissions paid to DBE Subcontractors, Brokers, and Packagers may be credited toward the prime Contractor's race-neutral DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
 - a. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
 - b. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 - c. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.
- v. Contractor may count the participation of DBE trucking companies toward race-neutral DBE attainment, as follows:
 - a. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract.
 - b. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.

- c. The DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.
 - d. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
 - e. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 - f. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- vi. If the Contractor listed a non-certified DBE 1st tier Subcontractor to perform work on this contract, and the non-certified DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower tier DBE certified Subcontractor or Vendor, the value of work performed by the lower tier DBE firm's own forces can be counted toward race-neutral DBE participation on the contract.

H. DBE "Frauds" and "Fronts"

Only legitimate DBEs are eligible to participate as DBEs in DOT-assisted contracts. Therefore, Bidders are hereby cautioned against knowingly and willfully using "fronts". The use of "fronts" and "pass through" subcontracts to non-disadvantaged firms constitute criminal violations. Further, any indication of fraud, waste, abuse or mismanagement of Federal funds should be immediately reported to the Office of Inspector General, U.S. Department of Transportation at the toll-free hotline: (800) 424-9071; or to the following field office: FTA Special Agent-in-Charge, 210 Mission Street, Room 2210, San Francisco, CA 94105-1839; Telephone: (415) 744-3133; Fax: (415) 744-2726.

LIST OF DBE SUBCONTRACTORS (Exhibit H-2)
DBE RACE-NEUTRAL PARTICIPATION LISTING

Bidder/Offeror shall complete and submit **Exhibit H-2: "DBE Race-Neutral Participation Listing"** in a **sealed envelope** with the bid/proposal, but no later than 48 hours following bid opening or proposal due date and timeline. (NOTE: In the event of no race-neutral DBE participation, Bidder/Offeror shall mark "None" under the column entitled "DBE Firm Name".) The Bidder/Offeror shall refer to **IFB Section IV: "DBE Crediting Provisions"** for guidelines relative to DBE participation crediting. (Additional sheets may be duplicated as necessary.)

The DBE information and content provided under Exhibit H-2: "DBE Race-Neutral Participation Listing" will not be considered in evaluating the bid/proposal or determining award of any contract.

DBE Firm Name*:		DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____		
Business Address:		Check Appropriate Box Describing			
Contact Person:		Subcontract or (100%)	Supplier (60%)		
Telephone:	Fax:	Regular Dealer (60%)	Broker		
License No., Classification and Expiration:		Manufacturer (100%)	Trucker		
Subcontract Amount:		Subcontractor/Supplier Activity:			

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

**IFB 9-0589
EXHIBIT H-2**

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____		
Business Address:		Check <input type="checkbox"/> Appropriate <input type="checkbox"/> Box <input type="checkbox"/> Describing		
Contact Person:		Subcontract or (100%)	Supplier (60%)	
Telephone:	Fax:	Regular Dealer (60%)	Broker	
License No., Classification and Expiration:		Manufacturer (100%)	Trucker	
Subcontract Amount:		Subcontractor/Supplier Activity:		

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

DBE Firm Name*:	DBE Certification No. and Expiration Date:	Provide Complete Description of Work to be Performed: _____ _____ _____		
Business Address:		Check <input type="checkbox"/> Appropriate <input type="checkbox"/> Box <input type="checkbox"/> Describing		
Contact Person:		Subcontract or (100%)	Supplier (60%)	
		Regular	Broker	

**IFB 9-0589
EXHIBIT H-2**

Telephone:	Fax:	Subcontractor/Supplier Activity:
License No., Classification and Expiration:		
Subcontract Amount:		

*DBE certification letter must be attached for each listed DBE firm. DBEs must be certified on the date bids/proposals are opened.

Bidder/Offeror:	
Business Address:	
Contact Name:	Title:
Phone: ())	Fax: ())

Total Contract Amount:	\$		
DBE Race-Neutral Participation Value (% of Total Contract Value): <i>(NOTE: Mark "NONE" if no DBEs will be utilized.)</i>	%	DBE Race-Neutral Participation Dollar (\$ Value): <i>(NOTE: Mark "NONE" if no DBEs will be utilized.)</i>	\$

Signature of Authorized Representative	Printed Name
Date	Title

BIDDERS LIST
[FORM H-3]

Bidder/Offeror: _____ **IFB/RFP No.:** _____

The Department of Transportation requires the AUTHORITY to create and maintain a "Bidders List" containing information about all firms (DBE and Non-DBE) that bid, propose or quote on the Authority's DOT-assisted contracts, in accordance with 49 CFR Part 26.11. The "Bidders List" is intended to be a count of all firms that are participating, or attempting to participate, on DOT-assisted contracts, whether successful or unsuccessful in their attempt to obtain a contract.

