

**Date:** Monday, September 28, 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, September 28, 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](http://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 Dalton

### **Pledge of Allegiance**

Chairman Buffa



## **BOARD AGENDA**

*ACTIONS*

### **Special Matters**

**1. Presentation of the “Mobility 21 Leader of the Year” Award to Director Carolyn Cavecche**

More than 700 people at the Mobility 21 Summit honored OCTA Director and City of Orange Mayor Carolyn Cavecche with the Mobility 21 Leader of the Year Award. OCTA Chairman Peter Buffa and other officials shared remarks in a video about Director Cavecche’s dedication and leadership in advocating for transportation improvements for Southern California.

**2. Special Recognition for Thirty Years of Safe Driving**

Present an award to Coach Operator Philip Rosin for achieving thirty years of safe driving.

**3. Presentation of Resolutions of Appreciation for Employees of the Month for September 2009**

Present Orange County Transportation Authority Resolutions of Appreciation Nos. 2009-55, 2009-56, 2009-57 to Kimberly Johnson, Coach Operator; Ha Nguyen, Maintenance; and Lorraine Mills, Administration, as Employees of the Month for September 2009.

**4. Presentation of Resolution of Appreciation to Orange County Sheriff’s Department Employee of the Quarter**

Present Orange County Transportation Authority Resolution of Appreciation No. 2009-58 to Orange County Sheriff’s Deputy Juan Viramontes.

### **Consent Calendar (Items 5 through 18)**

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**

**5. Approval of Minutes**

Of the Orange County Transportation Authority and affiliated agencies' regular meeting of September 14, 2009.



## BOARD AGENDA

ACTIONS

6. **Investments: Compliance, Controls, and Accounting, July 1 through December 31, 2008**  
Kathleen M. O'Connell

### *Overview*

The Internal Audit Department has completed a review of investments for the period July 1, 2008 through December 31, 2008. Based on the review, it appears that the Orange County Transportation Authority is in compliance with its debt, investment, and accounting policies and procedures. However, during testing of bank account activity, Internal Audit identified an opportunity to improve controls over corporate credit cards. Internal Audit recommended that policies and procedures be developed to govern the issuance and appropriate use of corporate credit cards and review and approval of card activity.

### *Recommendation*

Direct staff to implement recommendations in the Review of Investments: Compliance, Controls, and Accounting, July 1 through December 31, 2008, Internal Audit Report No. 10-504.

7. **State Transportation Improvement Program: Planning, Programming, and Monitoring Program, Fiscal Year 2006-07 Financial and Compliance Audit**  
Kathleen M. O'Connell

### *Overview*

As required by an agreement with the California Department of Transportation, an independent audit of compliance with the State Transportation Improvement Program – Planning, Programming, and Monitoring Program has been completed by the professional accounting firm of Thompson, Cobb, Bazilio and Associates, PC for the fiscal year 2006-07 Work Program. The audit found no exceptions and there were no audit recommendations provided.

### *Recommendation*

Receive and file the State Transportation Improvement Program – Planning, Programming, and Monitoring Program, Fiscal Year 2006-07 Financial and Compliance Audit.



## BOARD AGENDA

*ACTIONS*

8. **Federal Legislative Status Report**  
Richard J. Bacigalupo/Kristine Murray

***Overview***

This report provides a discussion of the Surface Transportation Assistance Act of 2009, recently introduced in the House, particularly those provisions which would place new requirements upon federally funded toll roads and the use of public-private partnership agreements in federally funded highway projects.

***Recommendation***

Receive and file as an information item.

9. **Orange County Transportation Authority's Draft 2010 State and Federal Legislative Platforms**  
Manny Leon/Kristine Murray

***Overview***

Initial drafts of the Orange County Transportation Authority's 2010 State and Federal Legislative Platform have been prepared for the Board of Directors' consideration. Direct staff to circulate for further review and comment by interested parties.

***Recommendation***

Authorize staff to circulate copies of the Draft 2010 State and Federal Legislative Platforms to advisory groups, Orange County legislative delegations, cities, and interested members of the public.



## BOARD AGENDA

ACTIONS

10. **Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Nominations**  
Adriann Cardoso/Kia Mortazavi

### *Overview*

Proposition 1B, passed by the voters in November 2006, made available \$19.9 billion for investment in transportation throughout the state and included the Public Transportation Modernization, Improvement, and Service Enhancement Account. This program provides the Orange County Transportation Authority with \$18.57 million annually for investments in transit capital through fiscal year 2016-17, contingent on annual appropriation by the state legislature. Project nominations are due to the California Department of Transportation on October 1, 2009. Staff is recommending projects for Public Transportation Modernization, Improvement, and Service Enhancement Account funding for Board of Directors' review and approval.

### *Recommendations*

- A. Authorize the Chief Executive Officer to submit project nominations to the California Department of Transportation for Public Transportation Modernization, Improvement, and Service Enhancement Account funds for the Metrolink Service Expansion Program and the Orange County Grade Crossing Safety Improvement Program.
- B. Authorize staff to process all necessary amendments to the Regional Federal Transportation Improvement Program and execute all necessary agreements to facilitate the above actions.
11. **Extend Agreement with the California State University, Fullerton Center for Demographic Research Services for Fiscal Year 2009-10**  
Anup Kulkarni/Kia Mortazavi

### *Overview*

The Center for Demographic Research at California State University, Fullerton develops population, employment, and other demographic projections used by the Orange County Transportation Authority for transportation planning studies and environmental documents. A recommendation to continue this agreement for one additional year is provided for Board of Directors' review and approval.



## BOARD AGENDA

### ACTIONS

#### 11. (Continued)

##### ***Recommendation***

Authorize the Chief Executive Officer to execute Amendment 4 to Agreement No. C-6-0191, for an amount not to exceed \$152,000, with the California State University, Fullerton Center for Demographic Research, and to extend the term of the agreement through June 30, 2010.

#### 12. **Cooperative Agreements with the City of Buena Park for Allocation of Regional Surface Transportation Program Funds and the County of Orange for the Transfer of Regional Surface Transportation Program Funds**

Abbe McClenahan/Kia Mortazavi

##### ***Overview***

The City of Buena Park and the County of Orange have requested programming commitments for federal Regional Surface Transportation Program funds. The Firestone Boulevard reconstruction and Antonio Parkway widening projects are eligible projects to receive federal funding, and the City of Buena Park and County of Orange will be direct recipients of federal funds and provide an 11.47 percent local match. Funding cooperative agreements are presented for Board of Directors' review and approval.

##### ***Recommendations***

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-9-0605 with the City of Buena Park to identify funding responsibilities for the Firestone Boulevard reconstruction project.
- B. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-9-0608 with the County of Orange for transfer of Regional Surface Transportation Program funds from existing Orange County projects to the Antonio Parkway widening project.
- C. Direct staff to prepare and submit any necessary programming amendments to the Regional Transportation Improvement Program and enter into any necessary agreements to facilitate the above actions.



## BOARD AGENDA

ACTIONS

13. **Fourth Quarter Fiscal Year 2008-09 Grant Status Report**  
William Dineen, Jr./Kenneth Phipps

**Overview**

The Quarterly Grant Status Report summarizes grant activities for information purposes for the Orange County Transportation Authority Board of Directors. This report focuses on significant activity for the period of April through June 2009. The Quarterly Grant Status Report summarizes future and pending grant applications, awarded/executed and current grant agreements, as well as closed-out grant agreements.

**Recommendation**

Receive and file as an information item.

14. **Agreement for Public Outreach Consultant for West County Connectors Project**  
Fernando Chavarria/Ellen S. Burton

**Overview**

The Orange County Transportation Authority is scheduled to begin construction on the West County Connectors Project in early 2010. Consultant services are needed to support the public outreach effort throughout the construction process. Proposals have been received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services.

**Recommendation**

Authorize the Chief Executive Officer to execute Agreement No. C-9-0252 between the Orange County Transportation Authority and Caltrop Corporation, in an amount not to exceed \$1,200,000 over a five-year term, for comprehensive public outreach services for the West County Connectors Project.



## BOARD AGENDA

ACTIONS

### Orange County Local Transportation Authority Consent Calendar Matters

15. **Cooperative Agreements with the Cities of Fullerton, Santa Ana, and Tustin for Video Surveillance Systems at Metrolink Stations**  
Lora Cross/Darrell Johnson

#### *Overview*

Cooperative agreements are required with the cities of Fullerton, Santa Ana, and Tustin for implementation of a video surveillance system at the Fullerton Transportation Center, Santa Ana Regional Transportation Center, and Tustin Metrolink Station.

#### *Recommendations*

- A. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0599 between the Orange County Transportation Authority and the City of Fullerton, in an amount not to exceed \$750,000, to define roles, responsibilities, and funding for the implementation of a video surveillance system at the Fullerton Transportation Center.
- B. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0560 between the Orange County Transportation Authority and the City of Santa Ana, in an amount not to exceed \$750,000, to define roles, responsibilities, and funding for the implementation of a video surveillance system at the Santa Ana Regional Transportation Center.
- C. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0590 between the Orange County Transportation Authority and the City of Tustin, in an amount not to exceed \$750,000, to define roles, responsibilities, and funding for the implementation of a video surveillance system at the Tustin Metrolink Station.



## BOARD AGENDA

ACTIONS

**16. Memorandum of Understanding with the City of Laguna Niguel for the Expansion of Parking at the Laguna Niguel/Mission Viejo Metrolink Station**

Lora Cross/Darrell Johnson

**Overview**

The City of Laguna Niguel and the Orange County Transportation Authority have been working to expand parking at the Laguna Niguel/Mission Viejo Metrolink Station. This memorandum of understanding defines roles and responsibilities between the City of Laguna Niguel and the Orange County Transportation Authority to do further studies to determine the feasibility and costs of acquiring the right-of-way and construction of a surface parking lot.

**Recommendation**

Authorize the Chief Executive Officer to execute Memorandum of Understanding No. C-9-0716 between the Orange County Transportation Authority and the City of Laguna Niguel to define roles and responsibilities related to the study of the possible right-of-way acquisition and construction of a surface parking lot on property located east of Camino Capistrano in Laguna Niguel.

**17. Agreement for Public Outreach Consultant to Support Right-of-Way, Final Design, and Construction Phases of Grade Separation Projects**

Fernando Chavarria/Ellen S. Burton

**Overview**

The Orange County Transportation Authority will serve as the lead agency for five grade separation projects located along the Orangethorpe rail corridor and within the cities of Placentia and/or Fullerton and Anaheim. Consultant services are needed to support the public outreach effort during the right-of-way, final design, and construction phases of these projects. Proposals have been received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services.



## BOARD AGENDA

ACTIONS

17. (Continued)

*Recommendation*

Authorize the Chief Executive Officer to execute Agreement No. C-9-0250 between the Orange County Transportation Authority and Arellano Associates, in an amount not to exceed \$610,000 over a four-year term, for comprehensive public outreach services during the right-of-way, final design and construction phases of the five grade separation projects.

### Orange County Transit District Consent Calendar Matters

18. **Agreement for Construction of Drainage Improvements at the Pacific Electric Right-of-Way from Susan Street to the Santa Ana River in the City of Santa Ana**

James J. Kramer/Darrell Johnson

*Overview*

The Orange County Transportation Authority needs to improve the existing drainage on the Pacific Electric right-of-way from Susan Street to the Santa Ana River in the City of Santa Ana. The project is ready for construction and the Board of Directors' authorization is required to execute the agreement.

*Recommendation*

Authorize the Chief Executive Officer to execute Agreement No. C-9-0513 between the Orange County Transportation Authority and Bali Construction, Inc., the lowest responsive, responsible bidder, in an amount not to exceed \$233,932, for drainage improvements at the Pacific Electric right-of-way from Susan Street to the Santa Ana River in the City of Santa Ana.



## BOARD AGENDA

ACTIONS

### Regular Calendar

#### Orange County Transportation Authority Regular Calendar Matters

19. **Proposition 1B Traffic Light Synchronization Program - Substitution of Valley View Street/Bolsa Chica Road with El Toro Road**  
Ronald Keith/Kia Mortazavi

##### *Overview*

On March 24, 2008, the Board of Directors approved ten corridors for the state Proposition 1B Traffic Light Signal Synchronization Program. On May 14, 2009, the state allocated \$1.55 million to the Orange County Transportation Authority for fiscal year 2008-09, allowing work to start on the first three corridor projects: Alicia Parkway, Beach Boulevard, and Chapman Avenue. For fiscal year 2009-10, the state has indicated that it will be postponing the allocation of additional Proposition 1B funds to a future date. To respond to this delay, as well as ensure coordination with the upcoming construction of the West County Connectors Project, staff is recommending a substitute corridor for the Valley View Street/Bolsa Chica Road project. Staff, in coordination with the local agencies, has identified El Toro Road (Laguna Canyon Road to Live Oak Canyon) as a candidate replacement project.

##### *Recommendations*

- A. Authorize the Chief Executive Officer to submit El Toro Road as a substitute corridor for Valley View Street/Bolsa Chica Road to the California Department of Transportation and the California Transportation Commission as part of the Proposition 1B Traffic Light Synchronization Program.
- B. Authorize staff to make all necessary amendments to the Regional Transportation Improvement Program and State Transportation Improvement Program and execute any necessary agreements to facilitate the above action.



## BOARD AGENDA

ACTIONS

### Orange County Local Transportation Authority Regular Calendar Matters

20. **Approval to Release Request for Proposals for Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement**

Dan Phu/Kia Mortazavi

**Overview**

The Orange County Transportation Authority has developed a draft request for proposals to retain a consultant team to prepare the Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement along with a Joint Programmatic Environmental Impact Report/Environmental Impact Statement. The draft procurement documents are presented for Board of Directors' review and approval.

**Recommendations**

- A. Approve the proposed evaluation criteria and weightings for consultant selection for Request for Proposals 9-0687.
- B. Approve the release of Request for Proposals 9-0687 for consultant services to prepare the Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement and Joint Programmatic Environmental Impact Report/Environmental Impact Statement.

### Discussion Items

21. **Orange County Transportation Authority Website**

Stella Lin/Ellen S. Burton

The Orange County Transportation Authority has updated its website. Staff will demonstrate the website's features and functionality.



## **BOARD AGENDA**

*ACTIONS*

### **22. 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.

### **23. Chief Executive Officer's Report**

### **24. Directors' Reports**

### **25. Closed Session**

A Closed Session is not scheduled.

### **26. Adjournment**

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





ORANGE COUNTY  
TRANSPORTATION AUTHORITY

RESOLUTION

**KIMBERLY JOHNSON**

*WHEREAS, the Orange County Transportation Authority recognizes and commends Kimberly Johnson; and*

*WHEREAS, let it be known that Kimberly Johnson has demonstrated excellent customer service skills, and has been with the Authority since September 10, 2004. She has distinguished herself by maintaining an outstanding record for attendance and customer relations; and*

*WHEREAS, Kimberly's dedication to her duties and desire to excel are duly noted, and she is recognized as an outstanding Authority employee who has consistently demonstrated a level of professionalism that is the embodiment of the Authority's core values; and*

*WHEREAS, be it known that Kimberly Johnson has been a principal player at the OCTA and has performed her responsibilities as a Coach Operator in a professional, safe, courteous and reliable manner.*

*NOW, THEREFORE, BE IT RESOLVED that the Authority does hereby declare Kimberly Johnson as the Orange County Transportation Authority Coach Operator of the Month for September 2009; and*

*BE IT FURTHER RESOLVED that the Orange County Transportation Authority Board of Directors recognizes Kimberly Johnson's valued service to the Authority.*

**Dated: September 28, 2009**

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Peter Buffa, Chairman  
Orange County Transportation Authority

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Will Kempton, Chief Executive Officer  
Orange County Transportation Authority

OCTA Resolution No. 2009-55





ORANGE COUNTY  
TRANSPORTATION AUTHORITY

RESOLUTION

**HA NGUYEN**

*WHEREAS, the Orange County Transportation Authority recognizes and commends Ha Nguyen; and*

*WHEREAS, be it known that Ha Nguyen has been with the Authority since July 1987 and is a valued member of the Maintenance Department. Ha is a very dependable employee who requires very little supervision. He has an outstanding attitude and takes on all jobs with enthusiasm;*

*WHEREAS, Ha Nguyen is very well liked among his peers and remains a team player. His work results are of good quality and we can depend on Ha to get the job done correctly and in a timely manner;*

*WHEREAS, his commitment to teamwork, customer service and his can-do spirit make him a valuable asset to the Garden Grove Base, the Maintenance Department and the Authority and he is recognized as an outstanding Authority employee.*

*NOW, THEREFORE, BE IT RESOLVED that the Authority does hereby declare Ha Nguyen as the Orange County Transportation Authority Maintenance Employee of the Month for September, 2009; and*

*BE IT FURTHER RESOLVED that the Orange County Transportation Authority Board of Directors recognizes Ha Nguyen's valued service to the Authority.*

**Dated: September 28, 2009**

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Peter Buffa, Chairman  
Orange County Transportation Authority

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Will Kempton, Chief Executive Officer  
Orange County Transportation Authority





ORANGE COUNTY  
TRANSPORTATION AUTHORITY

RESOLUTION

*Lorraine Mills*

WHEREAS, the Orange County Transportation Authority recognizes and commends Lorraine Mills for her leadership and excellent customer service; and

WHEREAS, be it known that Lorraine enthusiastically accepted additional responsibilities during an organizational change within the Human Resources Department, and immediately took proactive measures to build strategic partnerships and facilitate effective collaboration within the department and with OCTA management and employees; and

WHEREAS, Lorraine's leadership role as OCTA Benefits Manager in the Human Resources Department has led to innovative and measurable improvements, while maintaining the highest level of professionalism and integrity in delivering superior benefit programs including health insurance, retirement programs, protected leaves, drug & alcohol compliance, and outreach with customers; and

WHEREAS, Lorraine has a proven track record of effective problem solving, navigating complex issues, and delivering results; and

WHEREAS, Lorraine's technical ability along with her excellent interpersonal skills makes her an ideal human resources professional to support the personal and family needs of her internal OCTA customers in a timely manner.

NOW, THEREFORE, BE IT RESOLVED that the Authority does hereby declare Lorraine Mills as the Orange County Transportation Authority Administration Employee of the Month for September 2009; and

BE IT FURTHER RESOLVED that the Orange County Transportation Authority Board of Directors recognizes Lorraine Mills' outstanding service.

Dated: September 28, 2009

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Peter Buffa, Chairman  
Orange County Transportation Authority

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Will Kempton, Chief Executive Officer  
Orange County Transportation Authority







ORANGE COUNTY  
TRANSPORTATION AUTHORITY

RESOLUTION

**DEPUTY JUAN VIRAMONTES**

WHEREAS, the Orange County Transportation Authority recognizes and commends Deputy Juan Viramontes; and

WHEREAS, Deputy Viramontes has been assigned to Transit Police Services Fixed Route Operations since September 2008. He is the lead Deputy in charge of the Homeless Outreach Program. This outreach greatly enhances our ability to assist individuals willing to transition to an improved lifestyle; and

WHEREAS, Deputy Viramontes can be seen meeting with Coach Operators at Transit Centers, layovers and Bus Bases to assist them with any security problems they may experience on their route; and;

WHEREAS, Deputy Viramontes, worked with a Coach Operator earlier this year who reported that an individual was attempting to extort money from him. Deputy Viramontes and his Supervisor immediately took action and conducted a successful undercover operation. The investigation resulted in the arrest of two suspects for grand theft. It was Deputy Viramontes cool and calm demeanor, along with his outstanding investigative skills, which led to the filing of felony charges. Deputy Viramontes continues to be one of Transit Police Services' high producers and aggressively pursues fare evaders and OCTA Right-of-Way Trespassers.

NOW, THEREFORE, BE IT RESOLVED that the Authority does hereby declare Deputy Juan Viramontes as the Orange County Transportation Authority Transit Police Services Employees of the Quarter for September 2009; and

BE IT FURTHER RESOLVED that the Orange County Transportation Authority Board of Directors recognizes Deputy Juan Viramontes' valued service to the Authority.

Dated: September 28, 2009

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Peter Buffa, Chairman  
Orange County Transportation Authority

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Will Kempton, CEO  
Orange County Transportation Authority

OCTA Resolution No. 2009-058





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  
September 14, 2009

## Call to Order

The September 14, 2009, regular meeting of the Orange County Transportation Authority and affiliated agencies was called to order by Chairman Buffa at 9:04 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  
Paul Glaab  
Cathy Green  
Allan Mansoor  
John Moorlach  
Chris Norby  
Gregory T. Winterbottom  
Cindy Quon, Governor's Ex-Officio Member

Also Present: Will Kempton, Chief Executive Officer  
James S. Kenan, Deputy 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: Janet Nguyen  
Curt Pringle  
Miguel Pulido

## **Invocation**

Director Campbell gave the invocation.

## **Pledge of Allegiance**

Vice Chairman 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**

There were no Special Matters items.

## **Consent Calendar (Items 1 through 8)**

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.

## **Orange County Transportation Authority Consent Calendar Matters**

### **1. Approval of Minutes**

A motion was made by Director Green, seconded by Director Campbell, and declared passed by those present, to approve the minutes of the Orange County Transportation Authority and affiliated agencies' regular meeting of August 24, 2009.

Director Mansoor was not present to vote on this item.

### **2. Approval of Board Member Travel**

A motion was made by Director Green, seconded by Director Campbell, and declared passed by those present, to approve requests for Chairman Buffa to travel to Washington, D.C., September 14-16, 2009, for meetings with Rep. Bill Shuster and Transportation-Infrastructure Committee staff regarding goods movement legislation, and for Director Brown to travel to Orlando, FL, October 3-8, 2009, to participate in the Annual American Public Transportation Association (APTA) meeting.

Director Mansoor was not present to vote on this item.

**3. State Legislative Status Report**

Director Bates pulled this item and requested an update on bills affecting transportation be provided.

A motion was made by Director Bates, seconded by Director Dalton, and declared passed by those present, to receive and file this as an information.

Director Mansoor was not present to vote on this item.

**4. Property Insurance Policy Renewal**

A motion was made by Director Green, seconded by Director Campbell, and declared passed by those present, to authorize the Chief Executive officer to issue Purchase Order No. A14591, in an amount not to exceed \$475,000, with Marsh Risk and Insurance Services.

Director Mansoor was not present to vote on this item.

**Orange County Local Transportation Authority Consent Calendar Matters**

**5. Cooperative Agreements with the Cities of Buena Park and Tustin for Go Local Step Two Bus/Shuttle Service Planning**

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

- A. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0427 between the Orange County Transportation Authority and the City of Buena Park to define each party's roles and responsibilities for service planning of the bus/shuttle proposals entitled, "Buena Park Station – Auto Center/Civic Center Shuttle" and "Buena Park Station – Buena Park Downtown Entertainment Zone Shuttle."
- B. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0426 between the Orange County Transportation Authority and the City of Tustin to define each party's roles and responsibilities for service planning of the bus/shuttle proposals entitled, "Local Shuttle Connecting the Metrolink Station to City Hall and Other Locations in Downtown Tustin" and "Transit Connection to the Tustin Legacy Project."

Director Mansoor was not present to vote on this item.

**6. Approval to Release Request for Proposals for Maintenance Services for the Orange County Transportation Authority's Operating Railroad Right-of-Way**

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

- A. Approve the proposed evaluation criteria and weightings for Request for Proposal 9-0698 for selection of maintenance services contractor.
- B. Approve the release of Request for Proposal 9-0698 for preventative and corrective maintenance services of the Orange County Transportation Authority's operating railroad right-of-way.

Director Mansoor was not present to vote on this item.

**7. Metrolink Ridership and Revenue Quarterly Report**

A motion was made by Director Green, seconded by Director Campbell, and declared passed by those present, to receive and file as an information item.

Director Mansoor was not present to vote on this item.

**Orange County Transit District Consent Calendar Matters**

**8. ACCESS Performance Measurements Update**

Director Glaab pulled this item and complimented staff on the improvements noted in this update. Vice Chairman Amante provided comments in agreement regarding this improvement, and Director Moorlach noted that while this is a positive trend, the three-year average is still below the required level.

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

Director Mansoor was not present to vote on this item.

**Regular Calendar**

**Orange County Transit District Regular Calendar Matter**

**9. Fare Integration Study Findings and Preliminary Recommendations**

Jorge Duran, Project Manager from the Transit Division, presented the findings from the Fare Integration Study and staff's recommendations. He introduced Daniel Fleishman, the lead consultant for this study.

**9. (Continued)**

Mr. Duran provided information on the background and scope of work for the study, fare integration practices at various agencies, fare collection and payment technologies, fare/service integration, and inter-county integration of fares. He also provided an overview of the services provided by other transportation agencies, Go Local Services, Metrolink service expansion, and the possible upgrades and costs related to OCTA's fare system.

Director Campbell inquired as to what Smart Cards are and how they are replenished. Mr. Fleishman responded that Smart Cards are utilized like credit cards and the options by which they can be replenished in a variety of ways and for pre-set amounts, if desired by the user.

Director Winterbottom inquired if this process would assist with inter-county travel. Darrell Johnson, Executive Director of Rail Programs, responded that a premium day pass could be offered that would be valid for use on bus or rail for unlimited rides within the county. Due to the complexity of structure of fare policies and cost sharing between Riverside, Los Angeles, and Orange Counties, more work and analysis need to be done for inter-county use.

Director Moorlach requested a report on options with Point-of-Sale cards and if they can be coordinated with Social Security Administration payments and health benefits.

No action was taken on this receive and file information item.

**10. Possible March 2010 Service Change Scenarios**

Chief Executive Officer (CEO), Will Kempton, provided opening comments on this item and stated that discussions are underway regarding possible March 2010 bus service change scenarios. He stated that the previously-approved changes were implemented on September 13 and reduced service by 100,000 revenue service hours.

Mr. Kempton highlighted that worsening sales tax revenues, declining ridership, fuel costs, labor costs, and a lawsuit with the state regarding lost funding are elements of the situation with which OCTA is faced with at this time. He also stated that there are potential revenue and cost-saving opportunities to be considered.

Scott Holmes, Service Planning Manager, presented the possible bus service scenarios, providing background, information on cumulative reductions, the current weekday and week-end bus routes, service levels through July 2009, potential approaches for service changes in March 2010, preserving routes which have high usage, proportional reductions, reducing of hours of operations, and next steps.

**10. (Continued)**

Director Bates requested a breakdown of how the funds received from the American Recovery and Reinvestment Act have been expended to date.

Director Moorlach requested a customer survey be undertaken and determine if riders have debit, credit, and checking accounts.

Discussion followed and public comments were heard from:

Jane Reifer, representing Transit Advocates, emphasized that bus riders need specifics, and stated that it would be helpful to have a menu of cuts planned. She requested that recommendations be provided soon and further stated that she felt the route maps and maps in the bus books are redundant.

Director Mansoor requested a comparison be made between the route maps and maps in the bus books to check for duplicity.

Sandy Stiasni, resident of Irvine, expressed his concerns regarding service cuts and stressed the importance of staff working with Transit Advocates to examine potential funding options. He also highlighted the drastic reduction of sales of new vehicles over the past many months, perhaps bringing into question the need for some transportation projects.

CEO, Will Kempton, assured Ms. Reifer and members of the public that OCTA is committed to providing all information in advance of the upcoming community and public hearings.

No action was taken on this receive and file information item.

**Orange County Transportation Authority Regular Calendar Matters**

**11. Workers' Compensation Program Review**

Al Gorski, Manager of Risk Management, provided a status of the Authority's workers' compensation program, and informed Members that OCTA self-insures and self-administers this program. Mr. Gorski provided an overview of the results since the changes OCTA made in this program, and subsequent cost savings.

Director Campbell commended Mr. Gorski and OCTA staff for this positive change and stated that he felt it demonstrated good management and cooperative work with the labor union.

No action was taken on this receive and file informational item.

## 12. Consideration of Public Member Appointment

Vice Chairman Amante led this discussion, stating that the term of Chairman Buffa, who is a public member, will expire on October 14, 2009, and inquired of the Board Members how they would like to handle the appointment to this position.

CEO, Will Kempton, listed the requirements for any applicant for the position of public member on the OCTA Board of Directors, and advised that the term is for four years. He indicated that Chairman Buffa has expressed a desire to be re-appointed to another four-year term.

Director Campbell inquired if candidates would be asked if they intend to run for public office during their prospective term, and General Counsel stated that the previous candidates signed a form indicating they would resign if they file for candidacy; that process could be implemented again.

Chairman Buffa was asked if he has any intention to run for a public office during the next four years, and he indicated he does not.

Director Norby stated that the position was posted during the last vacancy and appointment of a public member, and felt that process should be followed again to allow members of the public to apply.

Discussion followed, with a motion by Director Norby, seconded by Director Campbell, and declared passed by those present, to:

- A. Advertise the opportunity to be considered for appointment as a public member of the Board of Directors for any interested person to submit an application no later than September 28, 2009, to be considered for interview at the October 5, 2009, meeting of the Executive Committee.
- B. Agendize for the Board of Directors' meeting on October 9, 2009, the appointment of a public member of the Board of Directors for the term commencing October 14, 2009.

Chairman Buffa and Director Winterbottom abstained from voting on this item.

## Discussion Items

### 13. 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.

Christie Rudder, representing the Dayle McIntosh Center, suggested that consideration be given to establishing an advisory council or committee with Members who understand the challenges faced by the disabled and can address accessibility regarding the Anaheim Regional Transportation Intermodal Center project.

### 14. Chief Executive Officer's Report

CEO, Will Kempton, provided information on upcoming meetings and events.

Mr. Kempton reported that a meeting took place with individuals from Orange County Moves, and it was felt the meeting was successful in addressing opportunities through the Renewed Measure M Program and specifically how OCTA will share the workload with the Department of Transportation on the State Route 57 project.

### 15. Directors' Reports

Director Campbell provided an update on discussions with representatives from the Orange County Council of Governments (OCCOG) Committee regarding the Memorandum of Understanding and related issues. He stated he was not optimistic about the outcome of attempts to resolve issues at this point, but was hopeful.

Chairman Buffa indicated that Directors Dixon and Glaab would be taking comments from recent meetings back to OCCOG Members for further discussion. He stated that one issue is that of OCTA serving as the lead agency on Senate Bill (SB) 375 planning requirements and the veto stipulation.

Director Norby requested that the Executive Committee address the placement of contracts over \$250,000 on agendas, whether they should be on the Consent or Regular calendar in order to facilitate a discussion regarding these contracts.

Director Green responded that the public is able to pull items from any agenda for discussion should someone want to address the Committee or Board regarding a particular contract.

**15. (Continued)**

Director Glaab reported that the CEO, Mr. Kempton, would be visiting the City of Laguna Niguel on Tuesday this week.

Vice Chairman Amante thanked the CEO for his appearance at the Tustin City Council meeting.

Vice Chairman Amante expressed concern with respect to the ongoing discussions with OCCOG members and the time being taken to further discuss issues already addressed regarding SB 375 and related issues. He stated that if an agreement cannot be accomplished in a cooperative fashion locally, he believes the situation is heading in the wrong direction. He stated this was the reason OCTA stepped up and offered to take the burden for administrative responsibility on this committee. He further encouraged the Board to be as engaged as possible and minimize the impact this will have on what is already a pressured economy.

Vice Chairman Amante commented in response to Mr. Stiassni's earlier comments that while there has been a huge depression in the economy in terms of the sales of vehicles, it does not mean the "end of driving", rather a deferral of purchasing, as demonstrated by the "Cash for Clunkers" program. He stated that OCTA is dedicated to all modalities of transportation and wants robust transit for Orange County.

Director Moorlach reflected on the recent fires, including the Freeway Complex fire in Orange County in 2008, and asked for a report on what steps are being taken in regard to fire prevention along freeways from vehicle-caused sources. He further stated that the new Orange County Fire Chief would be introduced at the Board of Supervisors' meeting on September 15.

Director Winterbottom stated that concerning the potential bus service reductions, the "color of money" issue must be considered. Certain monies are restricted from being moved to other projects/issues, and there are many times restrictions as to what funds can be used for transit.

Director Dixon assured Members that he would do his best to facilitate a compromise on the OCCOG issues, and reported that meetings have been held recently with OCCOG and OCTA in an effort to develop language in the agreement to which both sides agree.

Director Bates stated that she feels one of the core issues is the sovereignty of local government in respect to land-use planning, understanding that transportation and transit become the common denominator which draws OCTA into the mix. She emphasized that these are not competing interests, but rather work together.





MEMO

September 23, 2009

To: Members of the Board of Directors  
From: <sup>WK</sup> 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.



**September 23, 2009**

**To:** Finance and Administration Committee  
**From:** Will Kempton, Chief Executive Officer  
**Subject:** Investments: Compliance, Controls, and Accounting, July 1 through December 31, 2008

**Overview**

The Internal Audit Department has completed a review of investments for the period July 1, 2008 through December 31, 2008. Based on the review, it appears that the Orange County Transportation Authority is in compliance with its debt, investment, and accounting policies and procedures. However, during testing of bank account activity, Internal Audit identified an opportunity to improve controls over corporate credit cards. Internal Audit recommended that policies and procedures be developed and documented to govern the issuance and appropriate use of corporate credit cards and review and approval of card activity.

**Recommendation**

Direct staff to implement recommendations in the Investments: Compliance, Controls, and Accounting, July 1 through December 31, 2008, Internal Audit Report No. 10-504.

**Background**

The Treasury/Public Finance Department is responsible for management of the Orange County Transportation Authority's (OCTA) investment portfolio. On December 31, 2008, the investment portfolio's book value was approximately \$990.6 million. The portfolio consists of two managed portfolios: liquid assets for OCTA's daily operations and the short-term portfolio for future budgeted expenditures. External investment managers administer the short-term portfolio, and OCTA's treasurer manages the liquid assets portfolio. OCTA also has funds invested in debt service reserve funds for various outstanding debt obligations. OCTA's Accounting Department is responsible for recording all debt and investment transactions and reconciling all bank and custodial accounts monthly.

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***Discussion***

OCTA's investment activities are reviewed on a periodic basis by Internal Audit. The objective of this review was to determine if OCTA is in compliance with OCTA's debt, investment, and accounting policies and procedures for the review period of July 1, 2008 through December 31, 2008.

As part of wire and Automated Clearing House (ACH) activity testing, Internal Audit selected an ACH charge to OCTA's Bank of the West account on August 12, 2008, for payment of OCTA corporate credit cards. The individual corporate credit card statements were approved either by the cardholder or his or her administrative assistant. The charges on these statements were for legitimate travel and business expenses.

Internal Audit noted that OCTA has no policies and procedures related to corporate credit cards. Internal Audit recommended that policies and procedures be developed and documented to govern the issuance and appropriate use of corporate credit cards and review and approval of card activity. Management indicated that it has drafted policies and procedures regarding corporate credit cards (Attachment B). Policies and procedures will be distributed to corporate credit cardholders once approved by the Chief Executive Officer.

***Summary***

Based on the review, investments were in compliance with OCTA's debt, investment, and accounting policies and procedures. Internal Audit offered one recommendation, which management indicated would be implemented.

***Attachment***

- A. Investments: Compliance, Controls, and Accounting, July 1 through December 31, 2008, Internal Audit Report No. 10-504

**Prepared by:**



Kathleen M. O'Connell  
Executive Director, Internal Audit  
(714) 560-5669

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT**



**Review of Investments: Compliance,  
Controls, and Accounting  
July 1 through December 31, 2008**

INTERNAL AUDIT REPORT NO. 10-504

**August 6, 2009**



**Internal Audit Team:**

Kathleen M. O'Connell, CPA, Executive Director  
Janet Sutter, CIA, Internal Audit, Section Manager  
Serena Ng, CPA, Senior Internal Auditor

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT**

**Investments: Compliance, Controls, and Accounting  
July 1 through December 31, 2008  
August 6, 2009**

<b>Conclusion.....</b>	<b>1</b>
<b>Background .....</b>	<b>1</b>
<b>Objectives, Scope and Methodology.....</b>	<b>1</b>
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**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT**

**Investments: Compliance, Controls, and Accounting  
July 1 through December 31, 2008  
August 6, 2009**

**Conclusion**

The Internal Audit Department has completed a review of investments for the period July 1, 2008 through December 31, 2008. Based on the review, it appears that the Orange County Transportation Authority (OCTA) is in compliance with its debt, investment, and accounting policies and procedures. However, during testing of bank account activity, Internal Audit identified an opportunity to improve controls over corporate credit cards. Internal Audit recommended that policies and procedures be developed and documented to govern the issuance and appropriate use of corporate credit cards and review of card activity.

**Background**

The Treasury/Public Finance Department is responsible for management of OCTA's investment portfolio. On December 31, 2008, the investment portfolio's book value was approximately \$990.6 million. The portfolio consists of two managed portfolios: liquid assets for OCTA's daily operations, and the short term portfolio for future budgeted expenditures. External investment managers administer the short-term portfolio, and OCTA's Treasurer manages the liquid assets portfolio. OCTA also has funds invested in debt service reserve funds for various outstanding debt obligations. OCTA's Accounting Department is responsible for recording all debt and investment transactions and reconciling all bank and custodial accounts monthly.

**Objectives, Scope and Methodology**

The primary objective of the review was to determine if OCTA was in compliance with its debt, investment, and accounting policies and procedures.

Additional audit objectives included determining if:

- Internal controls over OCTA's investment activities were adequately designed;
- OCTA was in compliance with California Government Code;
- Investment transactions were adequately supported; and
- OCTA was in compliance with investment requirements of debt issuances.

The scope of the review included investment transactions and investment-related controls for the period July 1 through December 31, 2008.

The methodology consisted of reviewing a judgmental sample of daily cash worksheets prepared by the Accounting Department and the Treasury/Public Finance Department, verifying judgmental samples of investment transactions and wire transfers to source documents, reviewing judgmental samples of bank reconciliations and daily investment

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT**

**Investments: Compliance, Controls, and Accounting  
July 1 through December 31, 2008  
August 6, 2009**

holding reports, and reviewing the quarterly debt and investment reports provided to OCTA's Board of Directors.

This review was conducted in accordance with Generally Accepted Government Auditing Standards, except for the triennial peer review requirement which has not yet been fulfilled. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
INTERNAL AUDIT DEPARTMENT**

**Investments: Compliance, Controls, and Accounting  
July 1 through December 31, 2008  
August 6, 2009**

**Audit Comments, Recommendations and Management Responses**

**Corporate Credit Cards**

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As part of wire and Automated Clearing House (ACH) activity testing, Internal Audit selected an ACH charge to OCTA's Bank of the West account for payment of OCTA corporate credit cards. Review of the corporate credit card payment package for August 12, 2008, noted that individual corporate credit card statements were approved by either the cardholder or his or her administrative assistant. The charges on these statements were for legitimate travel and business expenses.

OCTA has no policies and procedures related to the issuance and use of corporate credit cards or review of card charges. A sound system of internal controls relies on segregation of duties. Transactions initiated by one individual should be reviewed and approved by another individual of sufficient authority.

**Recommendation 1:** Internal Audit recommends that policies and procedures be developed and documented to govern the issuance and appropriate use of corporate credit cards and review and approval of card activity. These policies and procedures should include appropriate segregation of transaction initiation and approvals.

**Management Response (Finance and Administration Division):** The Finance and Administration Division agrees with the recommendation and has developed a policy and procedures regarding corporate credit cards. Once approved by the Chief Executive Officer, the policy will be provided to all cardholders.



# Corporate Credit Card Policy

POLICY #:
ORIGINATION DATE:
REVISION DATE:
PAGE:

## I. Policy

Credit cards may be issued to members of the Board of Directors and members of Executive Management to facilitate the payment of OCTA business expenses.

The credit cards shall be issued in the name of the Director or Executive but shall be paid directly by OCTA.

A copy of this policy shall be provided to all cardholders upon issuance of the corporate credit card.

## II. Cardholder Responsibilities

- Safeguarding the credit card
- Submitting monthly reconciliations, including documentation for all charges
- Immediately reporting lost or stolen cards to the program administrator and/or the issuing bank
- Compliance with the OCTA Code of Conduct
- Compliance with applicable OCTA policies such as procurement policies and the OCTA or Board travel policy

## III. Monthly Reconciliation

Directors and members of Executive Management shall submit monthly reconciliations to the Deputy Chief Executive Officer to review for compliance with this policy and to authorize payment. The Deputy Chief Executive Officer shall submit his/her reconciliation to the Chief Executive Officer to review for compliance with this policy and to authorize payment.

Receipts, invoices and other documentation detailing the expenses shall be submitted with the reconciliation. If a receipt is lost or unavailable, a substitute receipt shall be submitted. (A Substitute Receipt Form is available under the Travel Section of EForms on the OCTA intranet site.)

The reconciliation must be submitted to the Accounts Payable Section within 14 days of the statement date.

### APPROVAL

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Date

#### IV. Personal Expenses

The credit card should be used for business purposes only. However, recognizing that on occasion cardholders may combine personal and business expenses for transactional convenience, the cardholder shall submit reimbursement for all personal expenses with the monthly reconciliation.

**END OF POLICY**





MEMO

September 23, 2009

To: Members of the Board of Directors  
From: Wendy Knowles<sup>WK</sup>, 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.



**September 23, 2009**

**To:** Finance and Administration Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** State Transportation Improvement Program: Planning, Programming, and Monitoring Program, Fiscal Year 2006-07 Financial and Compliance Audit

### **Overview**

As required by an agreement with the California Department of Transportation, an independent audit of compliance with the State Transportation Improvement Program – Planning, Programming, and Monitoring Program has been completed by the professional accounting firm of Thompson, Cobb, Bazilio and Associates, PC for the fiscal year 2006-07 work program. The audit found no exceptions and there were no audit recommendations provided.

### **Recommendations**

Receive and file the State Transportation Improvement Program – Planning, Programming, and Monitoring Program, Fiscal Year 2006-07 Financial and Compliance Audit.

### **Background**

The State Transportation Improvement Program (STIP) is a multi-year capital improvement program of transportation projects on and off the California State Highway System, funded with revenues from the State Highway Account and other funding sources. The Planning, Programming, and Monitoring Program (PPM) is defined as “the project planning, programming, and monitoring activities related to development of the Regional Transportation Improvement Program and the STIP required by Government Code Section 14527. et. seq. and for the monitoring of project implementation...”

The Orange County Transportation Authority (OCTA) entered into Funding Agreement No. PPM07-6071(032) (Funding Agreement) on April 26, 2007, with the California Department of Transportation (Caltrans) to provide for \$1,531,000 in funding under the STIP/PPM for fiscal year 2006-07. Each year,

OCTA prepares a program of projects that is approved by Caltrans as part of the Funding Agreement. In accordance with the Funding Agreement, an independent audit is required to provide assurance that the STIP/PPM funds were used in conformance with Article XIX of the California State Constitution.

***Discussion***

Funding Agreement No. PPM07-6071(032) provided funding for the approved fiscal year 2006-07 work program. The audit found that expenditures were reasonable, adequately supported, and eligible and that accounting and invoicing procedures were adequate and in accordance with the Funding Agreement and *Article XIX – Motor Vehicle Revenues* of the California State Constitution. The audit also found that the fund account set up for the project was separately maintained, as required, and that OCTA has complied with the reporting requirements of the Funding Agreement. OCTA submitted the final report of expenditures, along with a final invoice of \$1,199 and a claim for retention withheld by Caltrans of \$38,801, on August 26, 2009.

***Summary***

An independent audit on compliance with the STIP/PPM has been completed by the professional accounting firm of Thompson, Cobb, Bazilio and Associates, PC. The detailed audit scope and results are included in the audit report at Attachment A.

***Attachment***

- A. Orange County Transportation Authority State Transportation Improvement Program Planning, Programming, and Monitoring Program Financial and Compliance Audit Fiscal Year 2006-07 Agreement No. PPM07-6071 (032)

**Prepared by:**



Kathleen M. O'Connell  
Executive Director, Internal Audit  
(714) 560-5669

***ORANGE COUNTY TRANSPORTATION  
AUTHORITY***

State Transportation Improvement Program  
Planning, Programming, and Monitoring Program  
Financial and Compliance Audit  
Fiscal Year 2006-07

Agreement No. PPM07-6071 (032)

Prepared by

**TCBA**

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**THOMPSON, COBB, BAZILIO & ASSOCIATES, PC**

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**STATE TRANSPORTATION IMPROVEMENT PROGRAM  
PLANNING, PROGRAMMING, AND MONITORING PROGRAM  
FISCAL YEAR 2006-07**

**FINANCIAL AND COMPLIANCE AUDIT**

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# THOMPSON, COBB, BAZILIO & ASSOCIATES, PC

CERTIFIED PUBLIC ACCOUNTANTS AND MANAGEMENT, SYSTEMS, AND FINANCIAL CONSULTANTS

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## INDEPENDENT AUDITOR'S REPORT ON FINANCIAL AND COMPLIANCE WITH REQUIREMENTS APPLICABLE TO THE STATE TRANSPORTATION IMPROVEMENT PROGRAM PLANNING, PROGRAMMING AND MONITORING PROGRAM

Kathleen O'Connell, Executive Director  
Internal Audit Department  
Orange County Transportation Authority

We have completed our financial and compliance audit of Agreement No. PPM07-6071 (032) (Agreement) awarded to the Orange County Transportation Authority (OCTA) by the State of California Department of Transportation (Caltrans) to provide reimbursement of up to \$1,531,000 in funding under Fiscal Year 2006-07 State Transportation Improvement Program (STIP) Planning, Programming, and Monitoring (PPM) Program (Program). The objectives of this audit were to determine whether 1) adequate documentation was maintained evidencing that costs were reasonable, adequately supported, and eligible, 2) OCTA's accounting and invoicing procedures were adequate to ensure that project costs charged are in accordance with Agreement and in conformance with *Article XIX – Motor Vehicle Revenues* of the California State Constitution, 3) OCTA complied with the reporting requirements of the Agreement, and 4) the fund account set up by OCTA for the project was separately maintained. We conducted our audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

### RESULTS IN BRIEF

- Based on our review of \$880,180 of sampled costs (49% of the \$1,790,203 Program cost) charged to the STIP PPM for Fiscal Year 2006-07, we found that the expenditures claimed are eligible expenditures and are adequately supported.
- Per the Agreement with Caltrans, OCTA had 60 days following the "completion of expenditures" or until August 30, 2009, to submit a Final Report of Expenditures to Caltrans. Since this audit report is part of the Final Report of Expenditures, OCTA plans to submit the Final Report of Expenditures, along with the claim for retention of \$38,801 and unbilled expenditures totaling \$1,199, to Caltrans by August 30, 2009.

- We found OCTA's accounting and invoicing procedures were adequate to ensure that project expenditures incurred are in accordance with the Agreement with Caltrans, and in conformance with *Article XIX – Motor Vehicle Revenues* of the California State Constitution. Our assessment was based on an internal control questionnaire, observations and interviews with OCTA officials.
- Based on our review of two of the four vendor contract files, we found adequate evidence of competitive bidding.
- Segregation of project costs was found to be adequate. Because OCTA is reimbursed for expenditures incurred for the Program on an actual cost reimbursement basis, no fund interest allocation was required.

## **BACKGROUND**

On April 26, 2007 OCTA entered into Agreement No. PPM07-6071(032) (Agreement) with Caltrans to provide reimbursement of \$1,531,000 in funding for four projects/elements under the Program from funds allocated for fiscal year 2006-07. OCTA has submitted two invoices totaling \$1,529,801 under the Agreement. The first invoice for \$787,391 has been paid and the second invoice for \$742,410 has been paid less \$38,801 that was withheld by Caltrans for retention. The remaining budget of Program expenses that has not been invoiced to Caltrans is \$1,199. The four projects as listed in the attachment to this report have been completed.

## **PROCEDURES PERFORMED**

We performed the following procedures to ensure that OCTA had complied with the Agreement and *Article XIX - Motor Vehicle Revenues* of the California State Constitution requirements:

1. We reviewed the Agreement between OCTA and Caltrans to obtain an understanding of the Program and STIP PPM funding requirements.
2. We obtained and reviewed contract files for contracts issued by OCTA under the Program to identify contract provisions pertinent to our audit and to verify evidence of competitive bidding.
3. We reviewed fund accounting procedures established by OCTA to account for Program transactions.
4. We assessed OCTA's accounting, reporting and invoicing procedures based on an internal control questionnaire, observations, and interviews with OCTA personnel.

5. We obtained a detailed listing of Program expenditures and selected a statistical sample for testing. For the sample selected, we determined whether the expenditures were properly supported, approved, recorded, and consistent with the approved Work Program and in accordance with the Agreement and *Article XIX - Motor Vehicle Revenues* of the California State Constitution requirements.
6. We assessed whether OCTA complied with the reporting requirements of the Agreement.

## **DETAILED RESULTS**

Based on the audit procedures performed, we found the following:

### **A. PROJECT COSTS AND CONTRACTOR DOCUMENTATION**

Based on our audit, costs charged to the STIP PPM for Fiscal Year 2006-07 are reasonable, adequately supported and eligible for the approved Fiscal Year 2006-07 Work Program. Our assessment is based on audit of \$880,180 in Program expenditures and audit of supporting documents to determine if expenses were properly supported, approved, recorded, and consistent with the approved Work Program.

### **B. REVIEW OF ACCOUNTING, REPORTING, AND INVOICING PROCEDURES**

We found OCTA's accounting and invoicing procedures are adequate to ensure that project costs incurred are in accordance with the Agreement, and in conformance with *Article XIX – Motor Vehicle Revenues* of the California State Constitution. Our assessment was based on review of an internal control questionnaire, observations, interviews with OCTA personnel, and testing of selected Program expenses.

Per the Agreement with Caltrans, OCTA has 60 days following the “completion of expenditures” or until August 30, 2009, to submit a Final Report of Expenditures to Caltrans. OCTA plans to submit the Final Report of Expenditures along with this audit report and claims for the \$38,801 in retention and unbilled expenditures of \$1,199 to Caltrans by August 30, 2009.

### **C. SEPARATE PROJECT FUND AND INTEREST ALLOCATION**

Based on our sample testing of Program costs and understanding of OCTA's accounting and invoicing procedures through an internal control questionnaire, observations and interviews with OCTA personnel, segregation of project costs was found to be adequate. Additionally, because OCTA is reimbursed for expenditures incurred for the Program on an actual cost reimbursement basis, no fund interest allocation was required.

## **LIMITATIONS AND RESTRICTIONS**

This report is intended solely for the information and use of Orange County Transportation Authority and the State of California Department of Transportation and is not intended to be and should not be used by anyone other than this specified party.

Torrance, California  
August 14, 2009

*Thompson, Cobb, Bazilio & Associates, P.C.*

**ORANGE COUNTY TRANSPORTATION AUTHORITY  
STATE TRANSPORTATION IMPROVEMENT PROGRAM  
PLANNING, PROGRAMMING AND MONITORING PROGRAM  
FISCAL YEAR 2006-07**

**Schedule of STIP PPM Program Costs**

<b>Project/Element</b>	<b>Costs Incurred</b>	<b>Disallowed Costs</b>	<b>Audited Costs</b>
Costa Mesa Freeway Access Study	\$ 274,979	\$ -	\$ 274,979
Costa Mesa Freeway Improvement Plan	446,713	-	446,713
OC/OLA Border Study	344,722	-	344,722
Ortega Hwy Improvement Plan	220,000	-	220,000
Staffing	503,789	-	503,789
<b>Total Costs</b>	<b>\$ 1,790,203</b>	<b>\$ -</b>	<b>\$ 1,790,203</b>
	Total FY 06/07 funding available		<u>\$ 1,531,000</u>
	Total reimbursed by Caltrans		<u>\$ 1,491,000</u>
	Amount due from Caltrans		<u>\$ 40,000</u>

Note: The \$40,000 amount due from Caltrans represents \$38,801 of retention withheld from the second invoice and \$1,199 of allowable Program expenses that have not yet been invoiced to Caltrans.





*BOARD COMMITTEE TRANSMITTAL*

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** <sup>WK</sup> Wendy Knowles, Clerk of the Board  
**Subject:** Federal Legislative Status Report

Legislative and Communications Committee Meeting of September 17, 2009

**Present:** Directors Buffa, Cavecche, Dalton, and Mansoor  
**Absent:** Directors Bates, Brown, and Glaab

***Committee Vote***

This item was passed by all Committee Members present.

***Committee Recommendation***

Receive and file as an information item.



**September 17, 2009**

**To:** Legislative and Communications Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Federal Legislative Status Report

### **Overview**

This report provides a discussion of the Surface Transportation Assistance Act of 2009, recently introduced in the House, particularly those provisions which would place new requirements upon federally funded toll roads and the use of public-private partnership agreements in federally funded highway projects.

### **Recommendation**

Receive and file as an information item.

### **Discussion**

As Congress returns from summer recess, the prospect for surface transportation reauthorization this year is remote. Three jurisdictional committees in the Senate have voted for an 18-month extension of the current Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), as urged by the President. It is likely that the full Senate will proceed in that direction and pass an extension before the expiration of SAFETEA-LU on September 30.

However, the House Transportation and Infrastructure (T & I) Committee has chosen to move forward with new authorizing legislation, and has passed the Surface Transportation Assistance Act of 2009 (STAA) out of the Highways and Transit Subcommittee of the T & I Committee. This bill cannot proceed further to full committee consideration without a revenue title from the Ways and Means Committee, which has thus far not been provided.

While it is unlikely that the STAA will be enacted this year, the House bill does provide insight into the approach which the T & I Committee will take on reauthorization. For that reason, a brief overview of the legislation is provided,

with a detailed explanation of new policy requirements regarding federally funded toll roads and public-private partnership (PPP) agreements.

The STAA of 2009 would provide a six-year total of \$450 billion for the federal highway, public transportation and highway safety programs, compared to \$286 billion provided by SAFETEA-LU. In addition, the STAA would authorize \$50 billion for high-speed passenger rail, bringing the total to \$500 billion. Other than aggregate amounts for a handful of programs, the bill includes no specifics on the distribution of these funds by activity or state.

The bill would provide \$337 billion for highway improvements. The 775-page bill contains a number of major structural changes to be made to the highway program, including program consolidation, new program additions, and an emphasis on meeting performance goals and accountability through new reporting requirements. Major new programs in the bill would emphasize maintenance of roads and bridges on the National Highway System (NHS), improvements to metropolitan mobility, and improvements to freight corridors.

The core public transportation program would receive approximately \$100 billion. Transit projects would also have expanded eligibility for some highway program funds. While some programs would be consolidated and changed slightly, the most prevalent change would be a focus on setting and meeting performance standards.

Provisions in the STAA establish a new "Office of Public Benefit" (Section 1204), add new requirements regarding federally funded toll roads (Section 1301), and provide new policy requirements for PPP agreements (Section 1504). These provisions are provided as Attachments A, B, and C, respectively. Many commentators have stated that the private sector can be one of several possible sources of revenue to fund future highway projects. Therefore, these provisions provide insight into the direction of the House regarding private sector participation in the next reauthorization.

Section 1204 of the bill would establish within the Federal Highway Administration an Office of Public Benefit to administer and oversee new federal standards for highway toll projects and PPP agreements that involve federal funds. The office would review and approve all proposed new toll rate schedules and changes to existing schedules. The director would also monitor compliance with newly required toll agreements, ensure that adequate mitigation has been done to protect low-income drivers, and monitor whether sufficient operational improvements have been undertaken to accommodate those taken off the road because of the toll. Regarding PPPs, the new director

would monitor state compliance with required agreements and oversee new federal PPP requirements.

Section 1301 would amend current law regarding use of tolls on federally funded highways to require federal approval of all toll agreements before federal funding is authorized, and federal approval of all rate changes made during toll operation. The criteria for approval include a finding that the toll schedule is just and reasonable and that the return on investment for the private entities involved is reasonable. Toll revenue use is restricted to debt service, return on principle and costs for maintenance and operations, with excess revenues available for transit capital and operating projects in the corridor. Non-compete clauses are prohibited. A public comment period is required prior to implementation of operation with consideration of impacts on interstate commerce and travel.

Section 1504 would require public authorities to complete an analysis to determine that any proposed PPP agreement for the operation or maintenance of a highway will provide value when compared to traditional delivery methods. This analysis is to take into consideration lifecycle costs and delivery timeframes and the costs and benefits of risk transfers. All non-proprietary terms (still to be determined) of any PPP agreement are to be made public prior to approval with an opportunity for public comment. Non-compete clauses are prohibited and specific access requirements must be included in the agreements. All PPP agreements must have a clause permitting termination for convenience by the public entity upon payment of fair market value and must establish condition standards to be met by the private entity upon returning the facility at the end of the contract term.

While there are certain parts of these three provisions which may be beneficial to public-private cooperation in highway projects, when taken together the provisions appear to discourage the prompt and efficient use of tolling or PPP to benefit highway projects. The new required toll and PPP provisions, subject to review by an entirely new office of the Department of Transportation, have the potential to delay PPP projects and, thereby, dilute the efficiencies which these projects offer. The requirement in Section 1301 that the Office of Public Benefit will determine a reasonable rate of return on toll agreements is very similar to a public utility commission approach to rate regulation.

Staff believes that all of these requirements would make the private sector less likely to participate in such agreements and would likely make the agreements more costly to the public and increase project delivery times. As the debate on reauthorization continues, staff will look for opportunities to discuss the problems with these provisions and share the positive PPP and tolling

experiences which have taken place at the Orange County Transportation Authority

***Summary***

This report provides a discussion of the House-introduced Surface Transportation Assistance Act of 2009 and analyzes three provisions of the bill which provide new requirements for federally financed toll roads and public-private partnership agreements for the operation or maintenance of federal highways.

***Attachments***

- A. Section 1204 of the Surface Transportation Assistance Act of 2009
- B. Section 1301 of the Surface Transportation Assistance Act of 2009
- C. Section 1504 of the Surface Transportation Assistance Act of 2009

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## Section 1204 of the Surface Transportation Act of 2009

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1           ~~“(8) U.S. BICYCLE ROUTE SYSTEM.—The term~~  
 2           ~~‘U.S. bicycle route system’ means a national, inter-~~  
 3           ~~city system of interconnected urban, suburban, and~~  
 4           ~~rural bicycle facilities of all classes.”.~~

5           ~~(b) CLERICAL AMENDMENT.—The analysis for chap-~~  
 6           ~~ter 3 (as amended by this Act) is amended by adding at~~  
 7           ~~the end the following:~~

~~“331. Office of Livability.”.~~

8   **SEC. 1204. OFFICE OF PUBLIC BENEFIT.**

9           (a) IN GENERAL.—Chapter 6 is amended by adding  
 10          at the end the following:

11       **“§ 611. Office of Public Benefit**

12           “(a) ESTABLISHMENT.—There is established in the  
 13          Federal Highway Administration an Office of Public Ben-  
 14          efit to provide for the protection of the public interest in  
 15          relation to highway toll projects and public-private part-  
 16          nership agreements on Federal-aid highways.

17           “(b) DIRECTOR.—The Office shall be headed by a Di-  
 18          rector, who shall be appointed by the Secretary.

19           “(c) DUTIES.—The Director shall carry out the fol-  
 20          lowing duties:

21           “(1) LEADERSHIP AND TECHNICAL ASSIST-  
 22          ANCE.—The Director shall—

23                   “(A) provide national leadership in ensur-  
 24                   ing the protection of the public interest in rela-  
 25                   tion to highway toll projects and public-private

1 partnership agreements on Federal-aid high-  
2 ways;

3 “(B) compile and promote the use of poli-  
4 cies, practices, and techniques for protecting  
5 the public interest in relation to highway toll  
6 projects and public-private partnership agree-  
7 ments on Federal-aid highways; and

8 “(C) upon request, assist State and local  
9 transportation departments, elected officials,  
10 and other public officials in implementing such  
11 policies, practices, and techniques.

12 “(2) ADMINISTRATION OF TOLL AGREE-  
13 MENTS.—The Director shall administer toll agree-  
14 ments under section 129, including—

15 “(A) reviewing and approving or dis-  
16 approving proposed toll rate schedules in ac-  
17 cordance with section 129(a)(3)(G);

18 “(B) reviewing and approving or dis-  
19 approving any substantial proposed change to  
20 such toll rate schedules in accordance with such  
21 section; and

22 “(C) any other activities that the Secretary  
23 determines necessary under section  
24 129(a)(3)(B).

1           “(3) COMPLIANCE WITH TOLL AGREEMENTS.—

2           The Director shall monitor the compliance of public  
3           authorities with the requirements applicable to toll  
4           agreements under section 129, including—

5                   “(A) restrictions on use of toll revenues;

6                   “(B) the prohibition on noncompete agree-  
7           ments;

8                   “(C) prior to the implementation of tolls  
9           on the facility—

10                   “(i) allowance for public comment on  
11           toll rate schedules;

12                   “(ii) consideration of impacts of the  
13           toll on interstate commerce or travel;

14                   “(iii) provision of operational improve-  
15           ments and transit service sufficient to ac-  
16           commodate travel diverted from the facility  
17           due to the collection of the toll; and

18                   “(iv) provision of measures to miti-  
19           gate the impact of the toll on low-income  
20           travelers;

21                   “(D) public availability of rate data for  
22           each tolled facility in an interoperable electronic  
23           format that complies with the requirements,  
24           standards, and performance specifications es-  
25           tablished under the final rule required by sec-

1           tion 1301(e) of the Surface Transportation Au-  
2           thorization Act of 2009; and

3                   “(E) any other provisions applicable to toll  
4           agreements under such section.

5           “(4) COMPLIANCE WITH PUBLIC-PRIVATE PART-  
6           NERSHIP REQUIREMENTS.—The Director shall ad-  
7           minister and monitor the compliance of States, and  
8           of other public authorities subject to section 112(h),  
9           with the requirements of section 112(h), including—

10                   “(A) pursuant to section 112(h), that the  
11           public authority, prior to the award of any con-  
12           tract awarded under section 112(b) for a  
13           project that involves a public-private partner-  
14           ship agreement—

15                           “(i) assess whether the use of a pub-  
16           lic-private partnership agreement, as pro-  
17           posed for the potential project, provides  
18           value compared with traditional public de-  
19           livery methods;

20                           “(ii) make available to the public key  
21           terms of the contract to be awarded; and

22                           “(iii) offer interested parties a reason-  
23           able opportunity to comment on the pro-  
24           posed agreement;

1           “(B) pursuant to section 112(h), that any  
2           contract awarded under section 112(b) for a  
3           project that involves a public-private partner-  
4           ship agreement—

5                   “(i) includes provisions to prohibit the  
6                   closing of the highway facility or portions  
7                   thereof to vehicular traffic except in spe-  
8                   cifically enumerated circumstances;

9                   “(ii) does not include any provision  
10                  under which the State is prevented from  
11                  improving or expanding the capacity of  
12                  public roads in the same travel corridor as  
13                  the highway facility;

14                  “(iii) includes provisions to allow the  
15                  public authority the option of reclaiming  
16                  ownership of the highway facility prior to  
17                  the end of the term of the public-private  
18                  partnership agreement; and

19                  “(iv) sets forth standards that the  
20                  highway facility must meet or must be  
21                  brought up to by the private partner at the  
22                  end of the term of the public-private part-  
23                  nership agreement; and

24                  “(C) any other requirement of section  
25                  112(h).

1                   “(i) a description of the Director’s  
2                   oversight activities under subsection (c);

3                   “(ii) a description of any toll agree-  
4                   ments that the Director administered  
5                   under subsection (c)(2); and

6                   “(iii) a description of actions that the  
7                   Secretary has taken in response to any  
8                   noncompliance described under paragraph  
9                   (2);

10                  “(B) a description of the compliance or  
11                  noncompliance of State and public authorities  
12                  in the year prior to submission of the report  
13                  with the requirements of sections 112(h), 129,  
14                  and 156(c); and

15                  “(C) a description of significant activities  
16                  (statutory, policy, or otherwise) that States and  
17                  other public entities have taken in that annual  
18                  period to protect the public interest in relation  
19                  to highway toll projects and public-private part-  
20                  nership agreements on Federal-aid highways;  
21                  and

22                  “(D) such recommendations as the Sec-  
23                  retary may have for enhancing the ability of the  
24                  Director to meet the objectives of this section.

1       “(e) DEFINITIONS.—In this section, the following  
2 definitions apply:

3           “(1) HIGHWAY TOLL PROJECT.—The term  
4 ‘highway toll project’ means a project that—

5           “(A) involves the institution of tolls on a  
6 Federal-aid highway; and

7           “(B) is subject to the requirements of sec-  
8 tion 129.

9           “(2) PRIVATE PARTNER.—The term ‘private  
10 partner’ has the meaning given that term in section  
11 112(h).

12           “(3) PUBLIC AUTHORITY.—The term ‘public  
13 authority’ has the meaning given that term in sec-  
14 tion 112(h).

15           “(4) PUBLIC-PRIVATE PARTNERSHIP AGREE-  
16 MENT.—The term ‘public-private partnership agree-  
17 ment’ has the meaning given that term in section  
18 112(h).”.

19       (b) CLERICAL AMENDMENT.—The analysis for chap-  
20 ter 6 is amended by adding at the end the following:

“611. Office of Public Benefit.”.