The Bidder/Offeror is to complete all requested information on *Exhibit H-3: "Bidders List"* for every firm who submitted a bid, proposal or quote, including the primary Bidder/Offeror, and submit this information at the time of bid submission. However, if not elected to do so at the time of bid submission, Bidders/Offerors must submit such information at the request of the Authority within the prescribed timeline set forth in the solicitation. The AUTHORITY will utilize this information to assist in the AUTHORITY's overall annual DBE goal-setting process. ***The "Bidders List" content will not be considered in evaluating the bid/proposal or determining award of any contract.***

h. Prime Bidder's/Offeror's Information:	
Name of Prime's Firm:	i. Phone: ()
j. Firm Address:	k. Fax: ()
Number of years in business:	Type of work/services/materials provided:
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

**IFB 9-0589
EXHIBIT H-3**

l. Provide the following information for every firm (DBE and non-DBE) that submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract:	
Firm Name:	m. Phone: ()
n. Firm Address:	o. Fax: ()
Number of years in business:	Type of work/services/materials provided:
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

p. Provide the following information for every firm (DBE and non-DBE) that submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract:	
Firm Name:	q. Phone: ()
r. Firm Address:	s. Fax: ()
Number of years in business:	Type of work/services/materials provided:
Contact Person:	Title:
Is the firm currently certified as a DBE under 49 CFR Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:
	<input type="checkbox"/> Less than \$1 million
	<input type="checkbox"/> Less than \$5 million
	<input type="checkbox"/> Less than \$10 million
	<input type="checkbox"/> Less than \$15 million
	<input type="checkbox"/> More than \$15 million

If necessary, this "Bidders List" form can be duplicated to include all firms (DBE and non-DBE) that have submitted a bid, proposal or quote on this DOT-assisted project, whether successful or unsuccessful in their attempt to obtain a contract.

Failure of the Bidder/Offeror to submit the required "Bidders List" form will deem the Bidder/Offeror non-responsive.

10



BOARD COMMITTEE TRANSMITTAL

August 10, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: Excess Workers' Compensation Insurance Policy

Finance and Administration Committee Meeting of July 22, 2009

Present: Directors Amante, Brown, Buffa, Campbell, Green, and Moorlach
Absent: Director Bates

Committee Vote


This item was passed by all Committee Members present.

Committee Recommendation

Authorize the Chief Executive Officer to execute Purchase Order No. A14027 for the renewal of the Excess Workers' Compensation Insurance Policy at the current guaranteed rate of \$0.4300 at statutory limits with a \$500,000 self-insured retention or less, for an annual premium not to exceed \$500,000, for the policy period of October 1, 2009 through October 1, 2010.



July 22, 2009

To: Finance and Administration Committee
From: James S. Kenan, Interim Chief Executive Officer 
Subject: Excess Workers' Compensation Insurance Policy

Overview

The Orange County Transportation Authority's Excess Workers' Compensation Insurance Policy will expire on October 1, 2009. Although the California Workers' Compensation Rating Bureau recommends a 27 percent increase, this policy can be renewed at current rates.

Recommendation

Authorize the Chief Executive Officer to execute Purchase Order No. A14027 for the renewal of the Excess Workers' Compensation Insurance Policy at the current guaranteed rate of \$0.4300 at statutory limits with a \$500,000 self-insured retention or less, for an annual premium not to exceed \$500,000, for the policy period of October 1, 2009 through October 1, 2010.

Discussion

The Orange County Transportation Authority purchases excess workers' compensation insurance to provide coverage for major losses above the self-insured retention (SIR) level. OCTA and other California employers experienced exponential increases in workers' compensation costs during the years before the 2004 legislative reform. Due to the cost of workers' compensation claims in California, many insurance companies left the state and those that remained significantly increased their premiums to recoup losses that exceeded revenues collected in prior years. As a result, OCTA was subject to increased costs of insurance and needed to increase the SIR to avoid paying even higher premiums.

OCTA workers' compensation insurance premiums more than doubled from \$122,259 in fiscal year (FY) 2002 to \$334,931 in FY 2003 due to negative claims development. OCTA increased the SIR from \$300,000 to \$500,000 for FY 2004 in an effort to halt further premium increases. OCTA's insurance

premium more than doubled again from \$334,931 in FY 2003 to \$770,878 in FY 2004 despite further increasing the SIR from \$500,000 to \$1,000,000. In FY 2005, OCTA was able to reduce the SIR level from \$1,000,000 to \$750,000 without an increase in its excess workers' compensation premium rate and OCTA was again able to reduce the SIR to \$500,000 in FY 2008 at a flat renewal premium rate. OCTA was able to reduce its SIR exposure in half from fiscal years 2005 to 2008 because the loss experience improved significantly and the insurer was confident that OCTA's loss prevention and claims management programs would continue to reduce the loss exposure.