21 ~~SEC. 1205. METROPOLITAN MOBILITY AND ACCESS PRO-~~  
22 ~~GRAM.~~

23 ~~(a) FINDINGS.—Congress finds the following:~~

24 ~~(1) According to the National Surface Trans-~~  
25 ~~portation Policy and Revenue Study Commission,~~

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1 “(9) 20-year projections of capacity-constrained  
2 airports and congested air traffic routes;

3 “(10) 20-year projections of passenger demand  
4 for suborbital space tourism;

5 “(11) 20-year projections of demand on major  
6 freight rail lines; and

7 “(12) 20-year projections of shipping traffic at  
8 United States ports.

9 “(c) SHORT SEA SHIPPING DEFINED.—In this sec-  
10 tion the term ‘short sea shipping’ has the same meaning  
11 given that term in section 119.”.

12 (c) STATE PLANNING AND RESEARCH FUNDING.—  
13 **[to be supplied]**

14 (d) CLERICAL AMENDMENT.—The analysis of chap-  
15 ter 7 (as added by this Act) is amended by adding at the  
16 end the following:

“703. National transportation strategic plan.”.

## 17 **Subtitle C—Finance**

### 18 **SEC. 1301. TOLL ROADS, BRIDGES, TUNNELS, AND FERRIES.**

19 (a) TOLL AGREEMENTS.—Section 129(a)(3) is  
20 amended to read as follows:

21 “(3) TOLL AGREEMENTS.—

22 “(A) IN GENERAL.—Before the Secretary  
23 may permit Federal participation under this  
24 subsection or subsection (d), (e), or (f) in a  
25 highway, bridge, or tunnel located in a State,

1           the public authority (including the State trans-  
2           portation department) having jurisdiction over  
3           the highway, bridge, or tunnel must enter into  
4           an agreement with the Secretary that includes  
5           provisions sufficient to satisfy the requirements  
6           of this paragraph.

7           “(B) ADMINISTRATION AND MONITORING  
8           OF TOLL AGREEMENTS.—The Secretary, acting  
9           through the Office of Public Benefit, shall ad-  
10          minister toll agreements entered into under this  
11          paragraph and monitor the compliance of public  
12          authorities with such agreements.

13          “(C) PRIMARY USES OF TOLL REVE-  
14          NUES.—All toll revenues received from oper-  
15          ation of the toll facility shall be used first for  
16          debt service, for reasonable return on invest-  
17          ment of any private person financing the  
18          project, and for the costs necessary for the  
19          proper operation and maintenance of the toll fa-  
20          cility, including reconstruction, resurfacing, res-  
21          toration, and rehabilitation.

22          “(D) ELIGIBLE USES OF EXCESS TOLL  
23          REVENUES.—

24                  “(i) IN GENERAL.—Subject to sub-  
25                  section (d), if the public authority certifies

1           annually that the tolled facility is being  
2           adequately maintained and that the re-  
3           quirements of subparagraphs (A) and (C)  
4           have been met, the public authority may  
5           use any additional toll revenues generated  
6           from the tolled facility only for—

7                   “(I) projects for which Federal  
8                   funds may be obligated by a State  
9                   under this title or chapter 53 of title  
10                  49; and

11                  “(II) operating costs of equip-  
12                  ment and facilities for use in public  
13                  transportation.

14                  “(ii) LOCATION.—A project receiving  
15                  toll revenues under clause (i) shall be lo-  
16                  cated in, and equipment and facilities re-  
17                  ceiving operating costs from toll revenues  
18                  under clause (i) shall provide public trans-  
19                  portation service in—

20                   “(I) the same travel corridor as  
21                   the tolled facility (if the toll is applied  
22                   to a single facility); or

23                   “(II) the area impacted by the  
24                   toll (if the toll is applied on a cordon  
25                   or area-wide basis).

1           “(E) PROHIBITION ON NONCOMPETE  
2           AGREEMENTS.—The public authority shall not  
3           enter into an agreement with a private person  
4           under which the State is prevented from im-  
5           proving or expanding the capacity of public  
6           roads in the same travel corridor.

7           “(F) PUBLIC COMMENT.—

8           “(i) IN GENERAL.—The public author-  
9           ity shall offer the public a reasonable op-  
10          portunity to comment on the rate schedule  
11          of any proposed toll before the initial im-  
12          plementation of tolling on the facility and  
13          before any substantial modification to such  
14          rate schedule (other than changes in toll  
15          rates consistent with the original rate  
16          schedule).

17          “(ii) METHODS.—In carrying out  
18          clause (i), the public authority, to the max-  
19          imum extent practicable, shall hold public  
20          meetings at convenient and accessible loca-  
21          tions and times and make information per-  
22          taining to the proposed toll rate schedule  
23          available in electronically accessible format  
24          and means, such as the World Wide Web,  
25          as appropriate to afford reasonable oppor-

1                   tunity for consideration of public informa-  
2                   tion under clause (i).

3                   “(G) REVIEW BY SECRETARY.—

4                   “ (i) INITIAL REVIEW.—The Secretary  
5                   shall review the rate schedule of any pro-  
6                   posed toll before the initial implementation  
7                   of tolling on the facility, and shall only ap-  
8                   prove such rate schedule if, in the Sec-  
9                   retary’s judgment, the rate schedule—

10                   “(I) provides for only just and  
11                   reasonable toll rates and toll rate in-  
12                   creases;

13                   “(II) allows no private person re-  
14                   sponsible for financing a project on  
15                   the facility or otherwise responsible  
16                   for the facility’s maintenance and op-  
17                   erations to achieve more than a rea-  
18                   sonable rate of return on investment;  
19                   and

20                   “(III) has no substantial negative  
21                   impacts on interstate commerce or  
22                   travel.

23                   “(ii) REVIEW UPON SUBSTANTIAL  
24                   CHANGE.—The public authority (or any  
25                   other private or public entity with author-

1           ity to modify toll rates on the toll facility)  
2           shall not make any substantial modifica-  
3           tion to the initial toll rate schedule (apart  
4           from changes in toll rates consistent with  
5           the original rate schedule) without first al-  
6           lowing the Secretary to review and approve  
7           or not approve the proposed modification.

8           “(iii) TERMS FOR APPROVAL.—The  
9           Secretary shall only approve any such  
10          modified rate schedule if, in the Sec-  
11          retary’s judgment, the modification would  
12          allow for—

13                   “(I) just and reasonable toll in-  
14                   creases; and

15                   “(II) any private person respon-  
16                   sible for financing a project on the fa-  
17                   cility or otherwise responsible for the  
18                   facility’s maintenance and operations  
19                   to achieve no more than a reasonable  
20                   rate of return on investment.

21           “(iv) PROVISION OF INFORMATION.—  
22          The public authority (or any other private  
23          or public entity with authority to modify  
24          toll rates on the toll facility) shall provide  
25          the Secretary with information regarding

1 the proposed toll rate schedule sufficient,  
2 in the judgment of the Secretary, to allow  
3 the Secretary to conduct any reviews and  
4 make any approvals or disapprovals under  
5 this subparagraph.

6 “(v) JUDICIAL REVIEW.—An approval  
7 or disapproval of a toll rate schedule issued  
8 by the Secretary under this subparagraph  
9 shall be subject to judicial review under  
10 chapter 7 of title 5, if a claim for the re-  
11 view is filed on or before the 90th day fol-  
12 lowing the date on which the approval or  
13 disapproval is issued.

14 “(H) MITIGATION MEASURES.—Before in-  
15 stituting tolls on the facility, the public author-  
16 ity shall—

17 “(i) consider, to the satisfaction of the  
18 Secretary, any substantial negative impacts  
19 that the toll would likely impose on inter-  
20 state commerce or travel;

21 “(ii) provide operational improvements  
22 and transit service sufficient, as deter-  
23 mined by the Secretary, to accommodate  
24 any substantial amount of travel that is

1           projected to be diverted from the facility  
2           due to the collection of the toll; and

3                   “(iii) provide measures, such as toll  
4           discounts or credits, that are sufficient, in  
5           the judgment of the Secretary, to mitigate  
6           the impact of the toll on low-income trav-  
7           elers.

8                   “(I) AVAILABILITY OF TOLL RATE DATA.—

9           The public authority shall make toll rate data  
10          for each tolled facility located on the National  
11          Highway System publicly available in an inter-  
12          operable electronic format that complies with  
13          the requirements, standards, and performance  
14          specifications established under the rule re-  
15          quired by section 1301(e) of the Surface Trans-  
16          portation Authorization Act of 2009.

17                   “(J) PUBLIC NOTICE.—The public author-  
18          ity shall make the toll agreement available to  
19          the public in electronically accessible format  
20          and means, such as the World Wide Web.”.

21          (b) ADDITIONAL TOLL PROVISIONS.—Section 129 is  
22          amended by adding at the end the following:

23                   “(d) HOV LANES.—

24                           “(1) FEDERAL PARTICIPATION.—Notwith-  
25          standing section 301, the Secretary may permit Fed-

1 eral participation under this section in a high occu-  
2 pancy vehicle facility—

3 “(A) in which the operators of low occu-  
4 pancy vehicles or low emission or energy-effi-  
5 cient vehicles pay a toll in order to use the fa-  
6 cility; and

7 “(B) for which the State agency with re-  
8 sponsibility for ownership or operation of such  
9 lanes makes an annual certification that the fa-  
10 cility complies with the requirements of section  
11 166(d).

12 “(2) SPECIAL RULE FOR USE OF REVENUES.—  
13 Notwithstanding subsection (a)(3)(D), after com-  
14 plying with subsection (a)(3)(C), the State shall use  
15 any additional toll revenues generated from a tolled  
16 high occupancy vehicle facility for capital, mainte-  
17 nance and operating costs of equipment and facili-  
18 ties for use in public transportation within the same  
19 travel corridor as the tolled facility.

20 “(e) VARIABLE TOLLS IN DESIGNATED AREAS.—  
21 Notwithstanding section 301, the Secretary may permit  
22 Federal participation in toll facilities that institute vari-  
23 able tolls as part of a metropolitan mobility plan in accord-  
24 ance with section 701(q).

25 “(f) EXISTING AGREEMENTS.—

1           “(1) IN GENERAL.—If, before the date of enact-  
2           ment of this subsection, a toll agreement or coopera-  
3           tive agreement has been executed under one of the  
4           sections referred to in paragraph (2), the agreement  
5           shall remain valid and subject to such terms and  
6           conditions as were in effect under the agreement on  
7           the day before such date of enactment if—

8                   “(A) a final decision under the National  
9                   Environmental Policy Act of 1969 (42 U.S.C.  
10                  4321 et seq.) has been issued for the project  
11                  that is the subject of such agreement; or

12                  “(B) a contract has been executed for the  
13                  construction, development, or operation of the  
14                  facility that is the subject of such agreement.

15           “(2) PREVIOUS TOLL AUTHORITIES.—The sec-  
16           tions referred to in paragraph (1) include the fol-  
17           lowing:

18                   “(A) This section.

19                   “(B) Section 119(e), as in effect on the  
20                   day before the date of enactment of the Inter-  
21                   modal Surface Transportation Efficiency Act of  
22                   1991 (Public Law 102–240).

23                   “(C) Section 166.

1           “(D) Section 1012(b) of the Intermodal  
2           Surface Transportation Efficiency Act (23  
3           U.S.C. 149 note; 105 Stat. 1938).

4           “(E) Section 1216(b) of the Transpor-  
5           tation Equity Act for the 21st Century (23  
6           U.S.C. 129 note; 112 Stat. 212).

7           “(F) Sections 1604(b) and 1604(c) of  
8           SAFETEA-LU (23 U.S.C. 129 note; 119 Stat.  
9           1250).

10          “(g) DEFINITIONS.—In this section, the following  
11          definitions apply:

12           “(1) LOW OCCUPANCY VEHICLE.—The term  
13           ‘low occupancy vehicle’ means a vehicle that is au-  
14           thorized to use a high occupancy vehicle facility  
15           under section 166(b)(4).

16           “(2) LOW EMISSION OR ENERGY-EFFICIENT VE-  
17           HICLE.—The term ‘low emission or energy-efficient  
18           vehicle’ means a vehicle that is authorized to use a  
19           high occupancy vehicle facility under section  
20           166(b)(5).

21           “(3) OFFICE OF [PUBLIC BENEFIT].—The term  
22           ‘Office of Public Benefit’ means the office estab-  
23           lished by section 332.”.

24          (c) TECHNICAL AMENDMENTS.—Section 129 is fur-  
25          ther amended—

1           (1) in subsection (b) by inserting “AP-  
2           PROACHES TO FERRIES.—” before “Notwith-  
3           standing”;

4           (2) in subsection (c) by inserting “FERRY  
5           BOATS AND TERMINAL FACILITIES.—” before “Not-  
6           withstanding”; and

7           (3) by striking “and repair” and inserting “re-  
8           pair”.

9           (d) CONFORMING AMENDMENTS.—

10           (1) REPEAL OF OTHER TOLLING PROVISIONS.—

11           The following provisions of law are repealed:

12                   (A) Section 1012(b) of the Intermodal  
13                   Surface Transportation Efficiency Act (23  
14                   U.S.C. 149 note; 105 Stat. 1938).

15                   (B) Section 1216(b) of the Transportation  
16                   Equity Act for the 21st Century (23 U.S.C.  
17                   129 note; 112 Stat. 212).

18                   (C) Section 1604(b) of SAFETEA-LU (23  
19                   U.S.C. 129 note; 119 Stat. 1250)

20                   (D) Section 1604(c) of SAFETEA-LU  
21                   (23 U.S.C. 129 note; 119 Stat. 1250).

22           (2) PROCEEDS FROM SALE OR LEASE OF REAL  
23           PROPERTY.—Section 156(c) is amended—

24                   (A) by striking “The Federal” and insert-  
25                   ing the following:

1 “(1) IN GENERAL.—The Federal”; and

2 (B) by adding at the end the following:

3 “(2) SPECIAL RULE FOR TOLLED FACILITIES.—

4 The Federal share of net income from the revenues  
5 obtained by a State under subsection (a) with re-  
6 spect to a facility tolled under section 129 shall be  
7 used by the State for projects eligible under this  
8 title, or for projects eligible chapter 53 of title 49,  
9 that are located in the same travel corridor as the  
10 tolled facility.”.

11 (3) FREEDOM FROM TOLLS.—Section 301 is  
12 amended by striking “with respect to certain toll  
13 bridges and tunnels”.

14 (e) INTEROPERABILITY OF TOLL COLLECTION DE-  
15 VICES.—

16 (1) ESTABLISHMENT OF STANDARD.—Not later  
17 than 18 months after the date of enactment of this  
18 Act, the Secretary, by rulemaking, shall establish a  
19 national standard for the interoperability of elec-  
20 tronic toll collection devices for all toll facilities on  
21 the National Highway System.

22 (2) ADOPTION OF STANDARD.—Not later than  
23 two years after the Secretary’s establishment of the  
24 national standard under paragraph (1), all toll facili-

↑  
1 ties on the National Highway System shall adopt  
2 such standard.

3 **SEC. 1302. TRANSPORTATION INFRASTRUCTURE FINANCE**  
4 **AND INNOVATION ACT AMENDMENTS.**

5 (a) **ELIGIBILITY AND PROJECT SELECTION.**—Section  
6 602(c) is amended by striking “section 5333(a) of title  
7 49” and inserting “sections 5333(a), 5333(b), and  
8 24405(a) of title 49”.

9 (b) **SECURED LOANS.**—Section 603(b)(2) is amended  
10 by striking “33 percent” and inserting “49 percent”.

11 (c) **LINES OF CREDIT.**—Section 604(b)(2) is amend-  
12 ed by striking “33 percent” and inserting “49 percent”.

13 (d) **FUNDING.**—Section 608(a) is amended—

14 (1) in paragraph (1) by striking “\$122,000,000  
15 for each of fiscal years 2005 through 2009” and in-  
16 serting “[**\$**] for each of fiscal years 2010 through  
17 2015”; and

18 (2) in paragraph (3) by striking “\$2,200,000  
19 for each of fiscal years 2005 through 2009” and in-  
20 serting “[**\$**] for each of fiscal years 2010 through  
21 2015”.

22 **SEC. 1303. STATE INFRASTRUCTURE BANKS.**

23 (a) **FUNDING.**—Section 610(d) is amended—

24 (1) in paragraph (1)(A) by striking “104(b)(4),  
25 and 144” and inserting “and 104(b)(4)”; and

## Section 1504 of the Surface Transportation Act of 2009

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1           “(2) PRACTICAL DESIGN STANDARD.—The term  
2           ‘practical design standard’ has the meaning given  
3           that term in section 331.”.

4           (e) GUIDANCE ON COMPREHENSIVE STREET DESIGN  
5           PRINCIPLES.—Not later than one year after the date of  
6           enactment of this Act, the Secretary, in consultation with  
7           the Office of Livability, shall issue guidance on the De-  
8           partment’s implementation of the requirements related to  
9           comprehensive street design policies and principles and  
10          practical design standards under section 109(a) of title 23,  
11          United States Code.

12          **SEC. 1503. REVENUE ALIGNED BUDGET AUTHORITY.**

          【to be supplied】

13          **SEC. 1504. PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS.**

14          Section 112 is amended by adding at the end the fol-  
15          lowing:

16          “(h) PUBLIC-PRIVATE PARTNERSHIP AGREE-  
17          MENTS.—

18                 “(1) IN GENERAL.—The Secretary shall re-  
19                 quire, as a condition of the Secretary’s approval of  
20                 any contract awarded under subsection (b), that in-  
21                 volves a public-private partnership agreement that—

22                         “(A) the public authority meet each of the  
23                         requirements of paragraph (2); and

1           “(B) the contract include provisions suffi-  
2           cient to meet each of the requirements of para-  
3           graph (3).

4           “(2) ACTIONS BEFORE CONTRACT AWARD.—

5           “(A) VALUE-FOR-MONEY ASSESSMENT.—

6           “(i) IN GENERAL.—Before awarding a  
7           contract under subsection (b) for a project  
8           that involves a public-private partnership  
9           agreement, the public authority shall ana-  
10          lyze the potential project to assess whether  
11          the use of a public-private partnership  
12          agreement, as proposed for the potential  
13          project, would provide value compared with  
14          traditional public delivery methods.

15          “(ii) CONSIDERATIONS.—An assess-  
16          ment under clause (i) shall include consid-  
17          eration, at a minimum, of the following  
18          factors:

19                 “(I) The potential life-cycle cost  
20                 and delivery timeframe of the project  
21                 under traditional public delivery meth-  
22                 ods as compared to under the ap-  
23                 proach proposed by the private part-  
24                 ner.

1                   “(II) Benefits or costs associated  
2                   with any transfer of risk to the pri-  
3                   vate partner pursuant to the public-  
4                   private partnership agreement.

5                   “(III) Other benefits or costs,  
6                   whether quantitative or qualitative,  
7                   associated with public delivery of the  
8                   project.

9                   “(B) TRANSPARENCY.—

10                   “(i) IN GENERAL.—Before awarding  
11                   any contract under subsection (b) for a  
12                   project that involves a public-private part-  
13                   nership agreement, the public authority  
14                   shall make available to the public key  
15                   terms of the contract to be awarded, in-  
16                   cluding [\_\_].

17                   “(ii) PROPRIETARY INFORMATION.—  
18                   The public disclosure requirement under  
19                   clause (i) shall not extend to any informa-  
20                   tion in a project proposal that is, in the  
21                   judgment of the public authority, confiden-  
22                   tial or proprietary.

23                   “(C) OPPORTUNITY FOR PUBLIC COM-  
24                   MENT.—

1           “(i) IN GENERAL.—Before awarding a  
2 contract under subsection (b) for a project  
3 that involves a public-private partnership  
4 agreement, the public authority shall offer  
5 interested parties a reasonable opportunity  
6 to comment on the proposed agreement.

7           “(ii) METHODS.—In carrying out  
8 clause (i), the public authority shall, to the  
9 maximum extent practicable—

10           “(I) hold any public meetings at  
11 convenient and accessible locations  
12 and times; and

13           “(II) make information per-  
14 taining to the proposed agreement  
15 available in electronically accessible  
16 format and means, such as the World  
17 Wide Web, as appropriate to afford  
18 reasonable opportunity for consider-  
19 ation of public information under  
20 clause (i).

21           “(3) CONTRACT PROVISIONS.—Any contract  
22 awarded under subsection (b) for a project that in-  
23 volves a public-private partnership agreement shall  
24 include provisions sufficient to meet each of the fol-  
25 lowing requirements:

1 “(A) ACCESS TO FACILITY.—

2 “(i) IN GENERAL.—The contract shall  
3 include provisions that prohibit the closing  
4 of the highway facility or portions thereof  
5 to vehicular traffic except in specifically  
6 enumerated circumstances, such as for  
7 routine and capital maintenance or acci-  
8 dent clearance, or as provided in clauses  
9 (ii) and (iii).

10 “(ii) SPECIAL LANES.—The contract  
11 may include provisions that allow the pri-  
12 vate partner to—

13 “(I) prohibit trucks from using  
14 one or more designated lanes on the  
15 highway facility, or from using such  
16 lanes at designated times;

17 “(II) prohibit all vehicles other  
18 than trucks from using one or more  
19 designated lanes on the highway facil-  
20 ity; and

21 “(III) operate one or more lanes  
22 on the highway facility as a HOV fa-  
23 cility, subject to the requirements of  
24 section 166.

1           “(iii) MOTORCYCLES AND BICY-  
2           CLES.—The private partner may restrict  
3           use of the highway facility by motorcycles  
4           or bicycles (or both) if the private partner  
5           certifies to the Secretary that such use  
6           would create a safety hazard and the Sec-  
7           retary accepts the certification.

8           “(iv) UNPERMITTED CLOSURES.—The  
9           contract shall include provisions that allow  
10          the public authority to enter and take con-  
11          trol of the highway facility and reopen it  
12          for operation in cases in which the private  
13          partner closes the highway facility in viola-  
14          tion of the provisions described in clause  
15          (i).

16          “(v) EMERGENCY ACCESS.—

17                 “(I) IN GENERAL.—The contract  
18                 shall provide for the highway facility  
19                 to be opened for evacuations for peri-  
20                 ods in which the Governor of the  
21                 State has declared a state of emer-  
22                 gency or the President has declared  
23                 such event to be a major disaster for  
24                 the purposes of the Robert T. Staf-  
25                 ford Disaster Relief and Emergency

1 Assistance Act (42 U.S.C. 5121 et  
2 seq.).

3 “(II) PROHIBITION OF TOLLS.—  
4 The contract shall prohibit the private  
5 partner from charging tolls to users of  
6 the highway facility during periods of  
7 evacuation under subclause (I).

8 “(B) PROHIBITION ON NONCOMPETE  
9 AGREEMENTS.—The contract shall not include  
10 any provision under which the State is pre-  
11 vented from improving or expanding the capac-  
12 ity of public roads in the same travel corridor  
13 as the highway facility.

14 “(C) EARLY TERMINATION FOR CONVEN-  
15 IENCE.—The contract shall include provisions  
16 to allow the public authority the option of re-  
17 claiming ownership of the highway facility be-  
18 fore the end of the term of the public-private  
19 partnership agreement. In order to exercise this  
20 option, the public authority shall be required to  
21 provide fair market value compensation to the  
22 private partner.

23 “(D) HANDBACK STANDARDS.—The con-  
24 tract shall set forth standards that the highway  
25 facility must meet or must be brought up to by

1           the private partner at the end of the term of  
2           the public-private partnership agreement. Such  
3           standards shall provide that the highway facility  
4           is in an appropriate state of repair, given its  
5           life expectancy, at the time at which it reverts  
6           to the control of the public authority.

7           “(4) DEFINITIONS.—In this subsection, the fol-  
8           lowing definitions apply:

9                   “(A) HIGHWAY FACILITY.—The term  
10           ‘highway facility’ means a highway, whether ex-  
11           isting or planned, for which a public authority  
12           and a private partner enter into a public-private  
13           partnership agreement under this subsection.

14                   “(B) HOV FACILITY.—The term ‘HOV fa-  
15           cility’ has the meaning given that term in sec-  
16           tion 166.

17                   “(C) PRIVATE PARTNER.—

18                           “(i) IN GENERAL.—The term ‘private  
19           partner’ means a private sector entity that  
20           enters into a public-private partnership  
21           agreement under this subsection.

22                           “(ii) INCLUSIONS.—A private partner  
23           may be a natural person, corporation, part-  
24           nership, limited liability company, founda-  
25           tion, joint venture, business trust, non-

1 profit entity, other business entity, or any  
2 combination thereof.

3 “(D) PUBLIC-PRIVATE PARTNERSHIP  
4 AGREEMENT.—The term ‘public-private part-  
5 nership agreement’ means a contractual agree-  
6 ment formed between a State or other public  
7 entity and a private partner in which the pri-  
8 vate partner agrees to operate and maintain a  
9 highway facility in exchange for a financial re-  
10 turn. Such a return may or may not include the  
11 authority to collect and retain toll revenues paid  
12 by users of the highway facility.

13 “(E) PUBLIC AUTHORITY.—The term  
14 ‘public authority’ means the State or other pub-  
15 lic entity that owns a facility that is, or is pro-  
16 posed to be, subject to a public-private partner-  
17 ship agreement.

18 “(F) TRUCK.—The term ‘truck’ means any  
19 self-propelled or towed motor vehicle used on a  
20 highway in commerce to transport property,  
21 when the vehicle—

22 “(i) has a gross vehicle weight rating  
23 or gross vehicle weight of at least 10,001  
24 pounds, whichever is greater; or

1                   “(ii) is used in transporting material  
2                   found by the Secretary to be hazardous  
3                   under section 5103 of title 49 and trans-  
4                   ported in a quantity requiring placarding  
5                   under regulations prescribed by the Sec-  
6                   retary under section 5103 of title 49.”.

7 **SEC. 1505. PREVAILING RATE OF WAGE.**

8           Section 113 is amended to read as follows:

9 **“§ 113. Prevailing rate of wage**

10           “(a) IN GENERAL.—The Secretary shall take such  
11 action as may be necessary to ensure that all laborers and  
12 mechanics employed by contractors and subcontractors on  
13 construction work performed on projects assisted in whole  
14 or in part by and through the Federal Government pursu-  
15 ant to this title be paid wages at rates not less than those  
16 prevailing on projects of a character similar in the locality,  
17 as determined by the Secretary of Labor in accordance  
18 with subchapter IV of chapter 31 of title 40. With respect  
19 to the labor standards specified in this section, the Sec-  
20 retary of Labor shall have the authority and functions set  
21 forth in Reorganization Plan Numbered 14 of 1950 (64  
22 Stat. 1267) and section 3145 of title 40.

23           “(b) APPRENTICESHIP AND SKILL TRAINING PRO-  
24 GRAMS.—The provisions of this section shall not be appli-  
25 cable to employment pursuant to apprenticeship and skill





BOARD COMMITTEE TRANSMITTAL

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** <sup>WK</sup> Wendy Knowles, Clerk of the Board  
**Subject:** Orange County Transportation Authority's Draft 2010 State and Federal Legislative Platforms

Legislative and Communications Committee Meeting of September 17, 2009

**Present:** Directors Buffa, Cavecche, Dalton, and Mansoor  
**Absent:** Directors Bates, Brown, and Glaab

**Committee Vote**

This item was passed by all Committee Members present.

**Committee Recommendation**

Authorize staff to circulate copies of the Draft 2010 State and Federal Legislative Platforms to advisory groups, Orange County legislative delegations, cities, and interested members of the public.

Note: Chief Executive Officer, Will Kempton, commented that staff will be proposing to add to the final draft of the Platform, legislation to allow the Authority the ability to do the advertising, award, and administration of construction projects on state highways.



**September 17, 2009**

**To:** Legislative and Communications Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Orange County Transportation Authority's Draft 2010 State and Federal Legislative Platforms

**Overview**

Initial drafts of the Orange County Transportation Authority's 2010 State and Federal Legislative Platform have been prepared for the Board of Directors' consideration. Direct staff to circulate for further review and comment by interested parties.

**Recommendation**

Authorize staff to circulate copies of the draft 2010 State and Federal Legislative Platforms to advisory groups, Orange County legislative delegations, cities, and interested members of the public.

**Discussion**

Annually, the Orange County Transportation Authority (OCTA) adopts an updated legislative platform to guide OCTA's state and federal legislative activities for the upcoming year.

The draft 2010 State and Federal Legislative Platforms, presented as Attachments A and B, are proposed as updates to the adopted 2009 platforms based on achievements in Sacramento and Washington D.C. this year and what are anticipated to be key issues in the next legislative session.

Proposed changes from the 2009 State and Federal Legislative Platforms are designated by underlined and strikeout text. The attachments incorporate new suggestions and initiatives solicited by OCTA staff from the following groups:

- OCTA Board Members (Board),
- OCTA advisory groups,

- 
- OCTA division directors, department managers, and staff,
  - Orange County federal and state legislative delegation members,
  - Cities, chambers of commerce, and the County of Orange,
  - Orange County community based organizations and associations.

Over 300 groups and individuals were asked to consider issues important to OCTA or problems currently affecting Orange County transportation that might be addressed by legislative solutions. State and federal relations staff considered the ideas and input received when writing the draft 2010 legislative platforms.

#### 2010 State Legislative Platform

Major new sections and concepts included in the draft 2010 State Legislative Platform reflect current and anticipated issues for the 2010 legislative session. OCTA's key issues for the 2010 legislative session include transit funding and mandates, transportation funding, AB 32 /SB 375 implementation, and alternative delivery methods. It should be noted that due to ongoing financial constraints, coupled with a number of unresolved policy issues, new issues may arise that staff will continue to evaluate and incorporate into the final draft of the 2010 State Legislative Platform.

Responding to diversions in transit and transportation funding and taking steps to secure these revenue sources will remain a top priority for OCTA. The fiscal year (FY) 2009-2010 budget eliminated the State Transit Assistance (STA) Program for five years, diverted "spillover" revenue (a calculation of the difference between a portion of the state sales tax on all goods and the sales tax on gasoline) for four years, and transferred \$135 million from the State Highway Account as a special fund loan, all to provide General Fund relief. Additionally, regulations to integrate transportation and land-use planning, compounded by a lack of funding for implementation of AB 32 (Chapter 488, Statutes of 2006) and SB 375 (Chapter 728, Statutes of 2008) will have impacts to OCTA's planning and programming functions.

#### Update on Sponsor Legislation

SB 375 Clean-up: The signing of AB 32 – the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006) led to a proliferation of litigation and piecemeal settlement agreements attempting to address how greenhouse gas (GHG) emissions are to be analyzed under the California Environmental Quality Act (CEQA). Due to the inconsistency present in these agreements, and lack of clear modeling techniques or thresholds, many projects remain

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vulnerable to challenge under CEQA. In order to assist in a resolution of these issues, the Governor signed SB 97 (Chapter 185, Statutes of 2007), which directed the Office of Planning and Research (OPR) to draft guidelines for analyzing GHG emissions under CEQA. OPR completed this task in April 2009 and transmitted the draft guidelines to the California Resources Agency (Resources Agency) which, under SB 97, is required to adopt the revised guidelines by January 1, 2010.

Throughout this process, OCTA advocated that the guidelines should clearly state that transportation projects included in a sustainable communities strategy under SB 375, which meet regional GHG emission reduction targets assigned by the California Air Resources Board (ARB), should be analyzed at the programmatic level. While specific language has yet to be included, there are numerous provisions within the draft guidelines that recognize GHG emissions are best analyzed at a programmatic level, whenever possible. In addition, in documents related to the resources agency's rulemaking process for adopting the CEQA guidelines, there is also acknowledgement that program level analysis is better suited for analyzing the impacts of GHG emissions, citing the cumulative nature of such emissions and the legislature's preference for using a streamlined environmental review process, such as tiering, whenever possible.

Furthermore, when the OPR released informal guidance through a technical advisory in June 2008, it stressed that some projects may not be appropriately analyzed at the project level due to the analysis not being feasible or effective. For these projects, it is recommended that program level policies be adopted to analyze GHG emissions. Moreover, in the ARB's AB 32 Scoping Plan, adopted in December 2008, it also stated the preference for a programmatic approach to analyzing such emissions.

Notably missing from SB 375 was a process for resolving this issue. Although, SB 375 is touted as a comprehensive tool for reducing GHG emissions from transportation and land use sectors, direction was only provided on how to analyze GHG emissions under CEQA for specific development projects. Governor Schwarzenegger recognized the need for clean-up legislation in his signing message for SB 375, citing the need to expand CEQA streamlining provisions for transportation projects. However, this year's primary SB 375 clean-up bill, SB 575 (Steinberg, D-Sacramento), failed to include CEQA streamlining, limiting its provisions to technical clean-up.

Throughout the current legislative session, OCTA worked diligently with multiple stakeholders to advocate for needed clarifications. Through OCTA's

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efforts, multiple bills included language that would accomplish our objectives. However, throughout the session, bills seeking to clean-up SB 375 failed to advance, with SB 575 deemed the sole vehicle for SB 375 clean-up legislation by the Senate Pro Tem. Although there is widespread acknowledgement that additional clean-up legislation is necessary, this process has been postponed until the 2010 legislative session.