OCTA's loss prevention initiatives reduced new injury claims from 336 in FY 2004 to 154 for FY 2009, representing a total reduction of more than 54 percent since 2004. In addition, effective claims management oversight contributed to a reduction in claims pay out from \$6,678,372 in FY 2004 to \$3,462,107 for FY 2009, resulting in a total decrease of more than 48 percent since 2004.

As part of OCTA's self-insured program, OCTA is required to set aside monies in reserve to fund losses for work-related injuries. The funds in reserve that are set aside by OCTA to meet costs of claims incurred are regarded as an indicator of the degree of a claim's severity and are used by insurers when calculating insurance premiums. Generally, the higher the amount in reserves, the greater the future exposure for increased claim payouts, which cause insurers to charge higher premiums. Fortunately, OCTA's reserves have been reduced from \$10,106,679 in FY 2004 to the current amount of \$7,253,271 for FY 2009, resulting in a total reduction of more than 28 percent since 2004. These favorable results have placed OCTA in a better position to reduce the excess workers' compensation SIR and to further reduce workers' compensation insurance premiums.

The Excess Workers' Compensation Insurance Policy from October 1, 2007 through October 1, 2008, with ACE American Insurance Company (ACE) had an aggregate SIR of \$750,000 per claim or occurrence and coverage to statutory limits with a rate of \$0.4300 per \$100 of payroll for a premium of \$483,655. As a result of market negotiations, ACE agreed to guarantee this rate for two years provided that OCTA's loss experience continued to trend favorably, no new business ventures would be acquired, and OCTA would not market this coverage with other insurance competitors. As directed by the Finance and Administration Committee, OCTA agreed to these terms.

Although OCTA had already obtained a guaranteed premium rate for the October 1, 2008 through October 1, 2009, policy renewal, staff directed Marsh to approach ACE to discuss the potential of renewing the policy with a reduced

SIR of \$500,000 for the same guaranteed rate of \$0.4300. ACE agreed to reduce the SIR from \$750,000 to \$500,000 and again guaranteed this rate for two years, provided that OCTA's loss experience continued to trend favorably, no new business ventures would be acquired, and OCTA would not market this coverage with other insurance competitors. As directed by the Finance and Administration Committee on September 22, 2008, OCTA agreed to these terms as this agreement reduced OCTA's loss exposure by \$250,000 per occurrence with a two-year guarantee. OCTA renewed the policy at the \$0.4300 guaranteed rate at statutory limits with a \$500,000 SIR for an annual premium of \$521,730, based on an estimated payroll of \$121,323,920 for the policy period of October 1, 2008 through October 1, 2009.

On March 17, 2009, the California Workers' Compensation Rating Bureau recommended a 27 percent rate increase which includes 17 percent for higher medical costs and another six percent for the expected increase in permanent disability awards due to the Workers' Compensation Appeals Board's decision in two recent cases. Although this recommendation will affect the primary insurance market, and may affect the excess marketplace, OCTA would not be affected by the recommended rate increase if the Board directs staff to exercise the option of renewing this coverage at the guaranteed rate of \$0.4300 that was agreed upon during last year's renewal. Staff recommends the renewal of this policy at the \$0.4300 guaranteed rate at statutory limits with a \$500,000 SIR or less, for an annual premium not to exceed \$500,000, based on an estimated payroll of \$108,411,543 for the policy period of October 1, 2009 through October 1, 2010.

Fiscal Impact

The project was approved in OCTA's FY 2009-2010 Budget, Human Resources and Organizational Development Division, Risk Management Department Account 0041-7552-A2311-DSG, and is funded through the workers' compensation Internal Service Fund.

Summary

Based on the information provided, staff recommends authorizing the Chief Executive Officer to execute Purchase Order No. A14027 for the renewal of the Excess Workers' Compensation Insurance Policy at the current \$0.4300 guaranteed rate at statutory limits with a \$500,000 SIR or less, for an annual premium not to exceed \$500,000, based on an estimated payroll of \$108,411,543 for the policy period of October 1, 2009 through October 1, 2010.

Attachment

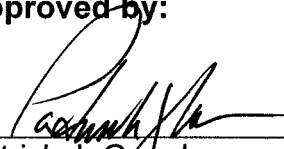
- A. Excess Workers' Compensation Risk Review and Renewal Strategy Plan

Prepared by:

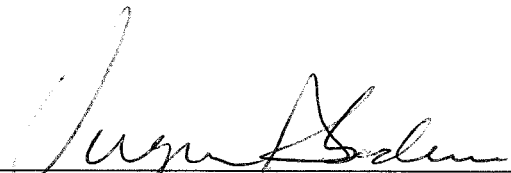


Al Gorski
Department Manager
Risk Management
714-560-5817

Approved by:



Patrick J. Gough
Executive Director, Human Resources
& Organizational Development
714-560-5824



Virginia Abadessa
Director, Contracts Administration and
Materials Management
714-560-5623

Craig Morris
Senior Vice President

MARSH



MARSH MERCER KROLL
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Marsh Risk & Insurance Services
4695 MacArthur Court, Suite 700
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949 399 5872 Fax 949 833 5964
Craig.M.Morris@marsh.com
www.marsh.com

June 10, 2009

Mr. Al Gorski
Chief Risk Officer
Orange County Transportation Authority
550 S. Main Street
P.O. Box 14184
Orange, CA 92863-1584

Subject:

Excess Workers Compensation Risk Review and Renewal Strategy Plan

Dear Al:

Thank you for the time you, Edwin Byrne and Marie Slocum spent with Karen Goodyear and me on Monday, June 1 to outline the goals and objectives for OCTA's October 1, 2009 Excess Workers Compensation renewal. The following summarizes our discussion:

Recap of Risk Identification Review Discussion:

- OCTA is the county's primary transportation agency and continues to provide an efficient and safe transportation system for its residents and visitors. There have been no significant changes in OCTA's method of operation over the past year.
- Workers Compensation claims costs continue to decline as a result of promoting a safer work environment, effecting a positive change in the workers compensation culture at OCTA, cost effectively managing the program, providing the injured workers with efficient and effective medical care and assuring legal compliance with the workers compensation regulations.
- Additionally, OCTA Risk Management continues to pursue potential cases of fraud and is currently working with the County of Orange District Attorney on a case resulting in a recent arrest.
- OCTA is being impacted by the financial crisis. Per OCTA's website, a record loss of revenues totaling \$36.4 million in fiscal year 2008-09 is putting OCTA bus operations at risk. As a result OCTA is implementing the following cost cutting measures:
 - Eliminating salary increase and special performance awards for all administrative employees beginning July 1;
 - Implementing hiring limits;

MARSH



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GUY CARPENTER OLIVER WYMAN

Page 2
June 10, 2009

- Reducing bus services;
 - Eliminating capital expenditures;
 - Cutting services and supplies;
 - Requiring one furlough day for employees in Grades V and above.
- OCTA will have an overall reduction in payroll for the 2010 Fiscal Year. The adjusted estimated payroll for the purpose of this renewal will be \$108,411,543. This payroll includes a 4% payroll increase for coach operators.
 - To date there have been 42 layoffs in the rank and file collective bargaining units with additional layoffs expected in September 2009 and March 2010.
 - TriStar, OCTA's workers compensation claims administrator, has been hired as the "Responsible Reporting Entity" to comply with the new Medicare Section 111 reporting requirements.

Recap of Renewal Strategy Meeting Discussion and Deliverables:

- We reviewed the current Excess Workers Compensation program structure, terms and conditions. The Board approved OCTA continuing with Statutory WC coverage with ACE American Insurance Company, with a \$500,000 SIR at a rate of .4300 per \$100 of payroll guaranteed for two years. The premium is \$521,730 and is based upon \$121,323,920 of adjusted estimated payroll. The rate of .4300 is the same as the prior year but with a \$250,000 lower SIR.
- We discussed the current marketplace and provided OCTA with guidance that the overall WC rates are increasing. The California Workers Compensation Rating Bureau has recommended a 27% rate increase which includes 17% for higher medical costs and another 6% for the expected increase in permanent disability awards due to the Workers Compensation Appeals Board's decision in two recent cases. However, the Excess Workers Compensation insurers don't necessarily follow the primary Workers Compensation marketplace rate increases and a flat rate renewal may be attainable.
- Per Agreement C-7-0632, Marsh is compensated by a fee for insurance brokerage and consulting with OCTA on your Workers Compensation. Any commissions included in the carrier proposals will be shared back to OCTA.
- As a result of the Board agreeing to the 2 year fixed rate with ACE at a \$500,000 SIR last year, we have the following options:
 - Renew with ACE at our guaranteed rate of \$.4300 per \$100 of payroll at a \$500,000 SIR, or;
 - Negotiate with ACE to lower the SIR at the same or lower rate as expiring, or;

MARSH



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Page 3
June 10, 2009

- Market the coverage to all insurers, with the understanding that in doing so OCTA would forfeit the guaranteed ACE rate.