Los Angeles-San Diego-San Luis Obispo (LOSSAN) Corridor: In addition, as part of the approved 2009 State Legislative Platform, staff was directed to draft legislation that would facilitate local flexibility and coordination of passenger and freight rail services on the LOSSAN rail corridor. The intent of this legislation was to serve as a vehicle for any required statutory changes to come out from a LOSSAN integration study sponsored by OCTA and other LOSSAN stakeholder agencies. The study is anticipated to be completed in late 2009. SB 454 was introduced by Senator Alan Lowenthal (D-Long Beach) in February 2009 as a placeholder bill until the study's completion. As the integration study completion date falls into the 2010 legislative session, SB 454 will remain a placeholder bill and will also be carried over into the 2010 State Legislative Platform.

Other legislative suggestions submitted to staff in 2009 included:

- Streamlining the State Transportation Improvement Program (STIP) project nomination process by allowing transportation commissions to nominate state highway projects for the STIP using corridor and feasibility studies.
- Additional suggestions included opposing legislation that would roll back worker's compensation reforms resulting in additional expenses and inefficiencies to employers.
- OCTA also sought authorization for "transit safe zones" around transit stops by increasing penalties for crimes committed in these transit areas. Staff is still evaluating and exploring these issues for inclusion in the final platform.

Based on internal and external stakeholder contributions, the following changes are recommended to the draft 2010 State Legislative Platform:

- AB 32 Implementation - section added under Key Transportation Policy Issues in 2010 (Key Issues).
- SB 375 implementation language and principles were added to reflect that developments have occurred over the past legislative session.
- As a result of cuts to transit operators, compounded by mandates associated with AB 32 and SB 375, a separate transit section was added

under Key Issues to stress the importance of developing a reliable and secure funding source for transit.

- An Alternative Delivery Methods Section was added to provide direction on moving forward with the recent expansion of design-build and public-private partnership authority enacted in the FY 2009-2010 state budget.

In an effort to keep the platform up-to-date, the state legislative platform is being reviewed for items that no longer apply or have been achieved. Staff is currently in the process of working with various OCTA departments to determine if the provisions within the state platform continue to be consistent with OCTA's goals, mission, and values.

#### 2010 Federal Legislative Platform

The draft 2010 Federal Legislative Platform, presented as Attachment B, is proposed to update the adopted 2009 program based on advocacy in Washington, D.C. this year and anticipated key issues in the upcoming Senate floor.

Language has been added throughout the draft platform to provide updated information on the current status and near-term expectations for legislative activity in Washington, D.C. The federal authorization bill, the Safe, Accountable, Flexible, Efficient, Transportation Equity Act-A Legacy for Users (SAFETEA-LU) will not be reauthorized by the bill's sunset date of September 30, 2009. Therefore, this year's efforts to watch and analyze reauthorization proposals has been retained in 2010.

The goods movement discussion in Section VI has been substantially updated to reflect current economic conditions at the ports of Los Angeles and Long Beach and to underscore that current reductions in freight volume do not change the need to proceed with improvements.

Based on internal and external stakeholder contributions the following changes are recommended to the draft 2010 Federal Legislative Platform:

- In Section I, regarding annual transportation appropriations, federal funding is no longer requested for the West Orange County Connector Project as that project has already been fully funded by a combination of American Recovery and Reinvestment Act (ARRA) funds, Congestion Mitigation and Air Quality (CMAQ), and Proposition 1B funds.
- In Section II, a new section has been added at the request of the City of Irvine to support funding for other key rail stations and intermodal

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centers along the LOSSAN corridor, including stations in Irvine, Fullerton, and Santa Ana.

- Also in Section II, a positive statement of cooperation has been added to the Foothill South project description to seek a resolution of the issue which will permit completion of the Foothill South project.
- In Section IV, a new provision has been added to support legislation, such as the Board-supported H.R. 467, the Equitable Treatment of State and Local Government Act of 2009 (Speier D-CA), which would hold local entities harmless for debt instruments issued by Lehman Brothers and held by them on September 15, 2008.
- Also in Section IV, a new provision has been added at the request of the City of Irvine to support full funding of the Energy Efficiency and Conservation Block Grant program to promote greater fuel efficiency and reduce energy usage.
- Finally in Section IV, a new provision has been added which provides general guidance to oppose any federal legislation or regulatory action which would impede business development or job creation in Orange County and to actively support legislation that improves local, state and national economic recovery.

#### **Next Steps**

With the Board's authorization, staff will circulate the draft 2010 State and Federal Legislative Platforms to key audiences for additional review and comment. The Legislative and Communications Committee will review a revised draft with any additional changes on November 5, 2009. The final 2010 State and Federal Legislative Platforms will be forwarded to the Board for adoption at its November 9, 2009, meeting.

#### **Summary**

Upon Board authorization, the draft 2010 State and Federal Legislative Platforms will be circulated for additional review and will return to the Board in November for final consideration and adoption.

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***Attachments***

- A. Draft Orange County Transportation Authority 2010 State Legislative Platform
- B. Draft Orange County Transportation Authority 2010 Federal Legislative Platform

**Prepared by:**



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**Approved by:**



Kristine Murray  
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**Draft Orange County Transportation Authority 2010 State Legislative Platform**

2010 Legislative Platform Introduction:

2009 was an unprecedented time in California. As the state and nation experienced the most severe economic downturn since the 1930's, this impacted the lives of all Californians in many ways. As statewide unemployment continued to rise, businesses closed, and national credit markets froze, California's revenues sharply declined while its ability to borrow both short-term and long-term grinded to a halt. As a result, in December 2008, hundreds of bond-funded public infrastructure projects including Proposition 1B projects were stalled due to California's inability to sell bonds. These conditions resulted in state officials having to revisit the fiscal year (FY) 2008-2009 budget just five months after enactment.

In February, the state legislature made revisions to the FY 2008-2009 budget and also enacted the FY 2009-2010 budget an unprecedented five months ahead of schedule. However, the failure of the May 19, 2009 Special Election ballot measures failed to approve several of the funding mechanisms contained in the February budget agreement. In addition to continued, declining revenues, California was faced with an additional \$23 billion shortfall. The Legislature and Governor once again resumed budget deliberations, this time relying on heavy borrowing from local governments and transportation programs to balance the state budget.

As the economic downturn and continued budgetary shortfalls remain at the forefront in Sacramento, transportation continues to be a pivotal issue for the state. Primarily, transit will serve as a key element of the greenhouse gas emission reductions required by AB 32 (Chapter 488, Statutes of 2006) and SB 375 (Chapter 728, Statutes of 2008). Furthermore, as volatile energy prices persist, Southern California drivers will be searching for alternative transportation options. At the same time, over the past three years, close to \$3.5 billion in transit revenues have been diverted to provide general fund relief. This has forced local transit agencies to make difficult decisions about service reductions at a time when the demand for services remains consistent.

With the enactment of the federal American Recovery and Reinvestment Act (ARRA) in February 2009, \$45.2 billion was appropriated to states for transportation infrastructure projects and transit. Over the next two years, the Orange County Transportation Authority (OCTA) will receive approximately \$212 million which will be used to provide hundreds of much needed jobs in Orange County while simultaneously delivering projects that will improve Orange County's transportation system. Although the injection of ARRA dollars provides relief, the demand for transportation infrastructure projects far exceed the resources available.

Californian's also understand the important role transportation plays in both contributing to local economies and improving the overall quality of life. Voters have expressed their clear support for funding transportation infrastructure. With the approval of Proposition 42 (2002) and Proposition 1A (2006), which protected Prop. 42 revenues from any future state diversion, voters not only voiced their desire to provide stable

sources of transportation funding, but also expressed the need to protect such funding from future diversions. Additionally, the approval of Proposition 1B (2006), the extension of Orange County's Measure M (2006), and Proposition 1A (High-Speed Rail, 2008) further demonstrates the voter's support for transportation infrastructure.

In 2010, with hopes of an economic recovery on the horizon, state officials and the people of California will still need to address a variety of imperative public policy issues. As the legislature navigates between developing balanced budgets and achieving its environmental goals, transportation and transit will play an integral role in meeting these requirements. As a result, transportation infrastructure and transit funding should and must be a priority for the legislature in 2010.

OCTA looks forward to addressing these issues in 2010 and beyond.

# **Orange County Transportation Authority 2010 State Legislative Platform**

The 2010 State Legislative Platform serves as a framework document to guide the Orange County Transportation Authority's (OCTA) state legislative, regulatory, and administrative activities in the coming year. The Key Transportation Policy Issues section briefly describes the issues that are anticipated to be the major focus of the upcoming legislative session and offers guiding policy direction for those issues. The later sections present guiding policy statements for other major issue areas that may arise during the year.

Although this document generally serves to guide legislative activities and recommendations, positions on individual items will be brought to the Board of Directors for formal action.

## **Key Transportation Policy Issues in 2010**

A number of significant transportation issues are expected to be discussed in the 2010 legislative session. A few of these key issues are highlighted in this section including: Transit, Transportation Funding, AB 32/SB 375 Implementation, and Project Delivery Methods.

In order to better understand how resources are anticipated to be allocated during the 2010 legislative session, each issue in the Key Transportation Issues section is designated with a "Lobbying Action Level." The level is derived from the expected impact the issue could have on the OCTA, the context in which the issue is moving forward, and the amount of resources that are expected to be devoted to the issue in pursuit of the objective.

A "Lobbying Action Level - High" designation means that all resources and actions necessary will be devoted to this particular issue due not only to the direct, significant, or long-term impacts that the outcome poses to OCTA, but also priority items of the OCTA Board of Directors (Board). A strategically targeted, comprehensive array of actions will be taken in addition to those used for other Lobbying Action Levels.

A "Lobbying Action Level - Medium" designation means that a full range of resources will be explored for the particular issue depending on the current status. Such actions could include formal correspondence and personal involvement of staff or Board Members through the legislative process.

A "Lobbying Action Level - Low" designation means that a smaller amount of resources will be devoted to the issue due to the low level of activity anticipated for that particular item. These issues will be monitored for potential amendments which increase the issue's significance and warrant a higher level of activity.

~~Transportation Funding (Moved to later in this section)~~

~~California's fiscal year (FY) 2008-2009 budget diverts an estimated \$1.7 billion from the Public Transportation Account (PTA) to cover General Fund expenditures. Funds derived from the PTA are used for transit capital improvement projects and public transit operational expenses. The ongoing state budget deficit has led to the Legislature diverting significant sums of transportation dollars to balance the state's fiscal deficiencies. This year's diversion will cause public transit agencies throughout the State to consider making serious cuts to transportation projects and/or reducing services. Two of the most strongly debated funding sources at the state level are "spillover" and Proposition 42.~~

~~"Spillover" revenue is generated through a calculation of the difference between a portion of the state sales tax on all goods and the sales tax on gasoline. "Spillover" revenue is required by statute to be deposited into the PTA to cover public transit expenditures, but has historically been largely diverted to non-public transportation purposes. A significant amount of this year's \$1.7 billion transportation funding diversion came from "spillover." The FY 2007-2008 state budget permanently redirected 50 percent of "spillover" revenue annually to cover General Fund expenditures. The remaining "spillover" revenues were to be distributed in the following manner: two thirds to be distributed to the State Transit Assistance Fund and one third to be distributed into the PTA. However, in the signing message for this measure, the Governor indicated that such statutory protection must be evaluated on a year-to-year basis, leaving open the possibility of additional funds being diverted in future years. Fulfilling this forecast, the FY 2008-2009 diverted all \$1.427 billion in spillover funding to pay for General Fund expenditures.~~

~~Passed in 2002, Proposition 42 requires the transfer of the state sales tax on gasoline from the General Fund to the Transportation Investment Fund to fund transportation improvements around the state. In 2006, California voters passed Proposition 1A which closed the "loop-hole" in Proposition 42 by only permitting loans to the General Fund, rather than full or partial suspensions. These loans would be required to be repaid with interest within three years. The FY 2008-2009 state budget fully funds Proposition 42, which is projected to generate \$1.3 billion for transportation projects statewide. Additionally, \$83 million from the "spillover" diversion was used to repay past Proposition 42 suspensions to provide General Fund relief. However, with the ongoing state budget shortfalls, Proposition 42 could be vulnerable in 2009.~~

~~In 2009, OCTA will continue to:~~

<del>a)</del>	<del>Oppose efforts to divert transportation revenue sources to be used for General Fund expenditures</del>	<del>Lobbying Action Level High</del>
<del>b)</del>	<del>Oppose the diversion of various transportation revenue sources to be allocated towards</del>	<del>Lobbying Action Level High</del>

	<del>Proposition 42 repayments or future repayment of general fund obligation bonds</del>	
e)	<del>Support the expedited repayment of all Proposition 42 loans</del>	<del>Lobbying Action Level Medium</del>

**Transit:**

Since 2007, significant transit revenues, approximately \$3.5 billion, have been siphoned from the Public Transportation Account (PTA) to provide General Fund relief. The PTA is intended to primarily fund transit capital improvement projects and operational expenses. Over the past three years, state transit funds have increasingly diminished. In 2010, the state will not provide any support for transit operations.

In 2007, the Legislature and Governor approved the creation of the Mass Transportation Fund (MTF) which initially diverted 50 percent of “spillover” revenue from the PTA to the MTF to cover transportation debt service traditionally paid for through the General Fund. “Spillover” revenue is generated through a calculation of the difference between a portion of the state sales tax on all goods and the sales tax on gasoline and is required by statute to be deposited into the PTA to cover public transit expenditures. Furthermore, on top of the 50 percent diversion to debt service, two additional expenditures were obligated to the PTA. Home-to-school transportation and regional center transportation, traditionally paid for through the General Fund, were now new ongoing PTA obligations. Over the past three years, enacted state budgets have increased the amount of PTA funds diverted to the abovementioned expenditures. The FY 2009-2010 state budget eliminated State Transit Assistance funding for a minimum five years and will shift all “spillover” revenue to debt service until 2013.

Upon the initial diversion of PTA funds, the California Transit Association filed a lawsuit in October 2007 challenging the state’s diversion of PTA funds. While the Sacramento Superior Court ruled in favor of a large number of the diversions, in late June 2009, the Third District Court of Appeals (Court) in Sacramento issued a ruling declaring the entire diversion of PTA revenues for the 2007-2008 fiscal year and subsequent diversions in proceeding years violated state law in the amount of \$1.189 billion. The Administration appealed this decision to the State Supreme Court, which now continues to leave open the issue of the legality of the State’s diversion of transportation dollars.

Transit agencies throughout the state are diligently working on alternatives to ensure sufficient services remain operating while state officials simultaneously divert transit dollars to the General Fund. While the CTA’s lawsuit serves as an opportunity for PTA revenues to be restored, we must realistically look forward to develop stable transit funding and protect those dollars from future diversions.

The Orange County Transportation Authority (OCTA) adopted a set of transit principles to guide policy discussions on how to restore and stabilize state transit funding. Policymakers should consider these principles when addressing transit funding

In 2010 OCTA will advocate for the following transit principles:

a)	<u>Existing state funding sources for transit should be preserved and strengthened to include explicit constitutional protection from diversions to non-traditional recipients, with safeguards included for expeditious repayment with interest if used for alternative short-term needs.</u>	<i>Lobbying Action Level High</i>
b)	<u>The state should clearly define mass transportation to be limited to traditional transit bus and rail uses, with any state funds for transit to be limited to those purposes, protecting against the use of such funds for General Fund obligations.</u>	<i>Lobbying Action Level High</i>
c)	<u>The state should have a role in providing funding for transit operations and the responsibility for transit should not be shifted to local transportation entities and no additional requirements should be created for the use or receipt of mandates requiring operations beyond existing capacity, unless agreed to by that entity.</u>	<i>Lobbying Action Level High</i>
d)	<u>Any newly created state fees for transit should allow for revenues to be locally controlled, and include specific safeguards to prevent the diversion of funding for non-transit purposes and ensure adequate oversight to provide accountability that funds are used as intended.</u>	<i>Lobbying Action Level High</i>
e)	<u>Flexibility should be included in any state transit funding source, allowing transit operators to use the funding for both operations and capital expenditures.</u>	<i>Lobbying Action Level High</i>
f)	<u>Efforts should be undertaken to more clearly delineate the costs associated with operating transit compatible with meeting the state or nation's environmental goals.</u>	<i>Lobbying Action Level Medium</i>
g)	<u>Any efforts at updating current state funding mechanisms for transit should give consideration to creating alignment in the administration, farebox recovery requirements, and exclusions provided under various programs.</u>	<i>Lobbying Action Level Low</i>

## Infrastructure Bond Implementation

In 2006, voters approved a \$39 billion infrastructure bond package constituting the single largest investment in state infrastructure in decades. Specifically, Proposition 1B allocates over \$19 billion for transportation purposes with several programs being subject to implementing legislation. The FY 2008-2009 State Budget included trailer bill language that allocated funding for or created the structure to implement Proposition 1B programs such as Local Streets and Roads; Public Transportation Modernization, Improvement, and Service Enhancement Account; State Transportation Improvement Program (STIP); Corridor Mobility Improvement Account; State Highway Operations and Protection Program (SHOPP); State-Local Partnership Program; Trade Corridor Improvement Fund; Transit System Safety, Security, and Disaster Response Account; and others. OCTA is actively involved in the implementation of these programs and will continue to monitor the implementation for potential changes, supporting efforts to optimize funding for Orange County projects.

In 2009, OCTA will:

a)	Support the continued implementation of Proposition 1B programs that benefit Orange County projects	<i>Lobbying Action Level High</i>
b)	Support legislation that enables faster, more efficient delivery of Proposition 1B projects in Orange County	<i>Lobbying Action Level High</i>

## Transportation Funding:

The global economic recession significantly exacerbated California's budgetary problems. The severe erosion of revenues not only deepened the General Fund deficit but also depleted the state's cash resources and caused major downgrades to California's credit ratings. As a result, in July 2009 the State Controller began issuing registered warrants (IOU's) to non-priority state obligations to ensure sufficient cash resources. Additionally, multiple budget stalemates, the state's poor credit rating, and frozen national credit markets, restricted the State Treasurer's ability to sell bonds and caused hundreds of infrastructure project to stall. Many bond funded projects under Proposition 1B and Proposition 116 were in jeopardy of being suspended over this period. As the state continues to struggle with balancing its budgets and the economic recession continues, California's ability to sell transportation bonds will remain a priority issue.

The escalation of transportation revenues diverted to cover General Fund expenditures over the past three years has totaled approximately \$3.5 billion. These diversions include base PTA revenues, "spillover" (a calculation of the difference between a portion of the state sales tax on all goods and the sales tax on gasoline), and the public transportation portion of Proposition 42 funds. The past two enacted budgets have also pulled over \$300 million in special fund "loans" from the State Highway Account which

primarily funds highway maintenance and construction. Furthermore, a budget proposal to shift \$1 billion in state gas excise tax (gas tax) revenue for local transportation projects failed in Legislature during final deliberations.

Since these diversions have left transportation agencies with diminishing resources, it is imperative to continue not only advocating for the restoration of public transit funding but also the protection of other transportation revenues from future diversions.

In 2010, OCTA will:

a)	Oppose efforts to divert transportation revenue sources to be used for General Fund expenditures	<i>Lobbying Action Level High</i>
b)	Oppose the diversion of various transportation revenue sources to be allocated towards Proposition 42 repayments or future repayment of general fund obligation bonds	<i>Lobbying Action Level High</i>
c)	Support the expedited repayment of all Proposition 42 loans	<i>Lobbying Action Level Medium</i>

#### AB 32 Implementation

~~AB 32 — the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006), creates landmark greenhouse gas emission reduction requirements by setting the overall state goal of restoring emissions to 1990 levels by the year 2020. The California Air Resources Board (CARB), as the lead agency in the implementation of AB 32, is to work collaboratively with other agencies and stakeholders to create regulations that are both technologically feasible and cost effective. CARB has been directed to use a combination of both market-based compliance measures as well as traditional regulatory measures in carrying out this task.~~

~~By January 1, 2009, CARB is to adopt a Scoping Plan that will outline all measures to be used to achieve the aggressive goals outlined in AB 32. These measures, in turn, must be enforceable by January 2012. Many different sectors will be affected by these regulations, including the transportation industry. In order to ensure that regulations are adopted which both help meet emission reduction targets and encourage the development of necessary infrastructure to meet the needs of California's growing population, in 2009 OCTA will:~~

a)	<del>Support efforts to ensure local flexibility in meeting the goals of AB 32, that maintains local decision making authority</del>	<del><i>Lobbying Action Level High</i></del>
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b)	Support efforts to clarify a programmatic approach should be used to analyze greenhouse gas emissions for transportation projects under the California Environmental Quality Act (CEQA)	<i>Lobbying Action Level High</i>
e)	Oppose legislation seeking to accelerate the implementation of AB 32 prior to thorough analysis by CARB and an appropriate opportunity for public notice and comment	<i>Lobbying Action Level High</i>
d)	Oppose efforts to link or reprioritize local and state transportation funding through AB 32	<i>Lobbying Action Level High</i>
e)	Support incentive-based compliance measures rather than punitive policies	<i>Lobbying Action Level Medium</i>
f)	Support efforts to prevent pre-emptive litigation under CEQA before the necessary guidelines are established	<i>Lobbying Action Level Medium</i>
g)	Support efforts to provide secure transit funding for capital and operating expenses to assist in meeting AB 32 goals	<i>Lobbying Action Level Medium</i>
h)	Support efforts to ensure the availability of proven technology and adequate funding prior to the implementation of zero-emission bus regulations	<i>Lobbying Action Level Medium</i>
i)	Support efforts to allow for third-party independent review of the short- and long-term economic costs associated with the implementation of AB 32	<i>Lobbying Action Level Medium</i>
j)	Oppose efforts to create regulations that are not currently economically practicable or technologically feasible	<i>Lobbying Action Level Medium</i>
k)	Oppose efforts to create new oversight provisions under CEQA for entities not previously granted such authority	<i>Lobbying Action Level Medium</i>
l)	Support efforts at inter-agency collaboration to prevent piecemeal regulation	<i>Lobbying Action Level Low</i>
m)	Support the creation of grant programs to assist with compliance of the adopted regulations	<i>Lobbying Action Level Low</i>

AB 32/SB 375 Implementation

AB 32 - the Global Warming Solutions Act of 2006 (Chapter 488, Statutes of 2006), creates landmark greenhouse gas emission reduction requirements by setting the overall state goal of restoring emissions to 1990 levels by the year 2020. The California Air Resources Board (CARB), as the lead agency in the implementation of AB 32, is to work collaboratively with other agencies and stakeholders to create regulations that are both technologically feasible and cost-effective. CARB has been directed to use a combination of both market-based compliance measures as well as traditional regulatory measures in carrying out this task.

In December 2008 ~~By January 1, 2009~~, CARB ~~is to adopt~~ed a Scoping Plan ~~that will outline~~ all measures to be used to achieve the aggressive goals outlined in AB 32. These measures, ~~in turn, must~~ are to be enforceable by January 2012. Many different sectors will be affected by these regulations, including the transportation industry.

One of the most ambitious measures included to reduce greenhouse gas emissions from transportation was SB 375 (Chapter 728, Chapter 2008), which seeks to link transportation, land use, and housing planning by requiring regions to create a sustainable communities strategy to meet regional greenhouse gas emission reduction targets for light trucks and automobiles for 2020 and 2035. Throughout 2010, there will be extensive implementation activities related to SB 375, with CARB to set regional targets by September 30, 2010, and mechanisms for funding this mandate are still needed, particularly for transit service.

In order to ensure that regulations are adopted which both help meet emission reduction targets and encourage the development of necessary infrastructure to meet the needs of California's growing population, in ~~2009~~10 OCTA will:

a)	Support efforts to ensure local flexibility in meeting the goals of AB 32, that maintains local decision making authority	<i>Lobbying Action Level High</i>
b)	Support efforts to clarify a programmatic approach should be used to analyze greenhouse gas emissions for transportation projects under the California Environmental Quality Act (CEQA)	<i>Lobbying Action Level High</i>
c)	Oppose legislation seeking to accelerate the implementation of AB 32 prior to thorough analysis by CARB and an appropriate opportunity for public notice and comment	<i>Lobbying Action Level High</i>
d)	Oppose efforts to link or reprioritize local and state transportation funding through AB 32	<i>Lobbying Action Level High</i>

e)	Support the maintenance of the <u>greenhouse gas emission reduction targets for SB 375 described in AB 32's Scoping Plan</u>	<i>Lobbying Action Level High</i>
f)	Support the inclusion of county transportation commissions as eligible recipients of any funding mechanism created for SB 375 implementation	<i>Lobbying Action Level High</i>
g)e)	Support incentive-based compliance measures rather than punitive policies	<i>Lobbying Action Level Medium</i>
h)f)	Support efforts to prevent pre-emptive litigation under CEQA before the necessary guidelines are established	<i>Lobbying Action Level Medium</i>
i)g)	Support efforts to provide secure transit funding for capital and operating expenses to assist in meeting AB 32 and <u>SB 375</u> goals	<i>Lobbying Action Level Medium</i>
j)h)	Support efforts to ensure the availability of proven technology and adequate funding prior to the implementation of zero emission bus regulations	<i>Lobbying Action Level Medium</i>
k)i)	Support efforts to allow for third-party independent review of the short- and long-term economic costs associated with the implementation of AB 32 and <u>SB 375</u>	<i>Lobbying Action Level Medium</i>
l)j)	Oppose efforts to create regulations that are not currently economically practicable or technologically feasible	<i>Lobbying Action Level Medium</i>
m)k)	Oppose efforts to create new oversight provisions under CEQA for entities not previously granted such authority	<i>Lobbying Action Level Medium</i>
n)l)	Support efforts at inter-agency collaboration to prevent piecemeal regulation	<i>Lobbying Action Level Low</i>
o)m)	Support the creation of grant programs to assist with compliance of the adopted regulations	<i>Lobbying Action Level Low</i>

### Alternative Delivery Methods

As funding for transportation projects continue to be strained, innovative methods of project delivery and funding are needed to meet the future demands of the state's transportation system. The State Legislature recognized this need in the FY 2009-2010 state budget, where it granted expanded authority for transportation agencies to utilize design-build and public-private partnerships. Specifically, the state budget authorized

15 design-build projects statewide, and unlimited use of public-private partnerships until 2017.

It will be crucial that as guidelines are created, and implementation of specific projects occur, successes of past uses of these alternative project delivery mechanisms are built upon, such as the use of public-private partnerships on the 91 Express Lanes, and design-build on the Garden Grove Freeway (State Route 22). To work towards that goal, in 2010 OCTA will:

a)	<u>Encourage private investment in projects by opposing efforts to add back-end approval processes, after project proposals have been received and negotiations have already occurred</u>	<u>Lobbying Action Level High</u>
b)	<u>Oppose duplicative reporting mandates and efforts to impose additional requirements, beyond what is required in statute, on lead agencies awarding contracts using alternative project delivery mechanisms</u>	<u>Lobbying Action Level High</u>

~~Goods Movement (moved to Section VI f) through i))~~

~~The movement of goods to and from the ports of Los Angeles and Long Beach (POLA/LB) has been a major contributor to traffic congestion on Orange County highways, streets, and roads. An estimated 43 percent of all United States (U.S.) container traffic and 54 percent of U.S./Asian containerized trade is handled by the port complex of POLA/LB, making them the fifth largest port complex in the world. Most significantly, 50 to 70 percent of the freight coming through POLA/LB is destined for locations outside of the Southern California region.~~

~~This trade volume is expected to dramatically increase in the next 20 years. This industry supports one out of every seven jobs in the state, contributing more than \$200 billion per year to the state's economy, including more than \$16 billion in tax revenues to state and local government. An estimated 700,000 jobs in the logistics industry (e.g., trucking, railroads, and warehousing) are directly related to freight movement in Southern California, with nearly 107,000 of these jobs being located in Orange County.~~

~~Current revenue streams are not sufficient to fund the projects needed to offset the costs of moving these goods. Additionally, existing state and local infrastructure is unable to handle the increasing demands placed on it by the growth in goods moving through Southern California.~~

~~The need for significant investment in the goods movement system has prompted the inclusion of \$3.1 billion for goods movement and port security infrastructure in Proposition 1B, approved by the voters in 2006.~~

In March of 2007, the Board adopted a Goods Movement Policy intended to guide OCTA decisions regarding goods movement. Further, in July of 2007, the Board adopted Principles for a Container Fee Program, which are intended to guide negotiations and analysis of either a voluntary or mandatory container fee program. OCTA will use these two policies to evaluate any state legislative proposals regarding goods movement.

In 2009, OCTA's advocacy efforts in this regard will emphasize the following:

a)	Ensure that public control of goods movement infrastructure projects is retained at the local level	<i>Lobbying Action Level High</i>
b)	Seek mitigation for the impacts of goods movement on local communities	<i>Lobbying Action Level High</i>
c)	Pursue new sources of funding for goods movement infrastructure	<i>Lobbying Action Level High</i>
d)	Continue to work with local, regional, state, and federal entities, as well as with the private sector, to develop and implement needed infrastructure projects	<i>Lobbying Action Level Medium</i>

Foothill-South Toll Road (State Route 241) Extension (moved to Section III, g))

With an estimated 320,000 daily trips, Orange County's toll road system is widely used by Southern California drivers. As the population continues to grow, the number of commuters increase, drive times become exacerbated, and the demand for traffic congestion relief becomes greater. The Transportation Corridor Agencies (TCA) plans to extend the State Route 241 (SR-241) toll road through southern Orange County to the Orange/San Diego County line, which would provide substantial relief to the County's freeway system.

In 2009 OCTA will:

a)	Support the Transportation Corridor Agencies' Foothill-South Toll Road Extension Plan to connect SR 241 to Interstate 5 in South Orange County	<i>Lobbying Action Level High</i>
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Sponsored Legislation

Each year, OCTA may consider considers sponsoring legislation to clarify or address various transportation policy areas that require additional attention. This year, the following major initiatives will be emphasized as sponsor bills:

a)	Sponsor legislation that will clarify that a programmatic approach is to be taken when analyzing greenhouse gas emissions for transportation projects under CEQA	<i>Lobbying Action Level High</i>
b)	<del>Sponsor legislation that facilitates local flexibility and coordination in the development of the Los Angeles – San Diego Rail Corridor Agency (LOSSAN) corridor</del>	<i>Lobbying Action Level High</i>
b)	<i>Continue to Sponsor SB 454 (Lowenthal, D-Long Beach) which will serve as the legislative vehicle for potential policy modifications to provide local flexibility and coordination of services along the Los Angeles – San Diego Rail Corridor (LOSSAN).</i>	<i>Lobby Action Level High</i>

## I. STATE BUDGET

~~With continued state budget deficits, OCTA remains concerned about the status of transportation funding in California. Transportation loans, transfers, and suspensions totaling over \$6 billion in the last seven years have exacerbated the existing demand for transportation investment in California. In fact, the CTC has identified over \$120 billion in unfunded rehabilitation needs alone on California’s highways, local streets and roads, and public transit over the next decade.~~

As the state continues to run major deficits, cash resources remain in jeopardy, and credit ratings steadily decline, OCTA remains concerned about the status of transportation funding in California. Revenue diversions, suspensions, and special fund “loans” to the General Fund have resulted in tremendous decreases in funding for transportation and transit agencies. As a result, minimal revenues exist to help rebuild the economy through investments in vital transportation infrastructure projects and critical transit services.

Consequently, OCTA will be alert to the further erosion of state transportation funding or attempts by the state to shift state expenditures to local obligations, as well as state attempts to shift their costs to local entities or to secure a larger state share of federal transportation funding.

Key actions by OCTA will include:

- a) Oppose further loans from state highway and transit accounts to the state General Fund, deferral of existing loan repayment provisions, taking of “spillover” revenue from the Public Transportation Account, or relaxation of payback with interest provisions

- b) Oppose unfunded mandates for transportation agencies and local governments in providing transportation improvements and services
- c) Oppose cost shifts or changes in responsibility for projects funded by the state to the local transportation entities
- d) Oppose the diversion of OCTA's share of state highway and transit funding for alternative purposes
- e) Support legislation to treat the property tax of single-county transit districts the same as multi-county districts and correct other Educational Revenue Augmentation Fund (ERAF) inequities between like agencies
- f) Seek additional funding for paratransit operations, including service for persons with disabilities and senior citizens
- g) Support the constitutional protection of all transportation funding resources

## **II. STATE/LOCAL FISCAL REFORMS AND ISSUES**

As California's budget challenges continue, uncertainties over potential future structural changes remain. OCTA is concerned that local agencies will be impacted as the Legislature and Administration attempt to erase the budget deficit and repay loans coming due in the next few years.