Based upon our marketing last year and our experience with other excess workers compensation placements this year, we believe OCTA may find it most beneficial to maintain your relationship with ACE at the \$500,000 SIR and the guaranteed rate.

We will present to the Finance and Administrative Committee on Wednesday, July 8 and the Board on July 27 to obtain approval of our strategy.

It was very beneficial for us to meet and we appreciate the time you, Edwin and Marie spent with us. We look forward to a successful renewal of your program.

Sincerely,

A handwritten signature in cursive script that reads "Craig Morris".

Craig Morris
Senior Vice President



MEMO

August 5, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: **Board Committee Transmittal for Agenda Item**


The following item is being discussed at a Committee meeting which takes place subsequent to distribution of the Board agenda. Therefore, you will be provided a transmittal following that Committee meeting (and prior to the Board meeting) informing you of Committee action taken.

Thank you.



August 5, 2009

To: Executive Committee

From:  James S. Kenan, Interim Chief Executive Officer

Subject: Support for High-Speed Intercity Passenger Rail Program Stimulus Funding for the State of California

Overview

As part of the American Recovery and Reinvestment Act of 2009, \$8 billion was made available for improvements to high-speed and intercity passenger rail corridors throughout the United States. In Orange County, projects to support the development of the California High-Speed Rail corridor from Anaheim to Los Angeles and the Intercity Rail corridor from San Diego to San Luis Obispo are eligible for funding. A summary of proposed project submittals is provided for Board of Directors' review and approval.

Recommendations

- A. Support the California High-Speed Rail Authority's request for federal High-Speed Intercity Passenger Rail Program funding, including \$3.4 billion for the Anaheim to Los Angeles segment of the system.
- B. Support the statewide application for \$850 million to fund implementation of positive train control.
- C. Support the California Department of Transportation's application for \$339.9 million in funding for 18 intercity rail projects on the Pacific Surfliner corridor, including six projects in Orange County.

Background

The American Recovery and Reinvestment Act of 2009 (ARRA) includes \$8 billion for the High-Speed Intercity Passenger Rail (HSIPR) Program, which will fund the development of 11 federally designated high-speed rail corridors throughout the United States. In California, the HSIPR Program can be used to fund projects on the statewide high-speed rail corridor between Anaheim, Los Angeles, and San Francisco, and on the three existing intercity

passenger rail corridors: the Capitol Corridor (San Jose – Oakland – Sacramento), the San Joaquin Corridor (Bakersfield – Stockton – Sacramento/Oakland), and the Pacific Surfliner Corridor (San Diego – Los Angeles – San Luis Obispo).

The California Department of Transportation (Caltrans) was designated as the agency responsible for screening all proposed high-speed and intercity rail projects in order to develop a single statewide funding application to be submitted to the Federal Railroad Administration (FRA). In California, only Caltrans and the California High-Speed Rail Authority (CHSRA) are eligible applicants.

On June 17, 2009, the FRA released guidance that laid out a process for allocating the \$8 billion in four distinct “tracks” based on project readiness (Attachment A). Applications for Track 1 projects are due to the FRA by August 24, 2009. Track 1 projects must be “ready to go” into final design and construction, and must be completed within 24 months of award.

A prerequisite to applying for HSIPR Program funding included completing a pre-application by July 10, 2009. The FRA received 278 pre-applications from 40 states and the District of Columbia totaling more than \$102 billion. California submitted the largest request of any state with a total of \$22 billion in pre-applications, including more than \$17 billion for high-speed rail and \$4.95 billion for intercity rail service.

Discussion

The CHSRA has requested a total of \$17 billion in HSIPR Program funding in Tracks 1-3, including \$35 million in Track 1 to fund two grade separation projects in Los Angeles County and \$3.4 billion in Track 2 to advance the Anaheim to Los Angeles segment of the statewide system. As the Orange County Transportation Authority (OCTA) is a funding partner in the California High-Speed Rail project, staff proposes supporting CHSRA’s request for HSIPR Program funding.

Over the past several weeks, OCTA staff has worked closely with Caltrans, Metrolink, the Los Angeles County Metropolitan Transportation Authority, and the San Diego Association of Governments on a tight timeframe to develop a list of potential projects for submission for the Pacific Surfliner corridor under Track 1 of the HSIPR Program. OCTA has advocated for a cooperative, corridorwide approach that prioritizes projects that are able to provide direct, measurable benefits to passenger rail service.

A total of 18 Track 1 projects have been identified by Caltrans for the Pacific Surfliner corridor, including six projects in Orange County, at a total cost of \$339.9 million (Attachment B). The six projects in Orange County total \$152 million. A \$71 million application to fund triple track between Fullerton and Los Angeles is included in the \$339.9 million request. In addition, Caltrans intends to submit an \$850 million Track 1 application for statewide implementation of positive train control, which includes the entire San Diego to San Luis Obispo corridor.