Therefore, OCTA will:

- a) Oppose efforts to reduce local prerogative over regional program funds
- b) Oppose levying any new and/or increase in gasoline sales taxes or user fees unless a direct nexus exists between revenues and transportation projects and the additional revenues are controlled by the county transportation commission
- c) Oppose efforts to increase the one and one-half percent cap on administrative fees charged by the Board of Equalization on the collection of local sales taxes measures
- d) Oppose efforts to redirect Proposition 116 funds outside of the county/region approved by the voters upon passage of the initiative
- e) Oppose efforts to transfer traditional federal funding sources from local agencies to the state and support equitable distribution of new federal funding programs in the state implementation legislation for the federal surface transportation act
- f) Support legislation protecting or expanding local decision-making in programming expenditures of transportation funds

- g) Support efforts to ease or simplify local matching requirements for state and federal grants and programs
- h) Support the retention of existing local revenue sources
- i) Support legislation to protect the flexibility of federal aid highway funds by requiring state compliance with federal highway safety requirements
- j) Support flexibility for obligating regional federal transportation funds through interim exchange instead of loss of the funds by the local agency
- k) Support increased flexibility in state guidelines related to the use of state highway funds for soundwalls

### III. STATE TRANSPORTATION IMPROVEMENT PROGRAM STREAMLINING

The State Transportation Improvement Program (STIP), substantially amended by SB 45 (Chapter 622, Statutes of 1997), is a programming document that establishes the funding priorities and project commitments for transportation capital improvements in California. ~~The STIP was traditionally funded from the State Highway Account (SHA), but is increasingly only funded by Proposition 42 funds.~~ SB 45 placed decision-making closest to the problem by providing project selection for 75 percent of the funding in the Regional Transportation Improvement Program (RTIP). This funding is distributed to counties based on an allocation formula. The remaining 25 percent of the funds is programmed by Caltrans in the Interregional Transportation Improvement Program (ITIP). Traditionally funded through multiple revenue sources, as a result of the state's ongoing budgetary issues, Proposition 42 has gradually become the STIP's sole source of program funding.

Key provisions to be sought by the OCTA include:

- a) Support legislation that maintains equitable "return to source" allocations of transportation tax revenues, such as updating north/south formula distribution of county shares and ITIP allocations
- b) Support legislation to clarify that programming of county shares has priority over advancement of future county shares
- c) Support maintaining the current STIP formula, which provides 75 percent of the STIP funding to the locally nominated RTIP and 25 percent to the ITIP Program
- d) Support a formula based guaranteed disbursement of the ITIP

- e) Support removing the barriers for funding transportation projects including allowing local agencies to advance projects with local funds when state funds are unavailable due to budgetary reasons, and allowing regions to pool federal, state, and local funds in order to limit lengthy amendment processes and streamline project delivery time
- f) Support legislation to involve county transportation commissions in development and prioritization of SHOPP projects

#### IV. TRANSIT PROGRAMS

~~In 2005, OCTA was recognized by the American Public Transportation Association as the "Outstanding Public Transportation System of the Year." OCTA's legislative efforts in 2009-2010 will focus on allowing the agency to continue to provide the reliable, safe, and efficient bus service on which riders have come to rely. In 2010, OCTA will continue to with its focus on providing safe, reliable, and efficient transit services in Orange County. However, providing ongoing high quality bus service is increasingly challenging due to severe state budget cuts for transit services and additional obligations to meet state environmental mandates. While taking proactive measures to mitigate environmental impacts is imperative to transit operators, OCTA will make every effort to minimize additional state obligation to transit operations which also lacks a sufficient and secure revenue source.~~

To that end, OCTA will focus on the following:

- a) Oppose unfunded transit mandates that may occur as part of California's Olmstead Plan, which encourages independence in the disabled community
- b) Support legislation to encourage the interoperability of smart card technology within California
- c) Support legislation to limit the liability of transit districts for the location of bus stops (Bonanno v. Central Contra Costa Transit Authority)
- d) Support the citing of transit oriented development projects (i.e. authorize extra credit towards housing element requirements for these developments), including incentives for development
- e) Support additional funding for paratransit operations, including service for persons with disabilities and senior citizens
- f) Support legislation aligning administration rules, farebox recovery requirements, and various exclusions provided for under the State Transit Assistance program with the Transportation Development Act. Support efforts to reinstate the State Transit Assistance Program and support program reforms to realign administrative rules,

farebox recovery requirements, and various exclusions under the State Transit Assistance Program.

## **V. ROADS AND HIGHWAYS**

OCTA's commitment to continuously improve mobility in Orange County is reflected through a dynamic involvement in such innovative highway endeavors as the ownership of the 91 Express Lanes and the use of design-build authority on the Garden Grove Freeway (State Route 22) project. OCTA will continue to seek new and innovative ways to deliver road and highway projects to the residents of Orange County and to that end, in ~~2009-2010~~, OCTA will focus on the following:

- a) Oppose efforts to create a conservancy that would inhibit the delivery of transportation projects under study or being implemented in the region
- b) Support administrative policy changes to lower the oversight fee charged by Caltrans to ensure that project support costs are equivalent whether the project is administered by Caltrans or a local agency
- c) Support improvements in major trade gateways in California to facilitate the movement of intrastate, interstate, and international trade beneficial to the state's economy
- d) Support streamlining of the Caltrans review process for projects, simplification of processes, and reduction of red tape, without compromising environmental safeguards
- e) Support customer privacy rights while maintaining OCTA's ability to effectively communicate with customers and operate the 91 Express Lanes
- f) Support the use of new technology to enhance toll agency enforcement efforts
- g) Work with Caltrans to ensure design specifications for bridges are free from defect
- h) Seek cooperation from the state, the county, cities, and other local jurisdictions to implement street signal coordination, prioritization, preemption, and use of intelligent transportation system measures
- i) Work with Caltrans to further improve street signal coordination by permitting the coordination of on and off-ramp signals with local street signal synchronization efforts
- j) Continue to work with Caltrans and regional agencies on expanding utilization of continuous access of High Occupancy Vehicle (HOV) lanes

- k) Monitor efforts to increase fines for HOV lane violations, and if implemented, ensure fines are dedicated to enforcement purposes
- l) Support studying the policies, funding options, and need for rail/highway grade separations including any impact on existing state highway and transit funding sources
- m) Support legislation authorizing the use of design-build for transportation infrastructure without limiting the type of funding that can be used on the projects
- n) Support the use of performance based infrastructure that increases highway capacity without limiting the ability to improve public facilities and that maintains local authority and flexibility in decision making
- o) Cooperate with the Riverside County Transportation Commission on the extension of the existing 91 Express Lanes into Riverside County
- p) Support methods to address toll violations due to the absence of license plates, the use of temporary plates, or protected plates
- q) Support the Transportation Corridor Agency's Foothill South Toll Road Extension Plan to connect State Route 241 (SR 241) to Interstate 5 in South Orange County

## **VI. RAIL PROGRAMS**

Metrolink is Southern California's commuter rail system that links residential communities to employment and activity centers. In ~~2008~~ 2009, Metrolink celebrated its 14<sup>th</sup>-15<sup>th</sup> anniversary of operation in Orange County. Orange County is served by three routes: the Orange County Line, the Inland Empire-Orange County Line, and the 91 Line.

Currently, OCTA administers 68 miles of track that carry more than 4 million passengers per year. OCTA's Metrolink capital budget is funded through a combination of local, state, and federal funding sources.

In addition to Orange County Metrolink services, two other rail systems could also travel through the county at some point in the future – high-speed rail and magnetic-levitation (Maglev). While the status and future of these programs is uncertain, OCTA will be watchful to ensure that funding for these rail systems does not impact other transportation funding sources.

Key advocacy efforts will emphasize the following:

- a) Support legislation that encourages mixed-use development around rail corridors

- b) Support legislation that will aid in the development, approval, and construction of projects to expand goods movement capacity and reduce congestion
- c) Support efforts at creating additional efficiency in rail program oversight, including consideration of possible program consolidation
- d) ~~Support efforts at creating an equitable distribution of high-speed rail bond funding, if approved by voters~~ Support efforts to receive an equitable distribution of high-speed rail bond funding and efforts to ensure California receives an equitable distribution of high-speed rail funds from the American Recovery and Reinvestment Act (ARRA)
- e) Work with Metrolink on any proposed legislation to provide safety improvements on the Metrolink system
- f) Ensure that public control of goods movement infrastructure projects is retained at the local level
- g) Seek mitigation for the impacts of goods movement on local communities
- h) Pursue new sources of funding for goods movement infrastructure
- i) Continue to work with local, regional, state, and federal entities, as well as with the private sector, to develop and implement needed infrastructure projects

## VII. ADMINISTRATION/GENERAL

General administrative issues arise every session that could impact OCTA's ability to operate efficiently. Key positions include:

- a) Oppose legislation and regulations adversely affecting OCTA's ability to efficiently and effectively contract for goods and services, conduct business of the agency, and limit or transfer the risk of liability
- b) Support legislation that is aimed at controlling, diminishing, or eliminating unsolicited electronic messages that congest OCTA's computer systems and reduce productivity
- c) Support legislation that establishes reasonable liability for non-economic damages in any action for personal injury, property damage, or wrongful death brought against a public entity based on principles of comparative fault
- d) Support legislation that would provide for consistency of campaign contribution limits applied to both elected and appointed bodies
- e) Monitor legislation affecting drivers' license privileges and standards related to age

- f) Monitor the effect of Brown Act legislation on OCTA Board operations as it relates to the use of new technologies for communication with the public

## **VIII. ENVIRONMENTAL POLICIES**

Changes in environmental laws can affect OCTA's ability to plan, develop, and build transit, rail, and highway projects. While OCTA has been a leading advocate for new, cleaner transit technologies and the efficient use of transportation alternatives, it also remains alert to new, conflicting, or excessive environmental statute changes.

Key positions include:

- a) Oppose efforts to grant special interest groups or new bureaucracies control or influence over the CEQA process
- b) Oppose legislation that restricts road construction by superseding existing broad-based environmental review and mitigation processes
- c) Support creative use of paths, roads, and abandoned rail lines using existing established rights-of-way to promote bike trails and pedestrian paths
- d) Support incentives for development, testing, and purchase of clean fuel commercial vehicles
- e) Support efforts to seek funding for retrofitting or re-powering heavy duty trucks and buses for cleaner engines to attain air quality standards
- f) Support legislation to require the South Coast Air Quality Management District to grant transit demonstration projects a temporary relief from having to initiate or test new services with alternative fuel vehicles
- g) Support legislation to further integrate state and federal environmental impact studies

## **IX. EMPLOYMENT ISSUES**

As a public agency and one of the largest employers in Orange County, OCTA balances its responsibility to the community and the taxpayers to provide safe, reliable, cost-effective service with its responsibility of being a reasonable, responsive employer.

Key advocacy positions include:

- a) Oppose efforts to impose state labor laws on currently exempt public agencies
- b) Oppose legislation that circumvents the collective bargaining process

- c) Oppose legislation and regulations adversely affecting OCTA's ability to efficiently and effectively deal with labor relations, employee rights, benefits, Family Medical Leave Act, and working conditions, including health, safety, and ergonomic standards for the workplace
- d) Support legislation that reforms and resolves inconsistencies in the workers' compensation and unemployment insurance systems, and labor law requirements that maintain protection for employees and allow businesses to operate efficiently

## **X. TRANSPORTATION SECURITY**

~~With the recent increase in number and severity of terrorist attacks around the world on transit systems, greater emphasis is being placed on transportation security in the United States. As terrorist attacks continue to take place on transit systems around the world, significant transportation security efforts have been and continue to be carried out in the United States. As the OCTA is the County's bus provider and Metrolink partner, OCTA and~~ comprehends the importance of securing our transportation network and protecting our customers. Presently, OCTA maintains a partnership with the Orange County Sheriffs Department to provide OCTA Transit Police Services to the bus and train systems in Orange County. OCTA is also currently working with its community partners on an effort to install video surveillance systems at Metrolink stations and on buses to enhance security efforts.

Heightened security awareness, an active public safety campaign, and greater surveillance efforts, all require additional financial resources. Consequently, in 2009 2010, OCTA's advocacy position will highlight:

- a) Support state homeland security and emergency preparedness funding and grant programs to local transportation agencies to alleviate financial burden placed on local entities
- b) Support legislation that would reduce the time period to retain video surveillance records to reflect current reasonable technological capabilities

## **Draft Orange County Transportation Authority 2010 Federal Legislative Platform**

### **INTRODUCTION**

With a population of over three million, Orange County is the ~~third~~ second most populous county in California and the ~~sixth~~ fifth most populous county in the nation. Orange County is also one of the most densely populated areas in the country and is second only to San Francisco for the most densely populated county in the state of California. National and global attractions include Disneyland, Knott's Berry Farm, and over 42 miles of beaches, making Orange County a worldwide vacation destination.

Among metro areas in the United States, Orange County in 2007 ~~has had~~ the 11<sup>th</sup> largest gross domestic product and is home to the ~~12<sup>th</sup>~~ one of the busiest transit systems in the nation. In addition, Orange County provides highway and rail corridors that facilitate an increasing level of international trade entering the Southern California ports. However, according to the latest annual survey of urban mobility by the Texas Transit Institute, the Los Angeles metropolitan area, including Long Beach and Orange County, also has the most congestion of any metropolitan area in the nation, delaying drivers an average of 72 more than 70 hours per year. In conducting all of its activities, OCTA strives to the maximum extent possible to improve transportation performance, reduce congestion, and reduce emissions. With regard to federal revenues, Orange County is consistently a donor county within a donor state.

Orange County Transportation Authority's (OCTA) Federal Legislative Platform outlines the statutory, regulatory, and administrative goals and objectives of the transportation authority. The following platform was adopted by the OCTA Board of Directors to provide direction to staff and federal legislative advocates for the first session of the 111<sup>th</sup> Congress.

Funding for High-Speed Rail (HSR) will be foremost among these goals and objectives in the upcoming year as the Anaheim to Los Angeles segment of the California HSR system is positioned as the nation's most advanced HSR corridor to receive significant federal funding.

### **PRINCIPLES AND OBJECTIVES**

OCTA will use the following principles and objectives to guide implementation of the specific recommendations contained in this platform:

1. OCTA will seek to obtain a fair share of appropriations for transportation projects within the County, taking into account its size, population, congestion mitigation, and particular transportation needs;

2. OCTA will support the transportation legislative efforts and objectives of other Orange County entities, as appropriate to further the implementation of this platform provided that such efforts by others are consistent with OCTA Board approved projects and policies ;
3. In order to accomplish the goals of this platform, the OCTA will seek to work with other entities such as the Orange County Business Council, and regional entities such as county transportation commissions and transit agencies, and the Southern California Association of Governments and will participate in the Mobility 21 legislative effort;
4. OCTA will take an active role in the process of reauthorization of the federal highway and transit programs, reaching out to the region, state, and appropriate congressional leaders, and working with them towards reauthorization of a program which benefits the County.

## **Fiscal Years ~~2009 and 2010~~ 2011 Transportation Appropriations.**

The annual appropriations process will continue to play a significant role in the OCTA ~~2009~~ 2010 federal legislative platform. Given that the federal surface transportation authorization bill, the Safe Accountable Flexible Efficient Transportation Equity Act – A Legacy for Users (SAFETEA LU), fully obligated the federal highway trust fund and to a lesser degree, the mass transit account, there is limited discretionary funding available year to year for surface transportation earmarks. However, given the uncertainties surrounding the expiration of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA LU) and the future viability of the highway trust fund it is difficult to predict at this time the availability of future surface transportation earmarks. In addition, a change in Congressional approach has led to fewer transportation earmarks nationally, and lower amounts contained in those earmarks.

~~The FY 2009 appropriation process has yet to be completed and the results from earmark requests for FY 2009 are not yet known. That process will be completed in the first months of the 111<sup>th</sup> Congress.~~ To more effectively work within the limitations on federal transportation funding at this time, OCTA will continue to focus on strategic, high priority county and regional congestion relief projects, which will increase the highway and transit mobility and goods movement along the North-South I-405/LOSSAN Corridor and the East-West SR-91 and Burlington Northern Santa Fe/Orangethorpe (Alameda Corridor East) Corridor. To this end, as part of the fiscal years 2011 transportation appropriations bill, OCTA will work with its Congressional delegation to secure greater levels of federal investment in the following projects:

- a) The Anaheim Regional Transportation Intermodal Center (ARTIC).
- b) Riverside Freeway (State Route 91) widening and Orange County/Riverside chokepoint projects congestion relief projects.

- c) Grade separation improvements along the Alameda Corridor East (ACE) in north Orange County and along the LOSSAN Corridor.
- d) San Diego Freeway (Interstate 405) widening and improvements, including interchange improvements, as well as bridges and overcrossings.
- e) San Diego Freeway (Interstate 5) and Ortega Highway chokepoint and interchange improvements.
- f) Improvements to relieve chokepoint congestion at the Interstate 5 (I-5) and Costa Mesa Freeway (State Route 55).
- g) Extension of the I-5 South high occupancy lane (HOV) lane project.
- h) Go Local projects approved for implementation which may include fixed guideway projects and/or Bus Rapid Transit.
- i) Metrolink service enhancements in Orange County.
- j) Improvements along the Bristol Street multi-modal corridor in Santa Ana.
- ~~k) Federal funding needed for the West Orange County Interchanges (Phase II of State Route 22) and I-405 widening projects including any needed easements from the Seal Beach Naval Weapons Center.~~
- k) Funding to meet federal rail safety requirements and positive train control implementation for Metrolink.
- l) Funding for Maglev transportation from Anaheim to Ontario Airport, as a segment of the high speed Maglev system between Las Vegas, Nevada and Anaheim.
- m) Funding to augment state, local and private efforts for high speed rail service from Anaheim to Los Angeles.

Other annual funding priorities for OCTA include:

- n) Support appropriations and additional funding of transit security grant programs for the Department of Homeland Security (DHS) to protect county surface transportation systems, including highways, transit facilities, rail lines, and related software systems.
- o) Support New Start, (greater than \$250 million in total project cost) Small Start (less than \$250 million in total project cost with no more than \$75 million in federal share), and Very Small Start (less than \$50 million in total project cost with no more than \$40 million in federal share and costing no more than \$3 million per mile exclusive of vehicles) funding for fixed guideway projects selected for implementation through the Go Local process.
- p) Support full funding of Section 5309 (m)(1)(a) rail modernization grant funds.
- q) Support bus and bus-related OCTA projects under Section 5309 (m)(1)(c) and oppose the diversion of significant bus discretionary funding to ~~urban partnership agreement grants~~ other unrelated purposes.
- r) In concert with regional transportation agencies, seek funding for the Southern California Regional Training Consortium to develop bus

maintenance training information for the transit agencies throughout Southern California.

- s) Support projects which improve the capacity of major arterials throughout Orange County.
- t) Support appropriations funding of the Rail Safety Improvement Act of 2008 (RSIA) particularly, funding for implementation of positive train control requirements and other safety enhancements or risk reduction recommendations called for in Title I of RSIA, funding for intercity passenger rail service corridor capital assistance provided in Title III of RSIA, and funding for high speed rail corridor development provided in Title V of RSIA.
- u) Support for projects on the Los Angeles – San Diego –San Luis Obispo (LOSSAN) rail corridor which may not be physically located in Orange County, but are critical to the continued viability of efficient and effective services in this corridor.

## **Additional Project Authorizations, and Statutory or Regulatory Actions.**

The federal surface transportation bill, SAFETEA-LU, included a significant level of funding for OCTA and authorized funding for critical highway and transit projects. However, there are a number of vital infrastructure projects, both highway and rail, that continue to require authorization or other advocacy actions to address specific highway, rail, and transit needs throughout the County and Southern California region. The OCTA will advocate for the following issues in stand alone legislation, as part of the Passenger Rail Investment and Improvement Act of 2008, or in the next reauthorization:

- a) Support legislative efforts to authorize the State Route 91 (SR-91) congestion relief projects.
- b) Support specific authorization and funding for the Anaheim Regional Transportation Intermodal Center (ARTIC).
- c) Support additional funding for the expansion of key stations and intermodal centers along the LOSSAN corridor, including Irvine Station, Fullerton Station and Santa Ana Station.
- d) Support continued authorization of and funding for the four-county ACE project.
- e) Monitor, and with OCTA Board approval, support Intelligent Transportation System (ITS) measures to advance the safety, security and efficiency of the multi-modal transportation system, reduce fuel

consumption and environmental impacts, ease congestion, and facilitate emergency response times.

- f) Upon definition and approval by OCTA Board, pursue the authorization and funding of a pilot transportation project employing new transit technology.
- g) Support efforts to authorize and fund bike paths and bike trails within Orange County.

The last 16 miles of the 67-mile Transportation Corridor Agencies (TCA) toll road system, known as the Foothill South Project, represents the only southern Orange County travel alternative to the I-5. The I-5 corridor already is dominated by severe traffic congestion, negatively impacting travelers throughout the County. Due to the need to use property leased from the federal government as part of the preferred right of way for the extension, opponents of this project have used federal legislation in an attempt to halt or severely impede project completion. Therefore, the OCTA will continue to oppose any provision of federal law which would impede the completion of the project and will work in an active partnership with the TCA in Washington to explain the transportation impacts for all of Orange County which will result from failure to complete the project. seek a resolution to this issue which will permit the completion of a Foothill South Project through southern Orange County.

In addition, as the implementation of SAFETEA-LU continues, as a new transportation authorization bill is being drafted, OCTA has identified several regulatory changes which would improve the delivery of the federal transportation program. OCTA will continue to seek opportunities to address and achieve these changes, as follows:

- h) Encourage the Federal Highway Administration (FHWA) to return the Regional Transportation Plan to a long-range planning and vision document rather than a detailed, 30-year financial plan, as current regulations mandate.
- i) SAFETEA-LU implementing regulations shifted the approval of RTP amendments involving Transportation Control Measures (TCM) from FHWA to the Environmental Protection Agency (EPA). OCTA requests that this approval process revert back to FHWA and maintain a consultation process with EPA.
- j) Request Federal Transportation Enhancement (TE) program guidelines be amended to permit use of TE funds for soundwalls as a local option. The FHWA does not permit the use of highway funds to retrofit soundwalls, yet federal trade policies have lead to increased freight traffic along goods movement corridors and hence noise along the freeways. OCTA requests that the policy be amended to allow

highway funds to be used to mitigate the impacts of freight traffic on local communities adjacent to goods movement corridors.

- k) If necessary, work with the Federal Highway Administration or appropriate members of Congress, to obtain flexibility regarding the operation of HOV lanes.

#### Advocacy Efforts for Existing and Planned Federal Highway and Transit Programs.

- a) Work with regional agencies to advocate for a high ranking of the ACE project as part of the U.S. Department of Transportation's Projects of National and Regional Significance (PNRS) program.
- b) Upon definition and approval by the OCTA Board, seek support from the Federal Transit Administration (FTA) and Orange County Congressional Delegation for any fixed guideway transit projects approved for implementation by the Go Local process.
- c) Pursue funding for applicable transit programs newly authorized by SAFETEA-LU, including New Starts, Small Starts and Very Small Starts, Jobs Access Reverse Commute (JARC), and New Freedom program for new transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act (ADA).
- d) Support expanded design-build authorization for federally-funded highway and surface transportation projects.
- e) Support environmental streamlining and stewardship efforts by the relevant federal agencies.
- f) Support expedited federal review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities.
- g) Work with the Southern California Regional Transit Training Consortium on its fiscal year (FY) 2007 legislative efforts to obtain federal funds to streamline bus maintenance training for alternative fuel buses.

#### IV. Economic Impact Legislation and Regulations.

The recent economic crisis has generated discussions in Washington passage of the American Recovery and Reinvestment Act (ARRA) which was intended to save and create jobs throughout the economy and within the transportation industry. Several other federal legislative and regulatory actions are also underway to prevent unintended adverse economic impacts to the transportation industry and also to appropriate funding for transportation infrastructure projects as a means of creating needed jobs in the economy. In this regard, OCTA will

- a) support legislation or regulations to prevent the adverse economic impact which would result from the forced early termination, through technical default, of leveraging agreements such as those entered into by Metrolink for rail rolling stock.
- b) support legislation which would hold harmless local governments who held debt instruments of Lehman Brothers on September 15, 2008, and other regulatory actions pursuant to section 103 of the Emergency Economic Stabilization Act which are needed to ensure stability in local entities that, through no fault of their own, suffered losses in the economic crisis of 2008.
- c) support full funding for the Energy Efficiency and Conservation Block Grant program, which received ARRA appropriations in 2009, to allow cities and counties to enact strategies that reduce fossil fuel emissions, improve energy efficiencies and reduce energy usage.
- d) support federal economic stimulus legislation and programs, in addition to ARRA, which accelerate funding for transportation infrastructure projects and thereby create additional jobs and economic activity in Orange County.
- e) oppose any federal legislation or regulatory action which acts to impede the development of business opportunities and job creation in Orange County.

#### V. Reauthorization of the Highway and Transit Programs.

~~The SAFETEA-LU highway and transit authorization bill will expire~~ With the expiration of SAFETEA-LU on September 30, 2009.—~~A a number of proposals for the next highway and transit authorization are expected to be introduced and discussed in 2009.~~ are being introduced and discussed. During the six year life of SAFETEA-LU the OCTA will receive over \$885 million in transportation funding from programs authorized under the act. The overwhelming majority of these funds (approximately \$800 million) are provided pursuant to formula funded programs on a pay-go basis. ~~Approximately \$130 million~~ A large percentage of the formula funds are used to fund the OCTA's transit operating budget. The remainder are used for highway, transit and surface transportation capital projects throughout the region.

- a) The OCTA will analyze key reauthorization proposals as they emerge to determine:
  - 1) the source and adequacy of proposed future revenues to meet future transportation needs and the economic impact to the public of collection of those revenues;
  - 2) the extent to which a proposal will maximize the return of federal revenues to California and to the OCTA;

- 3) the extent to which a proposal enhances the federal funding partnership by helping OCTA address capital and operating revenue shortfalls; and
- 4) whether or not the proposal contains any unfunded statutory or regulatory mandates applicable to the OCTA.

Based upon this analysis, the OCTA will seek a Board determination of the appropriate approach to the proposal in Washington.

b) The OCTA generally supports program features in the next authorization which enable greater flexibility in permitted uses of transportation funds, and which distribute funding based upon formula factors which adequately recognize the extent of transportation funding needs within Orange County.

c) In considering which transportation projects from throughout the County to support for funding in the next authorization, OCTA will evaluate projects in accordance with the following criteria:

- 1) the extent to which the project results from, or relates to, an OCTA major investment study or major planning initiative such as the Go Local or Metrolink service enhancement programs.
- 2) the extent to which the project provides congestion relief or provides increased capacity to address future documented congestion.
- 3) the adequacy of the overall funding plan and the ability to expend project funds to complete the project within the authorization timeframe (generally, six years).
- 4) the regional significance of the project.
- 5) the contribution which the project makes to improving environmental quality.

## VI. Goods Movement.

~~The movement of goods to and from the ports of Los Angeles and Long Beach (POLA/LB) has been a major contributor to traffic congestion on Orange County highways, streets and roads. An estimated 43 percent of all United States (U.S.) container traffic and 54 percent of U.S./Asian containerized trade is handled by the port complex of POLA/LB, making them the fifth largest port complex in the world. Most significantly, 50 to 70 percent of the freight coming through POLA/LB is destined for areas outside of the Southern California region.~~

~~Despite its impacts, international trade provides significant benefits to the region. Economic studies show that logistics activity is responsible for \$90.7 billion, or 6.6 percent, of the nearly \$1.4 trillion in economic activity annually in Southern~~

~~California. The indirect or induced impact represents another \$170 billion or 12.4 percent. Each logistics job supports 2.2 new jobs in the economy, with nearly 107,000 of these jobs being located in Orange County.~~

The twin Ports of Los Angeles and Long Beach, while still considered "America's Gateway, and the nation's busiest ports, have both suffered significant reductions in volume because of the worldwide economic turndown. The ports are not expected to fully recover from the turndown until at least 2013. Even with this forecast, the maintenance and improvement of our region's goods movement infrastructure must continue to be a national priority if our region is to remain competitive with the rest of the world and be responsive to the consumer needs of the nearly 18 million people living in southern California. Even at reduced volumes, current revenue streams are not sufficient to fund the projects needed to offset the costs of moving these goods. Additionally, existing state and local infrastructure is unable to handle the increasing demands placed on it by the growth in goods moving through Southern California.

In March of 2007, the Board adopted a Goods Movement Policy intended to guide OCTA decisions regarding goods movement. Further, in July of 2007, the Board adopted Principles for a Container Fee Program, which are intended to guide analysis of legislative programs applicable to goods movement at ports. OCTA will use these two policies to evaluate any federal legislative proposals regarding goods movement.

In 2009 the OCTA's advocacy efforts in this regard will emphasize the following:

- a) Pursue new stable, dedicated and secure sources of funding for goods movement infrastructure, such as a goods movement trust fund, which ensure that any revenues are dedicated to use for projects in the corridors where they are collected.
- b) Assure that the benefits of new funding outweigh the economic impact to the public from collection of the revenues.
- c) Continue to work with congress, state and local governments, as well as with the private sector, to develop and implement the needed infrastructure programs and projects.
- d) Ensure that public control of goods movement infrastructure projects is retained at the local level.
- e) Seek mitigation for the impacts of goods movement on local communities in Orange County .

## VII. Homeland Security.

OCTA continues cooperative efforts with neighboring transit agencies, Urban Area Security Initiative (UASI) partners, state and federal Homeland Security grant partners, and local jurisdictions to enhance the security of regional highway, bus and rail systems. In addition to seeking additional grant funding in

FY ~~2009~~ 2011 to secure the county's highways, rail and transit systems, OCTA will pursue the following regulatory and statutory changes to ensure homeland security needs are met:

- a) Support increased federal funding to transit agencies for staff training and operational security improvements for highways, transit, and rail security in the United States.
- b) Support a fair and effective distribution of grant funds based on the risk of terrorism as estimated by the Department of Homeland Security, in lieu of formulas based solely on size of population.
- c) Support programs that reach out to state homeland security officials to improve information exchange protocols, refine the Homeland Security Advisory System, and support state and regional data coordination.

#### VIII. Energy Issues.

Legislation addressing U.S. policies on energy is likely to play a role in the 111<sup>th</sup> Congress. The transportation sector is the largest consumer of petroleum in the U. S. Therefore, the focus by Congress to further develop energy efficient policies is likely to have an impact on OCTA operations.

- a) Monitor legislation and federal rulemaking that addresses new or emerging energy policies such as: incentives for alternative fuel technology and use, developer incentives supporting transit programs, as well as research and technology.
- b) Provide federal legislative reports to the OCTA Board of Directors outlining any energy-related legislation introduced in the next Congress that potentially impacts OCTA operations.
- c) Work with industry associations to comment on Congressional actions and/or federal policies that impact the public transportation sector.
- d) Support the continuation of fuel tax credits for the OCTA's use of compressed natural gas and liquefied natural gas

#### IX. Environmental Policy and Other Regulatory Requirements.

Federal environmental laws and regulations affecting OCTA include the National Environmental Protection Act (NEPA), the Federal Clean Air Act, Federal Water Pollution Control Act, and the Endangered Species Act. With regard to these acts and related regulations, OCTA will:

- a) Seek opportunities to streamline the environmental process for federally funded projects. For example, OCTA opposes the present practice whereby small pavement rehabilitation projects trigger an environmental review.
- b) Seek federal funding to meet state and local environmental quality requirements, including anticipated requirements for zero emission busses, alternative fueling stations and future green house gas reduction requirements

- c) Continue to monitor implementation of the NEPA pilot project, authorized by SAFETEA-LU, as it applies to OCTA federally-funded projects.
- d) Monitor any new federal programs seeking to address the environmental impacts of greenhouse gases to ensure that any new environmental requirements are accompanied by additional funding necessary to implement those requirements.
- e) Support legislation and federal grant programs that encourage ridesharing and related congestion relief programs for Orange County commuters.

In addition, OCTA takes the following positions with regard to U.S. Departments providing federal oversight, specifically:

- e) Support efforts to work with Caltrans and the Administration to equitably resolve the FHWA interpretation of the Americans with Disabilities Act (ADA) compliance guidelines that retroactively requires the implementation of costly curb-ramp upgrades within the boundaries of federally-funded projects. According to state officials implementing these regulations on behalf of FHWA, the requirements apply even if curb-ramps are already in place but considered to be out of date according to the most recent ADA guidelines or when the project would not require ground disturbance (i.e. signal synchronization projects funded with Congestion Mitigation and Air Quality funds).
- f) Oppose any regulations or administrative guidance seeking to extend through administrative actions the statutory requirements of ADA.
- g) Support expedited federal review and payments to local agencies and their contractors for project development, right-of-way acquisition, and construction activities.
- h) Support streamlined federal reporting and monitoring requirements to ensure efficiency and usefulness of data and to eliminate redundant state and federal requirements.