Consistent with the guiding principles approved by the Board of Directors on May 22, 2009, (Attachment C) the recommended package of Track 1 Pacific Surfliner projects focuses on track and signal upgrades that will enhance safety, reduce running time, and improve the reliability of intercity rail service through Orange County. These improvements will also provide intercity rail passengers in Orange and San Diego counties with reliable and convenient access to the California High-Speed Rail system through a connection at the Anaheim Regional Transportation Intermodal Center. Staff also proposes to support the above projects submitted by Caltrans.

Track 2 applications are due to FRA in October 2009 and could include up to \$2.25 billion in funding requests for intercity rail projects on the Pacific Surfliner corridor, in addition to the CHSRA funding requests noted earlier. Staff will provide an update on the development and status of Track 2 applications at a later date as details on the proposed statewide approach are released by Caltrans.

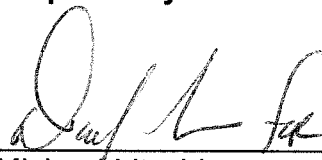
Summary

The HSIPR Program makes \$8 billion in federal stimulus funds available for improvements to passenger rail service on designated corridors. Staff recommends supporting the proposed application for projects on the California High-Speed Rail system between Anaheim and Los Angeles and the Intercity Rail corridor between San Diego, Los Angeles, and San Luis Obispo.

Attachments

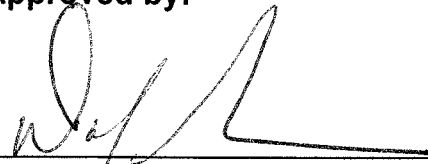
- A. American Recovery and Reinvestment Act (ARRA) High-Speed Intercity Passenger Rail Program
- B. High-Speed Intercity Passenger Rail Program Project Recommendations – Track 1, Pacific Surfliner
- C. Orange County Transportation Authority Guiding Principals for Project and Program Nominations – American Recovery and Reinvestment Act (ARRA) High-Speed Rail, May 22, 2009

Prepared by:



Michael Litschi
Section Manager, Metrolink Operations
(714) 560-5581

Approved by:



Darrell Johnson
Executive Director, Rail Programs
(714) 560-5343

American Recovery and Reinvestment Act (ARRA) High-Speed Intercity Passenger Rail Program

Proposed Funding Approach

On April 16, 2009, the U.S. Department of Transportation published its "Vision for High-Speed Rail," which laid out a plan to meet the goals of the ARRA while developing a nationwide network of high-speed rail corridors. On June 23, 2009, the Federal Railroad Administration (FRA) released revised guidance for the High-Speed Intercity Passenger Rail Program that proposed advancing funding in four "tracks":

- *Track 1 – Projects.* Provide grants for (a) final design and construction for individual projects that are "ready to go" with preliminary engineering and environmental work completed, or (b) enter into cooperative agreements to fund completion of preliminary engineering and project-level environmental work for individual projects. Projects should be completed within two years of award.
- *Track 2 – Programs.* Enter into cooperative agreements to develop entire phases or geographic sections of corridor programs that have completed corridor plans and program-level environmental documentation, and have a prioritized list of projects to meet the corridor objectives; this approach would involve additional federal oversight and support.
- *Track 3 – Planning.* Enter into cooperative agreements for planning activities using non-ARRA appropriations funds in order to create the corridor program and project pipeline needed to fully develop a high-speed rail network.
- *Track 4 – Fiscal Year 2009 Appropriations Projects.* Offers an alternative for Track 1 projects when state applicants can offer at least a 50 percent non-federal match. Provides simplified grant agreement terms and allows up to five years for project completion rather than two.

Key Dates

- 7/10/09 – Caltrans submits statewide package of pre-applications to FRA
- 8/24/09 – Caltrans prioritizes individual projects in Tracks 1, 3, and 4 and submits statewide application to FRA
- 10/2/09 – Track 2 applications due to FRA

High-Speed Intercity Passenger Rail Program Project Recommendations –
Track 1, Pacific Surfliner

Corridor/Funding Track/Project Description	Project Cost (in 1000s)
PACIFIC SURFLINER	
Total, Track 1	\$339,900
Construct Maintenance-of-Way Spurs	\$2,000
Laguna Niguel to San Juan Capistrano Double Track	\$48,000
*LOSSAN San Diego Los Penasquitos Lagoon Bridge Replacement	\$22,000
Orange County LOSSAN Crossovers and Additional Tracks	\$11,000
Orange County LOSSAN Signal and Wayside Detector Upgrades and Re-spacing	\$14,000
Orange County LOSSAN Signal Communication Upgrades	\$10,000
Orange County LOSSAN Systemwide Track Upgrades	\$67,000
Replace Cross Ties in Santa Barbara County	\$10,900
San Diego LOSSAN Oceanside Station Stub Track - Project 1	\$3,000
San Diego LOSSAN Railroad Crossover Program	\$9,000
San Diego LOSSAN Railroad Crosstie Program	\$4,000
San Diego LOSSAN Sorrento-Miramar Alignment Improvement	\$2,000
Signal & Wayside Detector Upgrades/Re-spacing (LA County) Track 1	\$10,000
Track and Bridge Upgrades (Ventura County) Track 1	\$8,000
Triple Track Los Angeles to Fullerton	\$71,000
Narlon, Concepcion, Grover Siding Centralized Traffic Control (CTC) Upgrades	\$40,000
Ortega Siding Extension and CTC Upgrades	\$1,000
Access and Safety Improvements at Chatsworth Station	\$7,000

* Los Angeles – San Diego – San Luis Obispo (LOSSAN)

**Orange County Transportation Authority
Guiding Principles for Project and Program Nominations**

**American Recovery and Reinvestment Act (ARRA)
High-Speed Rail
May 22, 2009**

Goals

- Maximize federal and state funding for passenger rail improvements within the Orange County segment of the Los Angeles – San Diego – San Luis Obispo (LOSSAN) corridor
 - Emphasis should be placed on the development of the Anaheim to Los Angeles segment of the corridor for both dedicated high-speed rail and conventional passenger rail improvements
 - Conventional passenger rail improvements between Anaheim and the San Diego County line should build upon the existing rail infrastructure and focus on reducing trip times and connecting to the high-speed rail system at the Anaheim Regional Transportation Intermodal Center.
- Support a multi-county approach for corridorwide improvements between Los Angeles, Orange, and San Diego counties
 - Direct support for projects outside of Orange County provided that they provide a direct and measurable improvement of rail service for Orange County residents and employers.
- Seek to identify and nominate projects that focus on near-term job creation and passenger rail improvements, while also strategically preparing for future implementation of high-speed rail service and connecting conventional rail service.
- Seek to maximize overall funding levels by leveraging of ARRA funds with Proposition 1A funds approved for both high-speed rail service and connecting conventional rail service.

Criteria

- Project and program selection should focus on achieving trip time reductions on key operational segments of the LOSSAN corridor, as well as reducing overall trip time between Los Angeles and San Diego.
- Los Angeles – Anaheim: 20 minutes (current 40 minutes) – 50 percent reduction
- Los Angeles – San Diego: 2 hours or less (current 2 hours 51 minutes) – 42 percent reduction

Other Criteria

- Federal economic recovery funds should not be used to supplant existing resources and recipients should be required to provide a certification of maintenance of effort.

State Issues

- Stimulus funds should be permitted to accelerate planned projects provided reallocated transportation funding commitments to local agencies are retained for new projects within a reasonable time frame.
- If federal economic recovery funds are used on existing Proposition 1B projects in the LOSSAN corridor, the previous Proposition 1B commitments for that project should remain within the LOSSAN corridor for reallocation to another eligible passenger rail project.
- Allocation of funds should be streamlined to ensure timely implementation of projects and programs.

Orange County Transportation Authority Priorities

Priorities for the use of ARRA High-Speed Rail Program funds:

1. All nominated projects and programs must meet all readiness criteria as established by the ARRA.
2. Ensure safe operation of all current and future rail services, including the required implementation of positive train control on the LOSSAN corridor in Orange County.
3. Emphasis should be placed on the accelerated development of the Anaheim to Los Angeles segment of the LOSSAN corridor.
4. Support projects that improve mainline capacity, increase trains speeds, and reduce overall trip times on the LOSSAN corridor in Orange County.
5. Support LOSSAN corridor trip time reduction and capacity improvement projects as identified in the LOSSAN corridor Strategic Plan (October 2003) and the California State Rail Plan (March 2008).
6. All projects, programs and planning should be consistent with the effort to further integrate all passenger rail services on the LOSSAN corridor between San Diego, Orange County, and Los Angeles.
7. Off-corridor supporting facilities projects such as station, parking, and grade separations not required for train speed increases and trip time reductions.