#### X. Employment Issues.

Federal employment laws affecting OCTA include the Fair Labor Standards Act, Family and Medical Leave Act, Occupational Safety and Health Act and the Omnibus Transportation Employee Testing Act of 1991. While there is not anticipated to be significant changes to these federal laws next year, OCTA historical positions have included:

- a. Support income tax reductions for employees receiving employer-provided transit passes, vanpool benefits, or parking spaces currently counted as income.
- b. Oppose legislation and regulations adversely affecting the agency's ability to effectively and efficiently address labor relations, employee rights, benefits, and working conditions including health, safety, and ergonomics standards in the workplace.





MEMO

September 23, 2009

To: Members of the Board of Directors  
From: <sup>WK</sup> 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.



**September 24, 2009**

**To:** Transit Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Nominations

### **Overview**

Proposition 1B, passed by the voters in November 2006, made available \$19.9 billion for investment in transportation throughout the state and included the Public Transportation Modernization, Improvement, and Service Enhancement Account. This program provides the Orange County Transportation Authority with \$18.57 million annually for investments in transit capital through fiscal year 2016-17, contingent on annual appropriation by the state legislature. Project nominations are due to the California Department of Transportation on October 1, 2009. Staff is recommending projects for Public Transportation Modernization, Improvement, and Service Enhancement Account funding for Board of Directors' review and approval.

### **Recommendations**

- A. Authorize the Chief Executive Officer to submit project nominations to the California Department of Transportation for Public Transportation Modernization, Improvement, and Service Enhancement Account funds for the Metrolink Service Expansion Program and the Orange County Grade Crossing Safety Improvement Program.
- B. Authorize staff to process all necessary amendments to the Regional Federal Transportation Improvement Program and execute all necessary agreements to facilitate the above actions.

### **Background**

Proposition 1B established the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA). The PTMISEA provides \$3.6 billion for investment in transit capital by eligible transportation agencies throughout the state. These funds are to be distributed consistent with

---

California Public Utilities Code §99313 and §99314, or consistent with the State Transit Assistance funding distribution formula. The available allocation for programming in fiscal year (FY) 2009-10 is \$18.57 million.

In previous funding cycles, the Orange County Transportation Authority (OCTA) Board of Directors (Board) has approved using the PTMISEA funds for paratransit vehicles, radio system upgrades, fueling infrastructure projects, and the Metrolink Service Expansion Program (MSEP).

***Discussion***

The PTMISEA funds are subject to annual appropriations through the state budget. The current state budget includes approximately \$338 million for FY 2009-10. OCTA's allocation is approximately \$18.57 million for this FY. OCTA is required to submit project nominations by October 1, 2009.

Staff is proposing to direct these funds to the MSEP and the Orange County Grade Crossing Safety Improvement Program (Attachment A). By funding the rail program projects with the state PTMISEA funds it will preserve Measure M and Renewed Measure M funds that are more flexible and could be applied towards future operating expenses. Future year applications may include support for station improvements or other MSEP program elements to continue to offset the decline in Measure M funds.

**Next Steps**

Upon Board direction, staff will submit project nominations to the California Department of Transportation (Caltrans) and return with future programming recommendations as additional appropriations are made through future state budgets.

***Summary***

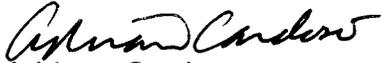
Proposition 1B, which was passed by the voters in November 2006, provided \$19.9 billion for investment in transportation infrastructure. Included in Proposition 1B is the PTMISEA, which dedicates \$3.6 billion for transit capital.

OCTA is anticipated to receive \$18.57 million as part of the current year state budget. Staff is requesting Board approval to nominate Metrolink transit capital projects to Caltrans for consideration for funding through this program.

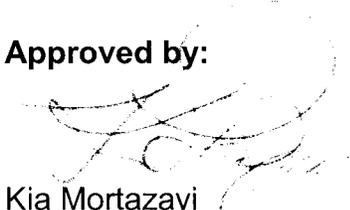
***Attachment***

- A. Project Description - Proposition 1B: Public Transportation Modernization, Improvement, and Service Enhancement Account Nominations

**Prepared by:**

  
Adriann Cardoso  
Section Manager,  
State and Federal Programming  
(714) 560-5915

**Approved by:**

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

Project Description  
Proposition 1B: Public Transportation Modernization, Improvement,  
and Service Enhancement Account Nominations

Metrolink Service Expansion Program (MSEP)

The MSEP will add track capacity and improve safety for the Metrolink service to allow for higher frequency passenger train service in both directions between Fullerton and Laguna Niguel.

The track improvements will allow for a substantial increase in train service for Orange County. Metrolink currently operates 44 trains per day within the County. The track expansion projects will allow for a phased increase in the number of commuter trains per day beginning in 2010. This phased increase will eventually see an additional 32 commuter trains per day operating in Orange County across three lines, dependent on ridership and available operating funds. Several additional Amtrak and Burlington Northern Santa Fe Railway trains are also projected to be added to this number by 2020. With the successful implementation of the MSEP in Orange County, more than 108 intercity and commuter trains are expected to operate over the Orange subdivision each weekday. These additional trains represent a 73 percent increase in Metrolink service and a 64 percent increase in the total passenger train volume along the Los Angeles – San Diego rail corridor over the next 10 years. At that traffic level, the Orange subdivision will become one of the busiest two-main-track rail corridors in the nation.

The MSEP, which began construction in August 3, 2009, includes the following major project components listed in geographical order from north to south:

- Fullerton Turnback Facility
- Anaheim Layover Facility
- Control Point (CP) Stadium universal crossovers
- Orange relief siding (along the Olive subdivision)
- CP Lincoln universal crossovers (including the CP 4<sup>th</sup> Street turnout)
- Laguna Niguel Turnback Facility
- Upgrade train control/corridor communications
- Signal re-spacing

Orange County Grade Crossing Safety Improvement Program

The Orange County Grade Crossing Safety Improvement Program will enhance rail safety at 52 highway-rail crossings throughout Orange County. This program is the first comprehensive effort to enhance grade crossing safety and establish quiet zones.

These enhancements will benefit thousands of passenger rail riders through enhanced safety features at rail crossings, which allows the commuter trains to move safely through Orange County communities and contributes to the ability to safely increase service and frequencies along the Orange and Olive subdivisions.

Significant features of the Orange County Grade Crossing Safety Improvement Program include:

- Installation of exit gate assembly, as required
- Installation of swing gate assembly
- Installation of automatic pedestrian gates
- Installation of pedestrian truncated domes
- Installation/modification of median islands
- Street profile adjustments
- Signing and striping, where appropriate
- Regulatory and warning traffic signs
- Installation of concrete railroad crossing panels, where appropriate
- Installation of bituminous asphalt concrete pavement, where appropriate
- Installation of new and protect existing chain link fence and gate, where appropriate
- Verification of existing right-of-way and related encroachments
- Railroad and traffic signal improvements, as required
- Installation of quad gates, where appropriate





BOARD COMMITTEE TRANSMITTAL

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** <sup>WIK</sup> Wendy Knowles, Clerk of the Board  
**Subject:** Extend Agreement with the California State University, Fullerton Center for Demographic Research Services for Fiscal Year 2009-10

Highways Committee Meeting of September 21, 2009

**Present:** Directors Amante, Dixon, Green, and Pringle  
**Absent:** Directors Cavecche, Glaab, Mansoor, and Norby

**Committee Vote**

Due to lack of quorum, there was no action taken on this item.

**Staff Recommendation**

Authorize the Chief Executive Officer to execute Amendment 4 to Agreement No. C-6-0191, for an amount not to exceed \$152,000, with the California State University, Fullerton Center for Demographic Research, and to extend the term of the agreement through June 30, 2010.



**September 21, 2009**

**To:** Highways Committee  
**From:** Will Kempton, Chief Executive Officer  
**Subject:** Extend Agreement with the California State University, Fullerton Center for Demographic Research Services for Fiscal Year 2009-10

**Overview**

The Center for Demographic Research at California State University, Fullerton develops population, employment, and other demographic projections used by the Orange County Transportation Authority for transportation planning studies and environmental documents. A recommendation to continue this agreement for one additional year is provided for Board of Directors' review and approval.

**Recommendation**

Authorize the Chief Executive Officer to execute Amendment 4 to Agreement No. C-6-0191, for an amount not to exceed \$152,000, with the California State University, Fullerton Center for Demographic Research, and to extend the term of the agreement through June 30, 2010.

**Discussion**

Since 1996, the Orange County Transportation Authority (OCTA) and other agencies have jointly funded the Center for Demographic Research (CDR) at California State University, Fullerton for the preparation of demographic projections for use in various planning activities. The CDR is sponsored by OCTA, the County of Orange, Orange County Council of Governments (OCCOG), Transportation Corridor Agencies, Orange County Sanitation District, Municipal Water District of Orange County, and the Orange County Water District.

Each agency contributes funding toward a series of ongoing demographic data deliverables including Orange County projections, a critical data source used by OCTA and others for travel demand forecasting and planning. For example, the 2006 Long-Range Transportation Plan relies upon population, housing, and employment forecasts developed by CDR and subsequently adopted by

OCCOG. The OCCOG-adopted demographics are also Orange County's input into the growth forecasts for the Southern California Association of Governments (SCAG) Regional Transportation Plan. Each local agency is directly involved in demographic data development with CDR and this "bottom up" approach has worked well in addressing issues early in the process. Other CDR activities include the preparation of the annual Orange County Progress Report and other documents.

As part of this agreement extension, CDR will provide technical work to support the additional efforts required to develop growth forecasts related to SB 375 (Chapter 728, Statutes 2008). These additional demographic forecasts will be at a finer level of detail than traditional traffic-zone levels that CDR has produced for OCTA in the past. CDR will coordinate the development of demographic forecasts with Orange County local agencies, OCCOG, SCAG, Chapman University, and others for use in the Sustainable Community Strategy as part of SB 375. CDR will also participate in appropriate technical advisory committees as it relates to the development of the additional demographic forecasts, including the OCCOG Technical Advisory Committee.

### ***Procurement Approach***

On May 22, 2006, the Board of Directors (Board) approved Agreement No. C-6-0191 with CDR for demographic services. The agreement was for a one-year initial term with two one-year option terms subject to Board approval. The first option year was approved by the Board in March 2007 and the second option year was approved by the Board in April 2008. The services provided through CDR have been valuable to support the various planning activities of OCTA. Amending the contract will allow CDR to continue providing the information and data to OCTA and other partner agencies utilizing these services.

### **Fiscal Impact**

OCTA's commitment for FY 2009-10 under this extension is \$152,000. Funding for this agreement is included in the OCTA FY 2009-10 Budget, Strategic Planning Division, Account No. 0001-7519-M0001-F10.

**Summary**

Staff recommends Board of Directors' approval of Amendment No. 4 to Agreement No. C-6-0191, for an amount not to exceed \$152,000, with the California State University, Fullerton Center for Demographic Research. With approval, staff will extend the agreement to account for fiscal year 2009-10.

**Attachment**

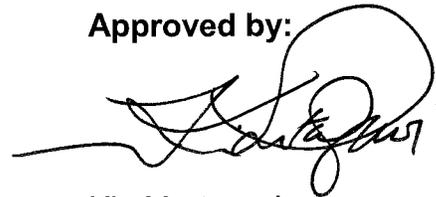
- A. California State University, Fullerton, Center for Demographic Research, Agreement No. C-6-0191 Fact Sheet

**Prepared by:**

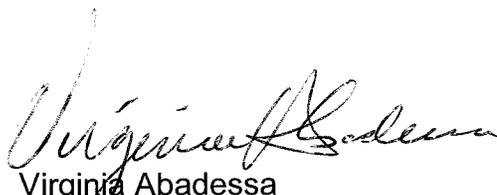


Anup Kulkarni  
Section Manager, Regional Modeling  
(714) 560-5867

**Approved by:**



Kia Mortazavi  
Executive Director, Development  
(714) 560-5471



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



**California State University, Fullerton  
Center for Demographic Research  
Agreement No. C-6-0191 Fact Sheet**

1. May 22, 2006, Agreement No. C-6-0191 for \$110,003 approved by Board of Directors with two one-year option terms.
  - Provide demographic services for the Orange County Transportation Authority, County of Orange, Orange County Division of the League of California Cities, Transportation Corridor Agencies, Orange County Sanitation District, Municipal Water District of Orange County, Orange County Water District, and the County of Orange Clerk-Recorder.
  - Initial term is effective July 1, 2006 through June 30, 2007.
2. January 11, 2007, Amendment No. 1 to Agreement No. C-6-0191, administrative change only with no increase to the agreement amount.
  - Add Orange County Council of Governments and delete Orange County League of Cities as a sponsoring agency.
3. March 26, 2007, Amendment No. 2 to Agreement No. C-6-0191, \$114,396, approved by the Board of Directors.
  - Amendment to exercise the first option term and extend agreement through June 30, 2008.
4. April 14, 2008, Amendment No. 3 to Agreement No. C-6-0191, \$122,943, approved by the Board of Directors.
  - Amendment to exercise the second option term and extend agreement through June 30, 2009.
5. September 28, 2009, Amendment No. 4 to Agreement No. C-6-0791, \$152,000, pending approval by the Board of Directors.
  - Add funding and extend the termination date of the agreement for fiscal year 2009-10. in addition, remove County of Orange Clerk-Recorder as a sponsoring agency.
  - Develop additional growth forecasts for the Orange County Transportation Authority related to Senate Bill 375 (Chapter 728, Statutes 2008) Sustainable Community Strategy.

Total committed to the California State University, Fullerton Center for Demographic Research after approval of Amendment No. 4 to Agreement No. C-6-0191 will be: \$499,342.







*BOARD COMMITTEE TRANSMITTAL*

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** <sup>WK</sup> Wendy Knowles, Clerk of the Board  
**Subject:** Cooperative Agreements with the City of Buena Park for Allocation of Regional Surface Transportation Program Funds and the County of Orange for the Transfer of Regional Surface Transportation Program Funds

Highways Committee Meeting of September 21, 2009

**Present:** Directors Amante, Dixon, Green, and Pringle  
**Absent:** Directors Cavecche, Glaab, Mansoor, and Norby

**Committee Vote**

Due to lack of quorum, there was no action taken on this item.

**Staff Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-9-0605 with the City of Buena Park to identify funding responsibilities for the Firestone Boulevard reconstruction project.
- B. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-9-0608 with the County of Orange for transfer of Regional Surface Transportation Program funds from existing Orange County projects to the Antonio Parkway widening project.
- C. Direct staff to prepare and submit any necessary programming amendments to the Regional Transportation Improvement Program and enter into any necessary agreements to facilitate the above actions.



**September 21, 2009**

**To:** Highways Committee

**From:** Will Kempton, Chief Executive Officer *Will Kempton*

**Subject:** Cooperative Agreements with the City of Buena Park for Allocation of Regional Surface Transportation Program Funds and the County of Orange for the Transfer of Regional Surface Transportation Program Funds

**Overview**

The City of Buena Park and the County of Orange have requested programming commitments for federal Regional Surface Transportation Program funds. The Firestone Boulevard reconstruction and Antonio Parkway widening projects are eligible projects to receive federal funding, and the City of Buena Park and County of Orange will be direct recipients of federal funds and provide an 11.47 percent local match. Funding cooperative agreements are presented for Board of Directors' review and approval.

**Recommendations**

- A. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-9-0605 with the City of Buena Park to identify funding responsibilities for the Firestone Boulevard reconstruction project.
- B. Authorize the Chief Executive Officer to negotiate and execute Cooperative Agreement No. C-9-0608 with the County of Orange for transfer of Regional Surface Transportation Program funds from existing Orange County projects to the Antonio Parkway widening project.
- C. Direct staff to prepare and submit any necessary programming amendments to the Regional Transportation Improvement Program and enter into any necessary agreements to facilitate the above actions.

***Discussion***

On July 16, 2009, the City of Buena Park (City) requested the use of Regional Surface Transportation Program (RSTP) funds for the Firestone Boulevard reconstruction project to complement the Santa Ana Freeway (Interstate 5) Gateway Improvement Project. The total project cost is \$3,566,000, including a local match of \$409,000. The RSTP funding, in the amount of \$3,156,980, is made available as a result of project saving's from other completed RSTP funded projects. This project is currently programmed in the Regional Transportation Improvement Program (RTIP) and has obtained the required federal environmental clearance. The Orange County Transportation Authority Interstate 5 (I-5) Gateway Improvement Project includes widening of the Artesia Boulevard on- and off-ramps at the intersection of Firestone Boulevard, resulting in increased traffic volumes. The proposed Firestone Boulevard reconstruction project will complement the I-5 Gateway Improvement Project and improve freeway operations by ensuring the orderly clearing of the northbound traffic at the widened off-ramp. Design is currently underway and funds requested will be used for construction beginning in the fourth quarter of fiscal year (FY) 2009-10.

On June 27, 2005, the Board of Directors (Board) authorized RSTP funding to the County of Orange (County), in the amount of \$5,825,000, \$6,100,000, and \$3,573,814, for the Ortega Highway, La Pata Avenue, and Alton Parkway projects, respectively. On April 23, 2009, the County requested that the RSTP funds be transferred from the referenced projects to the Antonio Parkway widening project for construction expenditures expected in FY 2010-11. The total project cost is \$32,553,000, including \$15,498,814 of the transferred RSTP funds. The project is waiting analysis by the Southern California Association of Governments and to be included in the Regional Transportation Plan and subsequent RTIP. The County agrees to backfill funding to the projects from which the funding is being transferred.

Staff is seeking Board approval for the Chief Executive Officer to enter into cooperative agreements (Attachments A and B) with the City and County. Staff further requests authorization to amend the RTIP to program the funds. The City and County are eligible recipients of RSTP funds and will

**Cooperative Agreements with the City of Buena Park for Allocation of Regional Surface Transportation Program Funds and the County of Orange for the Transfer of Regional Surface Transportation Program Funds** **Page 3**

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be direct recipients of these funds through the California Department of Transportation (Caltrans). The City and County are the lead agencies for the projects. Funding is subject to continuing resolution of the federal Safe, Accountable, Flexible Efficient Transportation Equity Act.

Fiscal Impact

None.

***Summary***

The City and the County have requested use of RSTP funding for the Firestone Boulevard reconstruction and the Antonio Parkway widening projects, respectively. The City and County will be direct recipients of RSTP funds through Caltrans and are the lead agencies for the projects. Funding cooperative agreements are presented for the Board's review and approval. The City and County will provide a local match contribution. Funding is subject to continuing resolution of the federal Safe, Accountable, Flexible Efficient Transportation Equity Act.

**Cooperative Agreements with the City of Buena Park for Allocation of Regional Surface Transportation Program Funds and the County of Orange for the Transfer of Regional Surface Transportation Program Funds** **Page 4**

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***Attachments***

- A. Draft Cooperative Agreement No. C-9-0605 Between Orange County Transportation Authority and City of Buena Park for Firestone Boulevard Project
- B. Draft Cooperative Agreement No. C-9-0608 Between Orange County Transportation Authority and County of Orange for Antonio Parkway Project

**Prepared by:**



Abbe McClenahan  
Capital Programs Manager  
(714) 560-5673

**Approved by:**



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



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

**DRAFT**

**COOPERATIVE AGREEMENT NO. C-9-0605**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**CITY OF BUENA PARK**

**FOR**

**FIRESTONE BOULEVARD PROJECT**

**THIS AGREEMENT** is effective this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and the City of Buena Park, 6650 Beach Boulevard, California 90622, a municipal corporation (hereinafter referred to as "CITY").

**RECITALS:**

**WHEREAS**, AUTHORITY and the CITY desire to enter into a Cooperative Agreement to define the roles and responsibilities related to funding between the AUTHORITY and CITY for right-of-way acquisition, final design, construction management and construction of the widening and realignment of Firestone Blvd.; (hereinafter referred to as "PROJECT"); and

**WHEREAS**, PROJECT is related to the I-5 project and relieves capacity on the I-5 during peak hours; and

**WHEREAS**, CITY is an eligible recipient of Federal funding under the Regional Transportation Surface Program (RSTP) and the PROJECT is eligible for RSTP funding; and

**WHEREAS**, the AUTHORITY's Board of Directors, on September 28, 2009, approved funding providing \$3,156,980 of RSTP funds, and identifying \$409,020 of CITY local match for a total of \$3,566,000; and

**WHEREAS**, AUTHORITY and CITY agree that Caltrans and Federal Highway Administration (FHWA) authorization is required following the AUTHORITY's amendment to the

1 Regional Transportation Improvement Program (RTIP), and in order to proceed or commence each  
2 phase of PROJECT for performance under this Agreement; and

3 **WHEREAS**, AUTHORITY and CITY agree that the Federal Safe, Accountable, Flexible,  
4 Efficient Transportation Equity Act - A Legacy for Users which provides the RSTP funding and was  
5 passed by the federal government in 2005 will expire in September of 2009 and that RSTP funding  
6 for the PROJECT is contingent on funding being available through this Act and the PROJECT  
7 maintaining its eligibility for this funding; and

8 **WHEREAS**, AUTHORITY and CITY agree that the CITY is the direct recipient for RSTP  
9 funds through Caltrans; and

10 **WHEREAS**, CITY and AUTHORITY agree that the total full funding for the PROJECT  
11 including right-of-way acquisition, final design, construction management and construction shall be  
12 Three Million Five Hundred Sixty Six Thousand Dollars (\$3,566,000) in accordance with the funding  
13 schedule shown as Exhibit 1, which is attached herein and incorporated by reference; and

14 **WHEREAS**, CITY agrees to act as lead agency for final design, right-of-way acquisition,  
15 construction management and construction of said PROJECT; and

16 **WHEREAS**, this Cooperative Agreement defines the specific terms and conditions and  
17 funding responsibilities between AUTHORITY and CITY for completion of the PROJECT.

18 **WHEREAS**, the AUTHORITY's Board of Directors approved the Cooperative Agreement on  
19 August 24, 2009; and

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

22 **ARTICLE 1. COMPLETE AGREEMENT**

23 A. This Agreement, including any exhibits and documents incorporated herein and made  
24 applicable by reference, constitute the complete and exclusive statement of the terms and conditions  
25 of this Agreement between AUTHORITY and CITY concerning funding of PROJECT. The above-  
26 referenced Recitals are true and correct and are incorporated by reference herein.

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

8 **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

9 AUTHORITY agrees to the following responsibilities for PROJECT:

10 A. AUTHORITY shall formally request on behalf of the CITY that the Southern California  
11 Association of Governments (SCAG) amend the Regional Transportation Improvement Program (RTIP)  
12 to program \$3,566,000 dollars in accordance with the funding plan and schedule outlined in Exhibit 1,  
13 whereby AUTHORITY's performance under this Agreement is contingent upon SCAG and FHWA  
14 approval.

15 B. AUTHORITY shall provide assistance to CITY in securing the RSTP funds.

16 C. AUTHORITY shall not be obligated to program any amount beyond what has been  
17 identified in this Article.

18 D. AUTHORITY shall process any required RTIP amendments.

19 **ARTICLE 3 RESPONSIBILITIES OF CITY**

20 CITY agrees to the following responsibilities for PROJECT:

21 A. CITY will act as the lead agency for the final design, right-of-way, construction and  
22 construction management of the PROJECT.

23 B. CITY is responsible for preparing and submitting all necessary Caltrans required  
24 documentation including Request for Authorization to Proceed (E-76). CITY cannot proceed with  
25 any work prior to (E-76) authorization.  
26

1 C. CITY agrees to provide \$409,020 as their local match funding in an amount not less  
2 than \$409,020; and

3 D. CITY is responsible for completing the PROJECT in accordance with the funding  
4 schedule (Exhibit 1), timely use of funds requirements, and to abide by all RSTP programming  
5 guidelines and any and all other requirements of the federal, state, and Caltrans related to the  
6 RSTP.

7 E. CITY is responsible for immediately notifying the AUTHORITY in writing of any  
8 changes to the PROJECT schedule that would jeopardize funding of the PROJECT.

9 F. CITY agrees that the overall budget for this PROEJCT is a not-to-exceed amount of  
10 Three Million Five Hundred Sixty Six Thousand Dollars (\$3,566,000); contingent on full funding from  
11 reauthorization or extension of SAFETLU.

12 G. CITY agrees that any cost overruns shall be the responsibility of the CITY.

13 H. CITY will submit periodic invoices to the California Department of Transportation.  
14 In addition, CITY shall submit final invoices to the U.S. Department of Transportation within 180  
15 days of PROJECT's completion and request the due RSTP funds.

16 I. In addition to meeting the requirements of Article 3, paragraph D, City will submit  
17 semi-annual report for the period of January 1 through June 30 due on July 31 of each year and for  
18 the period of July 1 through December 31 due on January 31 of each year to AUTHORITY providing  
19 summary information that includes brief summary of overall project progress, project schedule and  
20 adherence or deviations, project budget by phase and by source, funds spent by source and RSTP  
21 funds reimbursed through Caltrans.

22 J. CITY will comply with all federal, state and local laws and regulations.

23 K. CITY agrees to comply with all Federal Highway Administration third party  
24 contracting laws and regulations pursuant to including but not limited to federal, state, and local  
25 laws, and shall include all laws and regulations in any PROJECT related contract entered into by the  
26 CITY.

1 L. CITY shall indemnify, defend and hold harmless AUTHORITY, its officers, directors,  
2 employees and agents from and against any and all claims (including attorney's fees and reasonable  
3 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, worker's  
4 compensation subrogation claims, damage to or loss of use of property alleged to be caused by the  
5 negligent acts, omissions or willful misconduct by CITY, its officers, directors, employees or agents in  
6 connection with or arising out of the performance of this Agreement.

7 **ARTICLE 4. DELEGATED AUTHORITY**

8 The actions required to be taken by CITY in the implementation of this Agreement are  
9 delegated to its Director of Public Works or his designee and the actions required to be taken by  
10 AUTHORITY in the implementation of this Agreement are delegated to its Chief Executive Officer.

11 **ARTICLE 5. AUDIT AND INSPECTION**

12 CITY shall maintain a complete set of records in accordance with generally accepted  
13 accounting principles. Upon reasonable notice, CITY shall permit the authorized representatives of  
14 AUTHORITY to inspect and audit all work, materials, payroll, books, accounts and other data and  
15 records of CITY for a period of four (4) years after final payment, or until any on-going audit is  
16 completed. AUTHORITY shall also have the right to reproduce any such books, records and  
17 accounts. Contracts with CITY's contractors shall include the above provision with respect to audits.

18 **ARTICLE 6. IT IS MUTUALLY UNDERSTOOD AND AGREED:**

19 All parties agree to the following mutual responsibilities regarding PROJECT:

20 A. This Agreement shall continue in full force and effect through final acceptance of  
21 PROJECT by AUTHORITY or PROJECT close out date of December, 30 2011, or whichever is  
22 later. This Agreement may only be extended upon mutual agreement by both parties.

23 B. This Agreement may be terminated by either party after giving thirty (30) days written  
24 notice. This Agreement shall not be terminated without mutual agreement of both parties.

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

D. The persons executing this Agreement on behalf of the parties hereto warrant that

1 they are duly authorized to execute this Agreement on behalf of said parties and that, by so  
 2 executing this Agreement, the parties hereto are formally bound to the provisions of this Agreement.

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

To CITY:	To AUTHORITY:
City of Buena Park	Orange County Transportation Authority
6650 Beach Boulevard,  Buena Park, CA 90622	550 South Main Street  P. O. Box 14184  Orange, CA 92863-1584
Attention: Jim Biery  Director of Public Works  cc. Nabil Henein	Attention: Venita Todd  Senior Contract Administrator  cc: Abbe McClenahan, Capital Programs Manager
Tel: (714) 562-3685	Tel: (714) 560-5427; Fax: (714) 560-5734
Email: nhenein@buenapark.com	Email: vtodd@octa.net

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

9 G. The provision of this Agreement shall bind and inure to the benefit of each of the  
 10 parties hereto and all successors or assigns of the parties hereto.

11 H. If any term, provision, covenant or condition of this Agreement is held to be invalid,  
 12 void or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder  
 13 to this Agreement shall not be affected thereby, and each term, provision, covenant or condition of  
 14 this Agreement shall be valid and enforceable to the fullest extent permitted by law.

15 I. This Agreement may be executed and delivered in any number of counterparts, each  
 16 of which, when executed and delivered shall be deemed an original and all of which together shall

1 constitute the same agreement. Facsimile signatures will be permitted.

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

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

10 **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-9-0605 to be  
11 executed on the date first above written.

12 **CITY OF BUENA PARK**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

13 By: \_\_\_\_\_  
14 Don McCay  
15 Mayor

By: \_\_\_\_\_  
Will Kempton  
Chief Executive Officer

16 **ATTEST:**

**APPROVED AS TO FORM:**

17 By: \_\_\_\_\_  
18 Shalice Reynoso  
19 City Clerk

By: \_\_\_\_\_  
Kennard R. Smart, Jr.  
General Counsel

20 **APPROVED AS TO FORM:**

Steve L Dorsey,  
City Attorney

**APPROVAL RECOMMENDED:**

21 By: \_\_\_\_\_  
22 Deputy City Attorney

By: \_\_\_\_\_  
Kia Mortazavi  
Executive Director, Development

23 Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

# Funding Schedule

AGREEMENT NO. C-9-0605

Exhibit 1

<b>Funding Source</b>	<b>Fiscal Year Funding Available</b>	<b>Funding Amount</b>	<b>Phase</b>	<b>RSTP Funds Recipient</b>
City Funds	2009-10	\$409,000	Construction	
RSTP	2009-10	\$3,157,000	Construction	City direct recipient
<b>Total</b>		<b>\$ 3,566,000</b>		

RSTP - Regional Surface Transportation Program

City - City of Buena Park



1           **WHEREAS** , AUTHORITY and COUNTY agree that RSTP funds will be transferred from  
2 previously funded Ortega Highway, La Pata Avenue and Alton Parkway projects to the PROJECT;  
3 and

4           **WHEREAS**, COUNTY agrees to seek to secure full funding to replace transferred funds for  
5 Ortega Highway, La Pata Avenue and Alson Parkway projects

6           **WHEREAS**, AUTHORITY and COUNTY agree that Caltrans and Federal Highway  
7 Administration (FHWA) authorization is required following the AUTHORITY's amendment to the  
8 Regional Transportation Improvement Program (RTIP), and in order to proceed or commence each  
9 phase of PROJECT for performance under this Agreement; and

10           **WHEREAS**, AUTHORITY and COUNTY agree that the Federal Safe, Accountable, Flexible,  
11 Efficient Transportation Equity Act - A Legacy for Users which provides the RSTP funding and was  
12 passed by the federal government in 2005 will expire in September of 2009 and that RSTP funding  
13 for the PROJECT is contingent on funding being available through extension or reauthorization of  
14 this Act and the PROJECT maintaining its eligibility for this funding; and

15           **WHEREAS**, AUTHORITY and COUNTY agree that the COUNTY is the recipient of RSTP  
16 funds through Caltrans; and

17           **WHEREAS**, COUNTY and AUTHORITY agree that the total full funding for the PROJECT  
18 including right-of-way acquisition, final design, construction management and construction shall be  
19 Thirty Two Million and Five Hundred Fifty Three Thousand Dollars (\$32,553,000) in accordance with  
20 the funding schedule shown as Exhibit 1, which is attached herein and incorporated by reference;  
21 and

22           **WHEREAS**, COUNTY agrees to act as lead agency for final design, right-of-way acquisition,  
23 construction management and construction of said PROJECT; and

24           **WHEREAS**, this Cooperative Agreement defines the specific terms and conditions and  
25 funding responsibilities between AUTHORITY and COUNTY for completion of the PROJECT.  
26

1           **WHEREAS**, the AUTHORITY's Board of Directors approved the Cooperative Agreement on  
2 August 24, 2009; and

3           **NOW, THEREFORE**, it is mutually understood and agreed by AUTHORITY and COUNTY as  
4 follows:

5 /

6           **ARTICLE 1. COMPLETE AGREEMENT**

7           A. This Agreement, including any exhibits and documents incorporated herein and made  
8 applicable by reference, constitute the complete and exclusive statement of the terms and conditions  
9 of this Agreement between AUTHORITY and COUNTY concerning funding of PROJECT. The  
10 above-referenced Recitals are true and correct and are incorporated by reference herein.

11           B. AUTHORITY'S failure to insist on any instance(s) of COUNTY's performance of any  
12 term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of  
13 AUTHORITY's right to such performance or to future performance of such term(s) or condition(s),  
14 and COUNTY's obligation in respect thereto shall continue in full force and effect. Changes to any  
15 portion of this Agreement shall not be binding upon AUTHORITY except when specifically confirmed  
16 in writing by an authorized representative of AUTHORITY by way of a written amendment to this  
17 Agreement and issued in accordance with the provisions of this Agreement.