MEMORANDUM

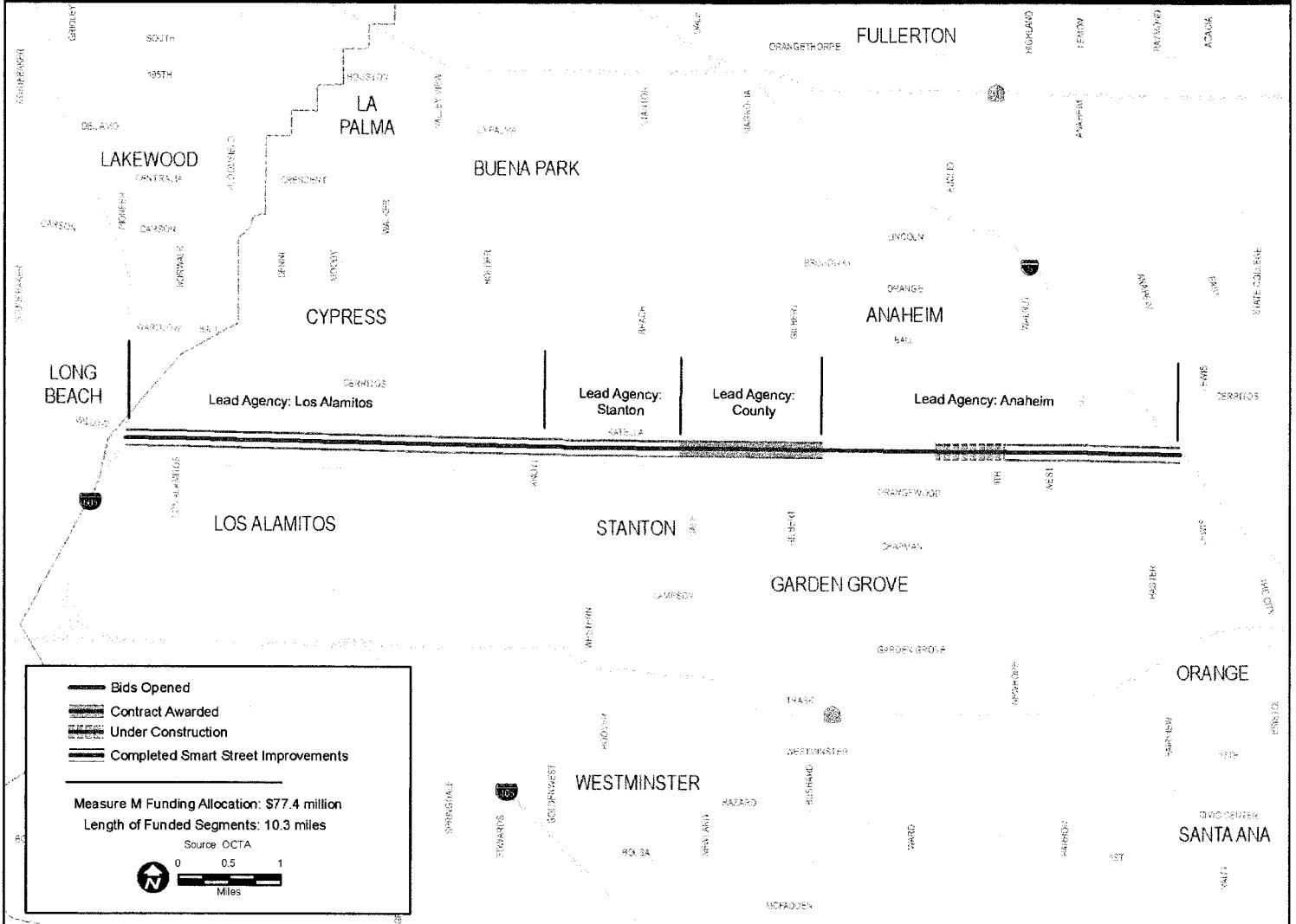
August 10, 2009

To: Members of the Board of Directors
From: Will Kempton, Chief Executive Officer
Subject: **Katella Avenue Smart Street Project Status**

At the July 27, 2009, Board of Directors (Board) meeting, Director Curt Pringle requested an update on implementation of the Katella Avenue Smart Street. The attachments provide additional information on Measure M funding for each segment of the project as well as current construction status. A verbal update on the project will be provided at the August 10, 2009, Board meeting.

WK:kb
Attachments

Katella Avenue Smart Street Project Status



Katella Avenue Smart Street Project Status

Project Limits	Lead Agency	Measure M Allocations \$ x 1 million	Status
Orange County line to Knott Avenue	Los Alamitos	\$ 4.8	Completed
Knott Avenue to Stanton Channel	Stanton	7.5	Construction completed
Stanton Channel to Jean Street	Orange County	4.3	Construction contract awarded
Jean Street to Humor Drive	Anaheim	24.2	Construction bids opened
Humor Drive to Ninth Street	Anaheim	12.6	Under construction
Ninth Street to Santa Ana Freeway (Interstate 5)	Anaheim	24.0	Completed
Total		\$77.4	