18           **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

19           AUTHORITY agrees to the following responsibilities for PROJECT:

20           A. AUTHORITY shall formally request on behalf of the COUNTY that the Southern  
21 California Association of Governments (SCAG) amend the Regional Transportation Improvement  
22 Program (RTIP) to program \$15,499,000 dollars in accordance with the funding plan and schedule  
23 outlined in Exhibit 1, whereby AUTHORITY's performance under this Agreement is contingent upon  
24 SCAG and FHWA approval.

25           B. AUTHORITY shall provide assistance in securing the RSTP funds.

26           C. AUTHORITY shall monitor PROJECT's adherence to schedule and programming

1 requirements.

2 D. AUTHORITY shall not be obligated to program any amount beyond what has been  
3 identified in this Article.

4 F. AUTHORITY shall process any required RTIP amendments.

5 G. AUTHORITY shall indemnify, defend and hold harmless COUNTY, its officers, directors,  
6 employees and agents from and against any and all claims (including attorney's fees and reasonable  
7 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, worker's  
8 compensation subrogation claims, damage to or loss of use of property alleged to be caused by the  
9 negligent acts, omissions or willful misconduct by AUTHORITY, its officers, directors, employees or  
10 agents in connection with or arising out of the performance of this Agreement.

11 **ARTICLE 3 RESPONSIBILITIES OF COUNTY**

12 COUNTY agrees to the following responsibilities for PROJECT:

13 A. COUNTY will act as the lead agency for the final design, right-of-way, construction  
14 and construction management of the PROJECT.

15 B. COUNTY is responsible for preparing and submitting all necessary Caltrans required  
16 documentation including Request for Authorization to Proceed (E-76). COUNTY cannot proceed  
17 with any work prior to (E-76) authorization.

18 C. COUNTY agrees to provide a local match funding in an amount not less than  
19 \$17,054,000; and

20 D. COUNTY is responsible for completing the PROJECT in accordance with the funding  
21 schedule (Exhibit 1), timely use of funds requirements, and to abide by all RSTP programming  
22 guidelines and any and all other requirements of the federal, state, and Caltrans related to the  
23 RSTP.

24 E. COUNTY is responsible for immediately notifying the AUTHORITY in writing of any  
25 changes to the PROJECT schedule that would jeopardize funding of the PROJECT.

26 F. COUNTY agrees that the overall budget for this PROEJCT is a not-to-exceed

1 amount of Thirty Two Million Five Hundred Fifty Three Thousand Dollars (\$32,553,000); contingent  
2 on full funding from reauthorization of SAFETLU.

3 G. COUNTY agrees that any cost overruns shall be the responsibility of the COUNTY.

4 H. COUNTY will submit periodic invoices to the California Department of  
5 Transportation. In addition, COUNTY shall submit final invoices to the Department of  
6 Transportation within 180 days of PROJECT's completion and request the due RSTP funds.

7 I. In addition to meeting the requirements of Article 3, paragraph D, COUNTY will submit  
8 semi-annual report for the period of January 1 through June 30 due on July 31 of each year and for  
9 the period of July 1 through December 31 due on January 31 of each year to AUTHORITY providing  
10 summary information that includes brief summary of overall project progress, project schedule and  
11 adherence or deviations, project budget by phase and by source, funds spent by source and RSTP  
12 funds reimbursed through Caltrans.

13 J. COUNTY will comply with all federal, state and local laws and regulations.

14 K. COUNTY agrees to comply with all Federal Highway Administration third party  
15 contracting laws and regulations pursuant to including but not limited to federal, state, and local  
16 laws. COUNTY is responsible for ensuring all federal requirements with and included in all  
17 COUNTY Agreements.

18 L. COUNTY shall indemnify, defend and hold harmless AUTHORITY, its officers,  
19 directors, employees and agents from and against any and all claims (including attorney's fees and  
20 reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including  
21 death, worker's compensation subrogation claims, damage to or loss of use of property caused by  
22 the negligent acts, omissions or willful misconduct by COUNTY, its officers, directors, employees or  
23 agents in connection with or arising out of the performance of this Agreement.

24 **ARTICLE 4. DELEGATED AUTHORITY**

25 The actions required to be taken by COUNTY in the implementation of this Agreement are  
26 delegated to its \_\_\_\_\_ or his designee and the actions required to be taken by

1 AUTHORITY in the implementation of this Agreement are delegated to its Chief Executive Officer.

2 **ARTICLE 5. AUDIT AND INSPECTION**

3 COUNTY shall maintain a complete set of records in accordance with generally accepted  
4 accounting principles. Upon reasonable notice, COUNTY shall permit the authorized  
5 representatives of AUTHORITY to inspect and audit all work, materials, payroll, books, accounts and  
6 other data and records of COUNTY for a period of four (4) years after final payment, or until any on-  
7 going audit is completed. AUTHORITY shall also have the right to reproduce any such books,  
8 records and accounts. Contracts with COUNTY's contractors shall include the above provision with  
9 respect to audits.

10 **ARTICLE 6. IT IS MUTUALLY UNDERSTOOD AND AGREED:**

11 All parties agree to the following mutual responsibilities regarding PROJECT:

12 A. This Agreement shall continue in full force and effect through final acceptance of  
13 PROJECT by AUTHORITY or PROJECT close out date of June 30, 2012. This Agreement may  
14 only be extended upon mutual agreement by both parties.

15 B. This Agreement may be terminated by either party after giving thirty (30) days written  
16 notice. This Agreement shall not be terminated without mutual agreement of both parties.

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

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

22 E. All notices hereunder and communications regarding the interpretation of the terms of  
23 this Agreement, or changes thereto, shall be effected by delivery of said notices in person or by  
24 depositing said notices in the U.S. mail, registered, or certified mail and addressed as follows:

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To COUNTY:	To AUTHORITY:
County of Orange	Orange County Transportation Authority
P.O. Box 4048	550 South Main Street
Santa Ana, CA 92702-4048	P. O. Box 14184
	Orange, CA 92863-1584
Attention:	Attention: Venita Todd
cc.	Senior Contract Administrator
	cc: Abbe McClenahan, Capital Programs Manager
Tel:	Tel: (714) 560-5427; Fax: (714) 560-5792

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

G. The provision of this Agreement shall bind and inure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.

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

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

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.

This Agreement shall be effective upon execution by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0608 to be executed on the date first above written.

COUNTY OF ORANGE

ORANGE COUNTY TRANSPORTATION AUTHORITY

By \_\_\_\_\_  
Patricia C. Bates  
Chairman, Board of Supervisors

By \_\_\_\_\_  
Will Kempton  
Chief Executive Officer

By: \_\_\_\_\_  
Darlene J. Bloom  
Clerk of the Board of Supervisors

APPROVED AS TO FORM:

APPROVAL RECOMMENDED:

Date: \_\_\_\_\_

By \_\_\_\_\_  
Tony Rackauckas  
County Counsel  
Orange County, California

By \_\_\_\_\_  
Kennard R. Smart, Jr.  
General Counsel

## Funding Schedule

AGREEMENT NO. C-9-0608  
Exhibit 1

<b>Funding Source</b>	<b>Fiscal Year Funding Available</b>	<b>Funding Amount</b>	<b>Phase</b>	<b>RSTP Funds Recipient</b>
County Funds	2009-10	\$7,000	Design, ROW	City direct recipient
County Funds	2010-11	\$10,054	Construction	City direct recipient
RSTP	2010-11	\$15,499	Construction	City direct recipient
<b>Total</b>		<b>\$ 32,553</b>		

RSTP - Regional Surface Transportation Funding  
County - County of Orange  
ROW - Right-of-way  
City - City of Buena Park





MEMO

September 23, 2009

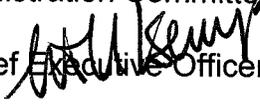
To: Members of the Board of Directors  
From: Wendy Knowles<sup>WK</sup>, Clerk of the Board  
Subject: **Board Committee Transmittal for Agenda Item**

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.



**September 23, 2009**

**To:** Finance and Administration Committee   
**From:** Will Kempton, Chief Executive Officer   
**Subject:** Fourth Quarter Fiscal Year 2008-09 Grant Status Report

**Overview**

The Quarterly Grant Status Report summarizes grant activities for information purposes for the Orange County Transportation Authority Board of Directors. This report focuses on significant activity for the period of April through June 2009. The Quarterly Grant Status Report summarizes future and pending grant applications, awarded/executed and current grant agreements, as well as closed-out grant agreements.

**Recommendation**

Receive and file as an information item.

**Discussion**

The Orange County Transportation Authority's (OCTA) long-term, proactive planning approach ensures the effective utilization of limited capital and operating resources. One critical aspect of this proactive planning approach is to strategically seek and obtain federal, state, and local grant funding.

The ongoing grant activities are categorized by future grant applications, pending grant applications, awarded/executed grant agreements, current grant agreements as well as closed grant agreements for Federal Transit Administration (FTA) and other discretionary grant programs.

**Future Grant Applications**

OCTA has eight grant proposals currently under development as summarized on pages 2 and 3 as well as in Attachment A.

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Fiscal Year (FY) 2009 FTA Section 5307 Formula Capital Grant Program

- The development of the FY 2009 FTA Section 5307 Formula Grant application is underway, which builds upon the FY 2009 program of projects approved by the OCTA Board of Directors (Board) on August 17, 2009. The grant contains \$58 million in federal capital and operating assistance to support OCTA's fixed route and paratransit operations. These federal funds will be utilized for preventive maintenance, capital cost of contracting, support for the bicycle, pedestrian, and facilities program and to enhance transit security. The details of the grant are being finalized and are anticipated for submittal to the FTA in September 2009.

FY 2009 FTA Section 5309 Discretionary Bus Capital Grant Program

- On July 27, 2009, two FTA Discretionary Bus Capital Grants were submitted for federal review following approvals by the FTA and the Southern California Association of Governments (SCAG). The two grants combined capture over \$5.1 million in earmark funds to support a variety of transit projects, including two earmarks totaling \$3.2 million for the Anaheim Regional Transportation Intermodal Center (requested by Senator Diane Feinstein [D-CA], Representative Ed Royce, [R-CA], and Representative Loretta Sanchez [D-CA]). The federal earmark funds require up to a 20 percent local match contribution. The grants are currently under review by the United States Department of Labor and are expected to be awarded in September 2009.

FTA Section 5316 Jobs Access Reverse Commute Program/ FTA Section 5317 New Freedom Initiative

- On July 25, 2009, OCTA submitted two grants to secure over \$6.1 million in FTA Section 5316 and Section 5317 funds as directed by the OCTA Board on June 22, 2009. The funds will be used to support 12 projects that address the unmet transportation needs of persons of low income and those with disabilities. The projects were selected based on mobility needs and criteria identified in OCTA's Public Transit-Human Services Transportation Coordination Plan adopted on October 10, 2008. The grants are moving through the federal review process and are anticipated for award in September 2009.

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**FY 2009 FTA Section 5310 Transportation for Elderly Persons and Persons with Disabilities**

- FTA's Section 5310 Program presents an opportunity for local agencies and non-profit organizations to obtain new paratransit vehicles and related equipment to help meet the transportation needs of elderly persons and persons with disabilities. Over the past several months, OCTA staff assisted potential applicants, conducted local grant workshops, and reviewed draft proposals and recommended improvements to enhance the likelihood of gaining grant funding. On March 26, 2009, a multi-agency evaluation committee scored and ranked six proposals requesting over \$1.85 million for four paratransit vans, 19 accessible buses, and related equipment. Staff anticipates seeking Board approval to submit recommended projects to California Department of Transportation (Caltrans) for statewide competition in August 2009. An award of grant funds to these local agencies will help ensure quality transportation to disabled and senior communities in Orange County while alleviating demands on OCTA's ACCESS services.

**Recovery Act Energy Efficiency and Conservation Block Grant: Department of Energy (DOE)**

- On June 25, 2009, OCTA submitted a proposal to pursue \$1.45 million in competitive American Recovery and Reinvestment Act of 2009 (ARRA) Funds made available for competition through the DOE Energy Efficiency and Conservation Block Grant (EECBG). The funds do not require a local match contribution and are being pursued to help support the implementation of traffic signal synchronization for the Bravo! program. The funds are being competed nationwide to support capital projects that reduce emissions, decrease energy consumption and improve energy efficiency, while helping stimulate the economy by creating and sustaining jobs. Award announcements are anticipated in October 2009.

**FTA, Surface Transportation Program ARRA Fund Transfer**

- As directed by the Executive Committee on May 4, 2009, work is underway to transfer \$500,000 in ARRA-Surface Transportation Program funds from Federal Highways Administration (FHWA) to the FTA to purchase three replacement alternative fuel transit buses. The buses will be purchased and operated by the City of Laguna Beach to support local trolley service. The fund transfer paperwork submitted on July 9, 2009, is under review by Caltrans as the designated administrative agency for FHWA. To expedite the

transfer, a grant agreement with FTA is being submitted concurrently and is anticipated to be executed in December 2009.

#### Pending Grant Applications

The OCTA has three pending grant proposals awaiting award or approval, which are summarized below and in Attachment B.

#### FTA Section 5307 Transit Capital: ARRA

- On July 10, 2009, OCTA executed a grant with FTA to secure all \$76.8 million in transit capital assistance funds allocated to OCTA through the ARRA. Although the ARRA requires that only half of the stimulus funds be obligated by September 2009, this early action allows stimulus funds to be used quickly to assist in sustaining jobs and help economic recovery. In keeping with Board direction, the funds will be used to support transit operations, preventative maintenance, facility upgrades, and safety improvements.

#### FY 2009 California Transit Security Grant Program (CTSGP), Proposition 1B Transit System Safety, Security, and Disaster Response Account

- On April 16, 2009, staff submitted project proposals and financial documents needed to secure \$3.52 million allocated to OCTA through the FY 2009 CTSGP. As directed by the Board on February 23, 2009, the funds are to support upgrades to OCTA's transit communications system (\$3,435,574) and the installation of license plate recognition systems on OCTA Transit Police Service vehicles (\$85,000). Award notifications are anticipated in September 2009. The funds do not require local match contributions or cost-sharing arrangements.

#### FY 2009 Transit Security Grant Program (TSGP): Department of Homeland Security (DHS)

- Staff continues to work with DHS officials to secure \$880,000 in grants awarded to OCTA on June 19, 2009, to fund a variety of OCTA's security efforts. As approved by the Board on July 27, 2009, the funds will be used to update OCTA's security plans, train and exercise OCTA staff on updated plan and counter-surveillance training, as well as implement a public awareness campaign for OCTA. The efforts are intended to help bring up-to-date OCTA's emergency protocols and procedures, ensure well-trained

and practiced personnel, while enhancing security awareness among transit riders.

#### Current Grant Agreements - FTA

OCTA has nine current capital formula grants and four current capital discretionary grants, which are summarized below and in Attachments C and D (operating assistance only).

**Capital Formula Grants:** OCTA receives an annual formula capital grant from the FTA. There are nine active formula capital grants, totaling \$718.8 million. A total of \$656.5 million of these grants have been expended or obligated for procurement, leaving a remaining and available balance of \$62.3 million.

**Capital Discretionary Grants:** There are four active discretionary capital grants, totaling \$17.8 million. A total of \$6.2 million of these grants has been expended or obligated for procurement, leaving a remaining and available balance of \$11.6 million. The \$11.6 million available balance includes the construction of the Harbor Boulevard bus rapid transit (BRT) demonstration project, mobile fare equipment for OCTA, engineering design for BRT bus way, and security camera system for three existing commuter rail stations located in Fullerton, Santa Ana, and Tustin.

#### Current Grant Agreements - Other Discretionary Grants

OCTA has \$230.9 million in current other discretionary grants, which are summarized below and in Attachment E.

#### FY 2008 TSGP: DHS

- On August 17, 2009, staff submitted the final documents needed to secure \$409,000 in grant funds awarded to OCTA on May 15, 2009. The submittal is in keeping with Board direction received on July 27, 2009, to accept the grant funds to develop and conduct an exercise and training program aimed at reducing safety and security risks associated with OCTA's alternative fuel vehicles and infrastructure. The program will seek feedback from local first responder agencies and equipment manufacturers, update protocols and procedures, and provide training to OCTA transit staff.

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FY 2008 Alternative Fuel Infrastructure Program, Mobile Source Air Pollution Reduction Committee (MSRC)

- On May 7, 2009, OCTA signed a grant agreement for \$400,000 in competitive funding from the MSRC. The funds were awarded to help offset the cost of implementing a new compressed natural gas (CNG) fueling facility at OCTA's Garden Grove Bus Base.

In addition to the specific grants outlined above, OCTA receives a variety of discretionary grants from sources such as Air Quality Management District, MSRC, DHS, State Transportation Improvement Program (STIP), Congestion Mitigation and Air Quality, Caltrans, Proposition 1B, FHWA, and the State Highway Fund. The remaining and available balance on these discretionary grants is \$81.1 million. These funds will be received on a reimbursement of eligible expense basis.

**Closed Grant Agreements**

There were no formula capital grant agreements, discretionary capital grant agreements, or other discretionary grants closed this quarter as summarized in Attachment F.

**Summary**

This report provides an update of the grant funded activities for the fourth quarter of fiscal year 2008-09, April through June 2009. Staff recommends this report be received and filed as an information item.

**Attachments**

- A. Quarterly Grant Status Report, April through June 2009, Future Grant Applications
- B. Quarterly Grant Status Report, April through June 2009, Pending Grant Applications
- C. Quarterly Grant Status Report, April through June 2009, Current Formula and Discretionary Grants
- D. Quarterly Grant Status Report, April through June 2009, Operating Assistance Only
- E. Quarterly Grant Status Report, April through June 2009, Current Other Discretionary Grants
- F. Quarterly Grant Status Report, April through June 2009, Federal Transit Administration Capital Grant Index

**Prepared by:**



William Dineen  
Manager, Grants Management  
Financial Planning and Analysis  
(714) 560-5917

**Approved by:**



Kenneth Phipps  
Executive Director  
Finance and Administration  
(714) 560-5637

Quarterly Grant Status Report  
 April through June 2009  
 Future Grant Applications

**ATTACHMENT A**

Fiscal Year (FY) 2009 Federal Transit Administration (FTA) Section 5307 Formula Capital Grant Program						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	ESTIMATED SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Fiscal Year 2009 Section 5307 Bus Application	\$ 58,040,827	\$ 50,453,589	\$ 108,494,416	September 2009	November 2009	The development of the FY 2009 FTA Section 5307 Formula Grant application is underway, which builds upon the FY 2009 program of projects approved by the OCTA Board of Directors (Board) on August 17, 2009. The grant contains \$58 million in federal capital and operating assistance to support OCTA's fixed route and paratransit operations. Specifically, these funds will be utilized for preventive maintenance and capital cost of contracting for the OCTA fleet, support for the bicycle, pedestrian and facilities program and to enhance transit security. The details of the grant are being finalized and is anticipated for submittal to the FTA in September 2009.

FY 2009 FTA Section 5309 Discretionary Bus Capital Grant Program						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	ESTIMATED SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Fiscal Year 2009 Section 5309 Bus Application	\$ 4,845,999	\$ 1,201,302	\$ 6,047,301	July 2009	September 2009	On July 27, 2009, an FTA Discretionary Bus Capital grant was submitted for federal review following approvals by the FTA and the Southern California Association of Governments (SCAG). The grant captures over 4.85 million in earmark funds to support a variety of transit projects, including two earmarks totaling \$3.2 million for the Anaheim Regional Transportation Intermodal Center (requested by Senator Diane Feinstein [D-CA], Representative Ed Royce, [R-CA], and Representative Loretta Sanchez [D-CA]). The federal earmark funds require up to a 20 percent local match contribution. The grant is currently under review by the United States Department of Labor and is expected to be awarded in September 2009.
Fiscal Year 2009 Section 5309 Bus Application	247,507	50,694	298,201	July 2009	September 2009	On July 27, 2009, FTA Discretionary Bus Capital grant was submitted for federal review following approvals by the FTA and the SCAG. The grant captures \$247,507 in earmark funds to support bus base facility improvements (requested by Representative Loretta Sanchez [D-CA]). The federal earmark funds require up to a 20 percent local match contribution. The grant is currently under review by the United States Department of Labor and is expected to be awarded in September 2009.

FTA Section 5316 Jobs Access Reverse Commute Program						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Federal Transit Administration Section 5316 - Jobs Access Reverse Commute (JARC)	\$ 2,748,239	\$ 1,608,111	\$ 4,356,350	June 2009	September 2009	On July 25, 2009, OCTA submitted a grant to secure over \$2.7 million in FTA Section 5316 funds as directed by the OCTA Board of Directors (Board) on June 22, 2009. The funds will be used to support twelve projects that address the unmet transportation needs of persons of low income. The projects were selected based on mobility needs and criteria identified in OCTA's Public Transit-Human Services Transportation Coordination Plan adopted on October 10, 2008. The grant is moving through the federal review process and is anticipated to be awarded in September 2009.

Quarterly Grant Status Report  
 April through June 2009  
 Future Grant Applications

<b>FTA Section 5317 New Freedom Initiative</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Federal Transit Administration Section 5317 - New Freedom Initiative	\$ 3,371,424	\$ 1,949,730	\$ 5,321,154	June 2009	September 2009	On July 25, 2009, OCTA submitted a grant to secure over \$3.4 million in FTA Section 5317 funds as directed by the OCTA Board on June 22, 2009. The funds will be used to support 12 projects that address the unmet transportation needs of persons with disabilities. The projects were selected based on mobility needs and criteria identified in OCTA's Public Transit-Human Services Transportation Coordination Plan adopted on October 10, 2008. The grant is moving through the federal review process and is anticipated to be awarded in September 2009.

<b>Fiscal Year 2009 Federal Transit Administration Section 5310 Transportation for Elderly Persons and Persons with Disabilities</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Fiscal Year 2009 Earmark: Transportation for Elderly Persons	\$ 1,850,000	\$ 462,500	\$ 2,312,500	March 2009	August 2009	On March 26, 2009, a multi-agency evaluation committee scored and ranked six proposals requesting over \$1.85 million for four paratransit vans, 19 accessible buses, and related equipment. Staff anticipates seeking Board approval to submit recommended projects to Caltrans for statewide competition in August 2009.

<b>Recovery Act Energy Efficiency and Conservation Block Grant: Department of Energy (DOE)</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
DOE Energy Efficiency and Conservation Block Grant (EECBG)	\$ 1,450,000	\$ -	\$ 1,450,000	June 2009	October 2009	On June 25, 2009, OCTA submitted a proposal to pursue \$1.45 million in competitive American Recovery and Reinvestment Act of 2009 (ARRA) funds made available for competition through the DOE Energy Efficiency and Conservation Block Grant (EECBG). The funds are being pursued to help support the implementation of traffic signal synchronization for the Bravo! program and do not require a local match contribution.

<b>FTA, Surface Transportation Program (Federal Highways Administration (FHWA)) ARRA Fund Transfer</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	ESTIMATED SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Laguna Beach Trolleys	\$ 500,000	\$ -	\$ 500,000	July 2009	December 2009	The fund transfer paperwork submitted on July 9, 2009, is under review by Caltrans as the designated administrative agency for FHWA. To expedite the transfer, a grant agreement with FTA is being submitted concurrently and is anticipated to be executed in December 2009.

<b>Total</b>	<b>\$ 73,053,996</b>	<b>\$ 55,725,926</b>	<b>\$ 128,779,922</b>			
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Quarterly Grant Status Report  
 April through June 2009  
 Pending Grant Applications

<b>Federal Transit Administration (FTA) Section 5307 Transit Capital: American Recovery and Reinvestment Act of 2009 (ARRA)</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Fiscal Year 2009 bus maintenance activities, bus service, preventative maintenance, and support to capital improvements at OCTAs bus base facilities.	\$ 76,802,235	\$ -	\$ 76,802,235	April 2009	July 2009	On July 10, 2009, OCTA executed a grant with FTA to secure all \$76.8 million in transit capital assistance funds allocated to OCTA through the ARRA. Although the ARRA requires that only half of the stimulus funds be obligated by September 2009, this early action allows stimulus funds to be used quickly to assist in sustaining jobs and help economic recovery. In keeping with Board direction, the funds will be used to support transit operations, preventative maintenance, facility upgrades, and safety improvements.

<b>Fiscal Year 2009 California Transit Security Grant Program (CTSGP), Proposition 1B Transit System Safety, Security, and Disaster Response Account</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Proposition 1B Transit System Safety, Security, and Disaster Response Account (TSSSDRA)	\$ 3,520,574	\$ -	\$ 3,520,574	February 2009	September 2009	As directed by the OCTA Board on February 23, 2009, the funds are to support upgrades to OCTA's transit communications system (\$3,435,574) and the installation of license plate recognition systems on OCTA Transit Police Service vehicles (\$85,000). Award notifications are anticipated in September 2009. The funds do not require local match contributions or cost-sharing arrangements.

<b>Transit Security Grant Program: Department of Homeland Security (DHS)</b>						
GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	SUBMITTAL DATE	ESTIMATED APPROVAL DATE	STATUS
Fiscal Year 2009 Transit Security Grant Program: Department of Homeland Security	\$ 880,000	\$ 220,000	\$ 1,100,000	January 2009	July 2009	Staff continues to work with DHS officials to secure \$880,000 in grants awarded to OCTA on June 19, 2009, to fund a variety of OCTA's security efforts. As approved by the Board on July 27, 2009, the funds will be used to update OCTA's security plans, train and exercise OCTA staff on updated plan and counter-surveillance training, as well as implement a public awareness campaign for OCTA.

<b>Total</b>	<b>\$ 81,202,809</b>	<b>\$ 220,000</b>	<b>\$ 81,422,809</b>			
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Quarterly Grant Status Report  
 April through June 2009  
 Current Formula and Discretionary Grants

**ATTACHMENT C**

**Federal Transit Authority SECTION 5307, 5309 AND 5313 GRANT FUNDS**

**Federal Transit Authority Section 5307 - Urbanized Area Formula Capital Grant Program**

Formula grants funded by the Transportation Equity Act for the 21st Century.

Funds are generally used to purchase revenue vehicles, vehicle and facility modifications and bus related equipment.

CURRENT GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	EXPENDED TO DATE	UNLIQUIDATED OBLIGATIONS	REMAINING BALANCE
Fiscal Year 2009 Congestion Mitigation and Air Quality	\$ 5,200,000	\$ 1,300,000	\$ 6,500,000	\$ -	\$ -	\$ 6,500,000
Fiscal Year 2008	52,551,072	6,416,088	58,967,160	40,888,457	-	18,078,703
Fiscal Year 2007 Congestion Mitigation and Air Quality	5,616,267	651,984	6,268,251	2,016,912	2,548,946	1,702,393
Fiscal Year 2007	48,631,827	5,678,239	54,310,066	39,059,349	123,947	15,126,770
Fiscal Year 2006	47,043,235	5,562,746	52,605,981	34,684,800	42,982	17,878,199
Fiscal Year 2005	88,923,097	10,618,894	99,541,991	94,121,798	5,376,342	43,851
Fiscal Year 2004 **	52,130,309	7,058,512	59,188,821	59,188,821	-	-
Fiscal Year 2002-03 *	138,042,215	18,030,787	156,073,002	156,073,002	-	-
Fiscal Year 2001	35,613,774	4,899,532	40,513,306	37,522,852	-	2,990,454
<b>Formula Grants Total</b>	<b>\$ 473,751,796</b>	<b>\$ 60,216,782</b>	<b>\$ 533,968,578</b>	<b>\$ 463,555,991</b>	<b>\$ 8,092,217</b>	<b>\$ 62,320,370</b>

Note: The remaining balance reflects funds in an approved grant waiting for the procurement contract.

\* The Fiscal Year 2002-03 Section 5307 Grant is a consolidated Fiscal Year 2001-02 and Fiscal Year 2002-03 mega grant.

\*\* The Fiscal Year 2003-04 Section 5307 Grant is "ONLY" 9/12 of the amount available because the extension of Transportation Equity Act for the 21st Century expired June 30, 2004.

**Federal Transit Authority Section 5309 - Discretionary Capital Grant Program**

Discretionary grants funded by the Transportation Equity Act for the 21st Century.

Grants provide capital funds for projects that improve efficiency and coordination of transportation systems.

CURRENT GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	EXPENDED TO DATE	UNLIQUIDATED OBLIGATIONS	REMAINING BALANCE
Fiscal Year 2008 Bus Program	\$ 7,021,300	\$ 1,727,839	\$ 8,749,139	\$ 845,093	\$ -	\$ 7,904,046
Fiscal Year 2006 Bus Application	970,874	242,719	1,213,593	186,297	53,359	973,937
Fiscal Year 2005 Bus Application	4,344,932	1,037,983	5,382,915	2,704,959	-	2,677,956
Fiscal Year 2001-02 Cities of Anaheim and Brea and Santa Ana Bus Base	1,930,671	469,249	2,399,920	2,399,920	-	-
<b>Discretionary Grants Sub-Total</b>	<b>\$ 14,267,777</b>	<b>\$ 3,477,790</b>	<b>\$ 17,745,567</b>	<b>\$ 6,136,269</b>	<b>\$ 53,359</b>	<b>\$ 11,555,939</b>

Note: The above grant amounts include Federal Transit Authority amount and Orange County Transportation Authority local match but excludes operating assistance.

The federal funds allocated for operating assistance can be found in Attachment D.

<b>Formula and Discretionary Grant Total</b>	<b>\$ 488,019,573</b>	<b>\$ 63,694,572</b>	<b>\$ 551,714,145</b>	<b>\$ 469,692,260</b>	<b>\$ 8,145,576</b>	<b>\$ 73,876,309</b>
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Quarterly Grant Status Report  
 April through June 2009  
 Operating Assistance Only

**FEDERAL TRANSIT ADMINISTRATION SECTION 5307 GRANT FUNDS**

**Federal Transit Administration Section 5307 - Urbanized Area Formula Capital Grant Program**

Note: Operating Assistance Only

<b>CURRENT GRANT</b>	<b>FEDERAL GRANT AMOUNT</b>	<b>LOCAL SHARE AMOUNT</b>	<b>TOTAL GRANT AMOUNT</b>	<b>Federal Transit Administration DATE PAID</b>
Fiscal Year 2008 *	\$ 5,255,107	\$ 18,759,832	\$ 24,014,939	June 6, 2008
Fiscal Year 2007 *	4,863,183	19,151,756	24,014,939	December 12, 2007
Fiscal Year 2006 *	4,659,324	19,355,615	24,014,939	October 3, 2006
Fiscal Year 2005 *	5,341,510	24,844,621	30,186,131	October 4, 2005
Fiscal Year 2004 *	3,010,031	15,503,544	18,513,575	August 30, 2004
Fiscal Year 2002-03 *	6,966,007	37,562,925	44,528,932	August 21, 2003
Fiscal Year 2001 *	3,155,000	16,411,495	19,566,495	March 8, 2002
<b>Formula Grants Total</b>	<b>\$ 33,250,162</b>	<b>\$ 151,589,788</b>	<b>\$ 184,839,950</b>	

Note: \* Includes Americans with Disabilities Act Paratransit Operating Assistance "ONLY"

Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**ATTACHMENT E**

**DISCRETIONARY ALLOCATIONS**

<b>Air Quality Management District Grant Program and Mobile Source Air Pollution Reduction Review Committee</b>					
<b>Provides grants for the purchase of clean fuel revenue vehicles and other activities to reduce mobile source emissions.</b>					
<b>CURRENT GRANT</b>	<b>STATE GRANT AMOUNT</b>	<b>LOCAL SHARE AMOUNT</b>	<b>TOTAL GRANT AMOUNT</b>	<b>REMAINING BALANCE</b>	<b>PROJECT STATUS</b>
Fiscal Year 2002-03 Air Quality Management District Contract #07320 Revenue Contract #C71248	\$ 1,000,000	\$ -	\$ 1,000,000	\$ 1,000,000	Funds were awarded in October 2002 for liquefied natural gas fueling infrastructure at the Garden Grove and Anaheim facilities. On December 3, 2004, Air Quality Management District approved OCTA's request to direct funds towards liquefied natural gas fuel tank upgrades for the bus fleet and liquefied natural gas fueling station at the Santa Ana Base. Due to delays with the liquefied natural gas tank improvement project and new commitment towards compressed natural gas fuel technologies, staff began discussions with Air Quality Management District to realign the total grant award to support compressed natural gas (CNG) fueling at the Santa Ana Facility. Negotiations with the CNG fueling vendor were completed in May 2006, a detailed project scope was forwarded to Air Quality Management District staff to develop emissions benefit calculations needed to redirect awarded funds. On February 2, 2007, the Air Quality Management District governing Board approved the use of grant funds to OCTA. First reimbursement for \$990,000 was submitted on November 17, 2008.
Fiscal Year 2004-05 Mobile Source Air Pollution Reduction Committee Contract #PT05063 Revenue Contract #C52915	425,000	-	425,000	-	Grant awarded for \$150,000 in February 2005 to purchase and install 71 catalyzed diesel particulate filter systems to retrofit certain diesel-fueled buses. In June 2005, the Mobile Source Air Pollution Reduction Committee Board increased award amount to \$603,500. The contract was executed in March 2006 and budgeted in fiscal year 2007. Requisition 41263 was approved in January 2007. In June 2007, the Board approved a reduction of the number of filters to 50, resulting in a new award amount of \$425,000. Final Reimbursement, AR 124196 for \$76,500 was received June 22, 2009.
Fiscal Year 2006 Mobile Source Air Pollution Reduction Committee Contract #MS06002 Revenue Contract #C71246	928,000	-	928,000	518,580	Executed November 2007, this grant provides funding for the purchase and implementation of automated vehicle locator and mobile data terminal equipment to increase the efficiency of the Freeway Service Patrols. The award requires a minimum 25 percent match funded through the Orange County Service Authority for Freeway Emergencies. To date reimbursements from the Mobile Source Air Pollution Reduction Committee total \$409,420. Project will continue for three years. Currently, in conversations with Mobile Source Air Pollution Reduction Committee to re-budget match requirements.

Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**DISCRETIONARY ALLOCATIONS**

**Air Quality Management District Grant Program and Mobile Source Air Pollution Reduction Review Committee**

**Provides grants for the purchase of clean fuel revenue vehicles and other activities to reduce mobile source emissions.**

CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Fiscal Year 2006 Mobile Source Air Pollution Reduction Committee Contract #MS07009 Revenue Contract #C80815	\$ 800,000	\$ -	\$ 800,000	\$ -	Awarded on April 6, 2007, this grant helps support the purchase of 40 new buses equipped with advanced low emission natural gas engines. During the first quarter (July thru September), 28 Low Emission buses were conditionally accepted. A pause in payments to the vendor delayed reimbursement during the second quarter (October thru December). The final reimbursement invoice, AR 124186 for \$80,000 was received on June 22, 2009.
Fiscal Year 2007 Air Quality Management District Contract #08130 Revenue Contract #C81043	4,700,000	-	4,700,000	2,050,000	On December 7, 2007, the Air Quality Management District awarded Orange County Transportation Authority \$4.7 million in grant funds through the FY 2007 Carl Moyer Grant Program. The award supports the repowering of 188 Orange County Transportation Authority transit buses with new advanced low emission engines with a grant amount of \$25,000 each. The new advanced replacement engines will reduce tail pipe emissions between 600 and 700 pounds per year per vehicle. The first reimbursement for \$1,575,000 was received on March 4, 2009. The second reimbursement for \$1,075,000 was submitted on March 30, 2009 and received on May 20, 2009. Final reimbursement documentation is being prepared by the Transit Division. Final reimbursement is expected to be sent in September 2009.
Fiscal Year 2008 Mobile Source Air Pollution Reduction Committee Contract # TBD Revenue Contract #Cxxxxxx	1,500,000	-	1,500,000	1,500,000	Awarded by the Mobile Source Air Pollution Reduction Review Committee on November 15, 2007, to implement a "Big Rig" pilot program intended to ease congestion by removing disabled trucks along the highly congested Riverside Freeway. This pilot service would operate similar to the Freeway Service Patrol to help mitigate the impacts of goods movement. This project has been delayed for at least one year (FY 2011) as the CHP and OCTA do a more in-depth study for the need for this project.
Fiscal Year 2008 - Alternative Fuels Infrastructure Program Contract # MS08057 Revenue Contract #C90469	400,000	-	400,000	400,000	On July 11, 2008, the Mobile Source Air Pollution Reduction Committee awarded OCTA \$400,000 in competitive grant funds from its Alternative Fuels Infrastructure Program. The award will offset the capital costs of implementing a new compressed natural gas fueling station at the Garden Grove Base facility, while allowing local funds to be used towards other OCTA projects and programs. The contract was executed on May 14, 2009.

<b>Total - AQMD / MSRC</b>	<b>\$ 9,753,000</b>	<b>\$ -</b>	<b>\$ 9,753,000</b>	<b>\$ 5,468,580</b>	
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Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**DISCRETIONARY ALLOCATIONS**

**State Office of Homeland Security**

These grants are to be used for the protection of the Orange County's transportation system.

CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Fiscal Year 2006 Transit Security Grant Program	\$ 950,000	\$ -	\$ 950,000	\$ 950,000	Funds on-board bus cameras, surveillance system at the Buena Park Rail Station and development of a Comprehensive Emergency Operations Plan. Two reimbursement requests for expenditures from separate fiscal years for On-Board Bus Cameras and Buena Park Rail Station video surveillance systems; AR 124262 for \$717,632 and AR 124263 for \$32,368 for a total of \$750,000 were sent on 6/16/09.
Fiscal Year 2007 Transit Security Grant Program	1,000,000	-	1,000,000	1,000,000	Funds on-board bus surveillance system . Two reimbursement requests for expenditures from separate fiscal years; AR 124265 for \$833,043 and AR 124264 for \$166,957 for a total of \$1,000,000 were sent on 6/16/09.
Fiscal Year 2007 (supplemental) Transit Security Grant Program	550,000	-	550,000	550,000	Funds on-board bus surveillance system, a training exercise, and training program. Two reimbursement requests for expenditures from separate fiscal years for On-Board Bus Cameras; AR 124266 for \$235,704 and AR 124267 for \$164,296 for a total of \$400,000 were sent on 6/16/09.
Fiscal Year 2008 Transit Security Grant Program	409,000	-	409,000	409,000	Grant funds will be utilized to develop and conduct an exercise and training program aimed at reducing safety and security risks associated with OCTA's alternative fuel vehicles and infrastructure. The program will seek feedback from local first responder agencies and equipment manufacturers, update protocols and procedures, and provide training to OCTA transit frontline personnel.

<b>Total - TSGP</b>	<b>\$ 2,909,000</b>	<b>\$ -</b>	<b>\$ 2,909,000</b>	<b>\$ 2,909,000</b>	
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Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**DISCRETIONARY ALLOCATIONS**

<b>Federal Emergency Management Agency</b>					
<b>State of California Emergency Management Agency</b>					
CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
November 2008 Freeway Complex Wildfire Cost Recovery	\$ 65,809	\$ -	\$ 65,809	\$ 59,420	Wild fire recovery eligible costs include the clean-up and replacement of a storage shed, equipment, and damaged asphalt (\$52,313), repairs to the communications antenna and cabling (\$11,626), and vehicle and overtime costs (\$1,870).

<b>California Integrated Waste Management Board</b>					
CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Targeted Rubberized Asphalt Concrete Incentive Grant Program	\$ 150,000	\$ -	\$ 150,000	\$ -	Funding to help offset the costs of rubberized asphalt on the Garden Grove Freeway improvement project. Received final report on 10/28/08. Reimbursement invoice submitted on November 3, 2008. Final Report has been accepted by Waste Management and reimbursement payment for \$150,000 received on 6/11/09.

<b>State Transportation Improvement Program</b>					
CURRENT GRANT	CALTRANS QA/QC AMOUNT	OCTA TOTAL GRANT AMOUNT	STATE GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
2006 State Transportation Improvement Program Capital BRT (PS&E)	\$ -	\$ 8,310,000	\$ 8,310,000	\$ 6,358,476	West Orange County Bus Rapid Transit Guideway, Design Phase (Plans, Specifications and Estimates). Reimbursement received to date is \$1,951,524. A reimbursement request for \$3,391,865.08 was sent on June 29, 2009.
2007 State Transportation Improvement Program Capital Placentia Rail Station (PS&E)	-	2,500,000	2,500,000	2,456,880	Placentia Rail Station Design phase (Plans, Specifications and Estimates). Contract C71294 executed 10/2/08 with Willdan for PS&E. Received reimbursement for \$24,198 in December 2008. Reimbursement to date is \$43,120. Project is incurring expenses again. 6/10/09.
2008 State Transportation Improvement Program Capital Tustin Rail Station (PS&E)	-	1,100,000	1,100,000	1,100,000	Tustin Rail Station Design phase (Plans, Specifications and Estimates).
2008 State Transportation Improvement Program El Camino Real Soundwall (PS&E)	-	646,000	646,000	238,463	Funding for the Santa Ana Freeway El Camino Real Soundwall, Design Phase (Plans, Specifications and Estimates). Third reimbursement AR124364 for \$53,266 was submitted on 7/21/09.
2008 State Transportation Improvement Program Capital Avenida Vaquero Soundwall (PS&E)	-	620,000	620,000	282,751	Funding for the Santa Ana Freeway Avenida Vaquero Soundwall, Design Phase (Plans, Specifications and Estimates). Third reimbursement AR124365 for \$78,414 was submitted on 7/21/09.

<b>Total - STIP</b>	<b>\$ -</b>	<b>\$ 13,176,000</b>	<b>\$ 13,176,000</b>	<b>\$ 10,436,572</b>	
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Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**DISCRETIONARY ALLOCATIONS**

<u>State Transportation Improvement Program</u>					
Programming, Planning, Monitoring (PPM)					
CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Fiscal Year 2004 Program	\$ 3,500,000	\$ -	\$ 3,500,000	\$ 3,500,000	Annual State Transportation Improvement Program allocation for the programming, planning, monitoring. Submitted final reimbursement for \$3.5 million to California Department of Transportation (Caltrans) District 12 on February 5, 2008. Staff fulfilled a Caltrans District 12 request on four occasions for additional information for further clarification to complete project review. Project close-out is continuing at Caltrans District 12. Staff continues to monitor the status of this reimbursement.
Fiscal Year 2005 Program	1,287,000	-	1,287,000	801,761	Annual State Transportation Improvement Program allocation for the programming, planning, monitoring. Final reimbursement for \$749K on October 10, 2007, is pending at Caltrans District 12. Caltrans has not made any additional requests for information. Staff continues to monitor the status of this reimbursement.
Fiscal Year 2006 Program	1,777,000	-	1,777,000	166,108	Annual State Transportation Improvement Program allocation for the programming, planning, monitoring. Final reimbursement for \$166,108 on June 23, 2008, is pending at Caltrans District 12. Staff has received and is in the process of responding to the two requests from Caltrans District 12 regarding additional information for further clarification to complete project review. Staff continues to monitor the status of this reimbursement.
Fiscal Year 2007 Program	1,531,000	-	1,531,000	743,609	Annual State Transportation Improvement Program allocation for the programming, planning, monitoring. Received payment of \$787,391 on July 17, 2008. Reimbursement for \$743,609 was submitted on June 24, 2009. Caltrans has not made any additional requests for information. Final close-out audit is in process. Staff continues to monitor the status of this reimbursement.
Fiscal Year 2008 Program	1,531,000	-	1,531,000	1,531,000	Annual State Transportation Improvement Program allocation for the programming, planning, monitoring.
<b>Total - STIP PPM</b>	<b>\$ 9,626,000</b>	<b>\$ -</b>	<b>\$ 9,626,000</b>	<b>\$ 6,742,478</b>	

Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

DISCRETIONARY ALLOCATIONS					
State Proposition 1B					
State Funding for the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA)					
CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Fiscal Year 2008 Cycle 1 #6061-0002OES ID # 059-91032	\$ 17,138,093	\$ -	\$ 17,138,093	\$ 2,784,677	Currently, 140 of the 173 paratransit vehicles are on the property waiting inspection and acceptance. A total of \$13,584,907 has been transferred from Prop 1B cash account to Fund 30 as revenue reimbursement. Contract C81315 for the procurement of the remaining 33 paratransits vans was approved by the Board on June 22, 2009.
Fiscal Year 2008 Cycle 1 #6061-0002OES ID # 059-91032	2,684,610	-	2,684,610	674,764	Currently making quarterly capital lease payments for Anaheim compressed natural gas fueling facility and transferring funds from Prop 1B cash account to Fund 30 as revenue reimbursement.
Fiscal Year 2008 Cycle 1 #6061-0002OES ID # 059-91032	2,723,218	-	2,723,218	690,851	Currently making quarterly capital lease payments for the Garden Grove compressed natural gas fueling facility and transferring funds from Prop 1B cash account to Fund 30 as revenue reimbursement.
Fiscal Year 2008 Cycle 1 #6061-0002OES ID # 059-91032	2,684,605	-	2,684,605	2,684,605	Staff has determined this project is not eligible for use of Prop. 1B funds due to the lease being an operating lease as opposed to a capital lease. Staff is in the process of working with the State to transfer these funds to the Anaheim and Garden Grove CNG fueling facility capital lease projects. This transfer is expected to be finalized in October 2009.
Fiscal Year 2008 Cycle 1 #6061-0002OES ID # 059-91032	18,571,677	-	18,571,677	18,571,677	Orange County Metrolink Service Expansion Program (MSEP). The funding for the MSEP is categorized into three general areas: turnback facilities, layover facilities and reliability improvements.
Fiscal Year 2008 Cycle 1 #6061-0002OES ID # 059-91032	7,737,225	-	7,737,225	7,737,225	ACCESS/fixed radio system upgrade
<b>Total - Prop. 1B (PTMISEA)</b>	<b>\$ 51,539,428</b>	<b>\$ -</b>	<b>\$ 51,539,428</b>	<b>\$ 33,143,799</b>	

Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**DISCRETIONARY ALLOCATIONS**

**State Proposition 1B Transit Security Grant Program (CTSGP)  
 Transit System Safety, Security, and Disaster Response Account (TSSSDRA)**

CURRENT GRANT	STATE GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
FY 2008 Proposition 1B Transit System Safety, Security, and Disaster Response Account	\$ 818,450	\$ -	\$ 818,450	\$ 818,450	No activity to date for the commuter rail right-of-way fencing project. Project has been included in the proposed FY 2010 Budget.
FY 2008 Proposition 1B Transit System Safety, Security, and Disaster Response Account	802,124	-	802,124	802,124	Funds were transferred from account code 2166-9022-D3107-K6M (\$200K) for the video surveillance systems for base facilities project. A scope of work was developed and sent out for proposals which were originally scheduled to be received on January 20. On January 5, legal counsel sent an opinion that these types of projects can be done as a design build procurement. We cancelled the request for proposal and are revising the scope of work for a design/build procurement to be issued shortly. There is a requisition (# 6193) in place in Contracts, Administration and Materials Management. A contract has been executed on June 23, 2009, with Consultant TRC Solutions, Inc. (\$120,278.88) to develop a design/build package which will consist of design criteria, performance standards, plans, and specifications. When the final design build package is submitted by TRC solutions, CAMM will post a Information for bidders on CAMM Net for Contractors (Design/builders) to construct the project at the four OCTA bus bases, based on TRC Solutions design/build criteria.
FY 2008 Proposition 1B Transit System Safety, Security, and Disaster Response Account	754,000	-	754,000	754,000	Funds were transferred from account code 2166-9022-D3107-EY1 (\$500K) for the key card access systems for base facilities project. A scope of work was developed and sent out for proposals which were originally scheduled to be received on January 20. On January 5, legal counsel sent an opinion that these types of projects can be done as a design build procurement. We cancelled the request for proposals and are revising the scope of work for a design/build procurement to be issued shortly. There is a requisition (# 6194) in place in Contracts, Administration and Materials Management. A contract has been executed on June 23, 2009, with Consultant TRC Solutions, Inc. (\$120,278.88) to develop a design/build package which will consist of design criteria, performance standards, plans, and specifications. When the final design build package is submitted by TRC solutions, CAMM will post a Information for bidders on CAMM Net for contractors (design/builders) to construct the project at the four OCTA bus bases, based on TRC Solutions design/build criteria.
FY 2008 Proposition 1B Transit System Safety, Security, and Disaster Response Account	732,900	-	732,900	-	On-board bus video surveillance cameras project. As of June 8, 2009, the full transfer of \$732,900 to Orange County Transit District has been completed. This project paid for 48 paratransit bus cameras and 22 - 40' compressed natural gas bus cameras.
FY 2008 Proposition 1B Transit System Safety, Security, and Disaster Response Account	273,100	-	273,100	273,100	Cooperative Agreement with Southern California Regional Rail Authority to fund grade crossing monitors in Orange County was authorized by the Board on June 22, 2009.
FY 2008 Proposition 1B Transit System Safety, Security, and Disaster Response Account	140,000	-	140,000	140,000	The video surveillance system for the Irvine station - The original public bid opening for this project was 9/9/08 but there were no bids submitted. The specs for the project were revised to allow for more companies to be able to bid the project and there was a second public bid opening on 10/17/08. A notice to award the contract was given to consultant on 11/10/08. The city will hold the contract with the consultant. We have cooperative agreement C-3-0628 amendment #5 with the city that gives them the funds for the video surveillance system. Installation of the video surveillance system at the Irvine station was completed in March. The final invoice from the city is under review as of June 30, 2009.

<b>Total - Prop. 1B (TSSSDRA)</b>	<b>\$ 3,520,574</b>	<b>\$ -</b>	<b>\$ 3,520,574</b>	<b>\$ 2,787,674</b>
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Quarterly Grant Status Report  
 April through June 2009  
 Current Other Discretionary Grants

**DISCRETIONARY ALLOCATIONS**

**Federal Highway Administration Grant Program Congestion Mitigation Air Quality (CMAQ)**  
 Federal funding for the Garden Grove Project Construction

CURRENT GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Fiscal Year 2004	\$ 101,276,120	\$ -	\$ 101,276,120	\$ 63,109	Funding for the construction of carpool lanes on the Garden Grove Freeway. Amount received to date is \$101,213,011. Staff will seek final reimbursement of \$63,109 after plant establishment is completed in February 2011.
Fiscal Year 2007	26,000,000	-	26,000,000	6,763,088	West County Connectors Project. Funding for the design of the high occupancy vehicle direct connectors from Garden Grove Freeway to the San Diego Freeway and the San Gabriel Freeway. Reimbursements to date of \$19,236,912.
Fiscal Year 2008	12,167,740	-	12,167,740	12,167,740	West County Connectors Project. Funding right-of-way phase of the high occupancy vehicle direct connectors from Garden Grove Freeway to the San Diego Freeway and the San Gabriel Freeway.

<b>Total - CMAQ</b>	<b>\$ 139,443,860</b>	<b>\$ -</b>	<b>\$ 139,443,860</b>	<b>\$ 18,993,937</b>
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**Federal Highway Administration Grant Program**

CURRENT GRANT	FEDERAL GRANT AMOUNT	LOCAL SHARE AMOUNT	TOTAL GRANT AMOUNT	REMAINING BALANCE	PROJECT STATUS
Fiscal Year 2006 Value Pricing Pilot Program	\$ 588,000	\$ 147,000	735,000	\$ 578,220	Funds the performance monitoring and pricing pilot project on 91 Express Lanes to review speed and travel time sensor technology options, approaches to dynamic pricing and policy impacts. Funding requires a 20 percent match. During the quarter ending 12/31/07, the Orange County Transportation Authority entered into a new agreement with a new project management firm to assist in oversight of this project. Reimbursements to date of \$9,780.

<b>Total Other Discretionary</b>	<b>\$ 217,595,671</b>	<b>\$ 13,323,000</b>	<b>\$ 230,918,671</b>	<b>\$ 81,119,680</b>
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**Quarterly Grant Status Report**  
**April through June 2009**  
**Federal Transit Administration Capital Grant Index**

GRANT NO.	DESCRIPTION	EXECUTED DATE	GRANT BUDGET	UNLIQUIDATED OBLIGATIONS	TOTAL OUTLAYS	TOTAL COMMIT/COSTS	UNCOMMITTED BALANCE	PERCENT COMPLETE	ANTICIPATED CLOSE-OUT
CA-03-0626	Cities of Anaheim and Brea	8/25/2002	\$ 2,399,920	\$ -	\$ 2,399,920	\$ 2,399,920	\$ -	100.00%	July '09
CA-03-0709	2005 Section 5309 Bus Application	3/3/2005	5,382,915	-	2,704,959	2,704,959	2,677,956	50.25%	June '10
CA-03-0754	2006 Section 5309 Bus Application	8/22/2006	1,213,593	53,359	186,297	239,656	973,937	15.35%	December '09
CA-04-0078	FY 2008 Section 5309 Bus Application	9/8/2008	8,749,139	-	845,093	845,093	7,904,046	9.66%	December '10
CA-90-Y048	Program of Projects	3/4/2001	40,513,306	-	37,522,852	37,522,852	2,990,454	92.62%	April '10
CA-90-Y163	Program of Projects	8/14/2003	156,073,002	-	156,073,002	156,073,002	-	100.00%	July '09
CA-90-Y237	Program of Projects	8/19/2004	59,188,821	-	59,188,821	59,188,821	-	100.00%	July '09
CA-90-Y349	Program of Projects	9/22/2005	99,541,991	5,376,342	94,121,798	99,498,140	43,851	94.55%	April '10
CA-90-Y428	Program of Projects	9/28/2006	52,605,981	42,982	34,684,800	34,727,782	17,878,199	65.93%	June '11
CA-90-Y540	Program of Projects	12/10/2007	54,310,066	123,947	39,059,349	39,183,296	15,126,770	71.92%	March '10
CA-90-Y644	Program of Projects	6/11/2008	58,967,160	-	40,888,457	40,888,457	18,078,703	69.34%	April '10
CA-95-X005	FY 2007 CMAQ Fund Transfer	8/28/2007	6,268,251	2,548,946	2,016,912	4,565,858	1,702,393	32.18%	March '10
CA-95-X043	FY 2009 CMAQ Fund Transfer-Irvine Guideway	9/22/2008	6,500,000	-	-	-	6,500,000	0.00%	September '12
<b>TOTALS</b>			<b>\$ 551,714,145</b>	<b>\$ 8,145,576</b>	<b>\$ 469,692,260</b>	<b>\$ 477,837,836</b>	<b>\$ 73,876,309</b>	<b>85.13%</b>	





BOARD COMMITTEE TRANSMITTAL

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** <sup>WK</sup> Wendy Knowles, Clerk of the Board  
**Subject:** Agreement for Public Outreach Consultant for West County Connectors Project

Legislative and Communications Committee Meeting of September 17, 2009

**Present:** Directors Buffa, Cavecche, Dalton, and Mansoor  
**Absent:** Directors Bates, Brown, and Glaab

**Committee Vote**

This item was passed by all Committee Members present.

**Committee Recommendation**

Authorize the Chief Executive Officer to execute Agreement No. C-9-0252 between the Orange County Transportation Authority and Caltrans, in an amount not to exceed \$1,200,000 over a five-year term, for comprehensive public outreach services for the West County Connectors Project.



**September 17, 2009**

**To:** Legislative and Communications Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Agreement for Public Outreach Consultant for West County Connectors Project

**Overview**

The Orange County Transportation Authority is scheduled to begin construction on the West County Connectors Project in early 2010. Consultant services are needed to support the public outreach effort throughout the construction process. Proposals have been received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services.

**Recommendation**

Authorize the Chief Executive Officer to execute Agreement No. C-9-0252 between the Orange County Transportation Authority and Caltrop Corporation, in an amount not to exceed \$1,200,000 over a five-year term, for comprehensive public outreach services for the West County Connectors Project.

**Background**

The Orange County Transportation Authority (OCTA), in cooperation with the California Department of Transportation (Caltrans), is scheduled to begin construction on the West County Connectors Project in early 2010.

A \$400 million undertaking, the purpose of the project is to enhance mobility by constructing two new direct high occupancy vehicle (HOV) connectors and a new second HOV lane in each direction on the San Diego Freeway (Interstate 405) between the Garden Grove Freeway (State Route 22) and the San Gabriel River Freeway (Interstate 605). The project will also include the reconstruction of three bridges, as well as delivery of other operational and aesthetic improvements.

The West County Connectors Project will traverse multiple jurisdictions, including the cities of Garden Grove, Los Alamitos, Seal Beach, Westminster, and the community of Rossmore. In addition, the project will have a direct and/or indirect impact on several major stakeholders, including Boeing, California State University Long Beach, and Leisure World.

Given the project's scope, complexity and relevance to the commuting public and major stakeholders, OCTA needs to retain a professional outreach consultant that will help provide strategic and tactical communications services throughout the construction process. These consultant services will aid OCTA and Caltrans' efforts to develop and deliver communications on a day-to-day basis, but also to advance strategic messages that crystallize the value and benefits of investments in Orange County's transportation network.

### ***Procurement Approach***

This procurement was handled in accordance with OCTA's procedures for professional and technical services. On April 27, 2009, the OCTA Board of Directors (Board) authorized the release of Request for Proposal (RFP) No. 9-0252 which was released on May 4, 2009. The competitive solicitation was sent electronically to 495 firms registered on CAMM NET. The project was advertised on May 4, 2009 and May 10, 2009, in a newspaper of general circulation. A pre-proposal conference was held on May 20, 2009, and was attended by 20 people representing 19 firms. Addendum No. 1 to RFP No. C-9-0252 was issued on June 1, 2009, to post the pre-proposal conference registration sheets and to respond to questions received.

On June 10, 2009, 12 proposals were received. An evaluation committee consisting of a representative from the Contracts Administration and Materials Management Department, Customer Relations Department, Public Communications Department, Caltrans and the City of Seal Beach met to review all proposals submitted. The proposals were evaluated based on the following evaluation criteria and weights, which were approved by the Board on April 27, 2009:

- |                                     |            |
|-------------------------------------|------------|
| • Qualifications of the Firm        | 20 percent |
| • Staffing and Project Organization | 30 percent |
| • Work Plan                         | 30 percent |
| • Cost and Price                    | 20 percent |

The standard 25 percent for each criterion was not used for this procurement. The qualifications of the staff and the work plan are the most important factors;

therefore, each was weighted at 30 percent. Staffing is important because staff will be providing outreach to cities, communities and stakeholders affected by the construction project. The work plan is essential to understanding the consultant's grasp of the project scope, potential issues, level of effort, and recommended outreach strategies that are critical to its success.

The evaluation committee reviewed all proposals based on the evaluation criteria and found two firms most qualified to do the work. The two most qualified firms in alphabetical order are:

Firm and Location

Caltrop Corporation  
Santa Ana, California

Westbound Communications  
Orange, California

On August 5, 2009, the evaluation committee interviewed the two firms. Questions were asked relative to the firms' understanding of the project challenges and proposed communications strategies. The firms shared their proposed approaches to addressing the unique challenges of the construction project. They both outlined solid traditional public information programs as well as new social media tools. The firms also demonstrated significant understanding of the project needs, the importance of interaction with various audiences and the ability to work with the two contractors proposed for the two recommended segments. Based on the evaluation of the proposals and interviews, the evaluation committee recommends Caltrop Corporation (Caltrop) for consideration of an award.

**Qualifications of the Firm**

Both firms demonstrated direct relevant experience in providing public communications and community outreach programs for transportation construction projects and understand the requirements outlined in the RFP. Both firms have proven records of accomplishment working with government agencies, and understand the complexity and need to communicate effectively with different audiences.

Caltrop has 20 years of experience in providing outreach programs for public agencies, including the public awareness campaigns for the Pomona Freeway (State Route 60)/Riverside Freeway (State Route 91)/ San Bernardino Freeway (Interstate 215) Interchange Project and the

Santa Ana Freeway (Interstate 5) Gateway Project. Caltrop has received recognition for its work in providing innovative and comprehensive public awareness campaigns.

Westbound Communications, Inc. (Westbound) has six years experience managing public awareness campaigns, which include State Route 22 (SR-22)/Interstate 405 (I-405), Corona Del Mar Freeway (State Route 73), Costa Mesa Freeway (State Route 55) North and the Interstate 5 (I-5) El Toro Y/I-405 Improvement Projects.

References for both the firms were favorable.

#### Staffing and Project Organization

Caltrop's Project Manager has over 10 years of direct community outreach experience for the various transportation sectors, including the Pomona Freeway (State Route 60)/State Route 91)/Interstate 215 and the I-5 Gateway projects. The dedicated community liaison has 17 years of experience in government and community relations campaigns. The project team proposed by Caltrop is very comprehensive and well qualified in performing tasks required in the RFP. Each of the sub-consultants has extensive outreach expertise with defined roles and commitments and has demonstrated their ability to work cohesively on similar past projects with public officials and at the grass-roots level.

Westbound's project manager brings 20 years of public and private sector experience to outreach campaigns. The lead community liaison has 10 years of experience managing and administering public relation campaigns, which includes work on the I-215 widening project, Ortega Highway (State Route 74) safety project and the SR-22 improvement project. Westbound's proposed team was well-rounded, but its roles were less defined. Similarly, Westbound's proposed team of staff and sub-consultant roster was not as extensive.

#### Work Plan

Both Caltrop and Westbound presented excellent and comprehensive work plans, which addressed all elements of the RFP. Each firm covered all aspects of the outreach strategies, identified the stakeholders, potential issues, and mitigation.

Caltrop's work plan outlined outreach tasks and identified a sequential activity plan and a detailed budget breakdown for the campaign. Identified outreach tools were targeted to specific audiences and recognized the need to work

closely with Caltrans and the contractors. The firm clearly understood the significance of working with multiple contractors and addressed how that objective would be achieved in its interview. While the traditional methods of outreach were discussed, Caltrop addressed how it would maximize public awareness and involvement with an emphasis on the utilization of Caltrans' hotline, targeted traditional outreach methods, as well as how the firm would go beyond the basics of communications to implement cost-effective social media tools to target the rapidly growing numbers of public members utilizing these networking web sites.

Westbound showed a complete understanding of the project scope. The firm's work plan included focusing on all aspects of the outreach to the various stakeholders and identified the impact on various communities. The work plan listed specific tasks and timelines to depict the task sequencing. In its interview, the firm talked about the need for tailored messaging to target audiences and included several innovative ideas to establish communication with the different communities.

#### **Cost and Price**

Pricing scores were based on a formula, which assigns the highest weight to the lowest price and weights the other proposal prices based on their relation to the lowest price. Caltrop's fully burdened average hourly rates were very competitive and received a higher score as compared to Westbound.

Based on the evaluation of the written proposals, team qualifications, work plan, and information obtained from the interviews, it is recommended that Caltrop be awarded the contract.

#### **Fiscal Impact**

The project was approved in OCTA's Fiscal Year 2009-2010 Budget, Account 0010-7519-F7210-RXA, and will be funded by Congestion Mitigation and Air Quality (CMAQ) and Corridor Mobility Improvement Account (CMIA) funds.

#### **Summary**

Based on the information provided, staff recommends award of Agreement No. C-9-0252 to Caltrop Corporation, in an amount not to exceed \$1,200,000 over a five-year-term, for comprehensive public outreach services for the West County Connectors Project.

***Attachments***

- A. "West County Connectors Construction Public Outreach", Review of Proposals RFP C-9-0252, Presented to Legislative and Communications Committee – September 17, 2009
- B. Proposal Evaluation Criteria Matrix, RFP C-9-0252 "West County Connectors Construction Public Outreach"
- C. Contract History for the Past Two Years, RFP C-9-0252, "West County Connectors Construction Public Outreach"

**Prepared by:**



Fernando Chavarria  
Community Relations Officer  
(714) 560-5306

**Approved by:**



Ellen S. Burton  
Executive Director, External Affairs  
(714) 560-5923



Virginia Abadessa  
Director, Contracts Administration and  
Material Management  
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**"West County Connectors Construction Public Outreach"**  
**Review of Proposals RFP C-9-0252**  
Presented to Legislative and Communications Committee - September 17, 2009

12 Proposals were received, 2 firms were interviewed.

Overall Ranking	Proposal Score	Firm & Location	Sub-Contractors	Evaluation Committee Comments	Average Hourly Rate
1	87	<b>Caltrop Corporation</b> Santa Ana, California	As You Like It Event Design & Catering Audience Index Marketing Interwind, Inc. Joven Orozco Design Kennedy Communications Michele Miller Public Relations Sweeney Consulting The Walking Man, Inc.	Extensive experience in transportation outreach projects. Very strong and experienced team of sub-consultants. Roles and responsibilities of sub-consultants clearly identified. Substantial amount of resources proposed for the project. Project manager has direct relevant experience. Excellent work plan with detailed tasks and milestones. Excellent and comprehensive responses to interview questions.	89.67
2	76	<b>Westbound Communications, Inc.</b> Orange, California	Russell Bell Toledo Public Relations	Extensive experience with transportation projects. Project manager has experience in public outreach campaigns. Excellent work plan with defined tasks and timelines. Innovative outreach strategies. Good overall interview.	134.33

**Evaluation Panel:**

Contracts Administration and Materials Management (1)  
External Affairs (2)  
City of Seal Beach (1)  
California Department of Transportation (1)

**Criteria**

Qualifications of the Firm  
Staffing & Project Organization  
Work Plan  
Cost and Price

**Weight Factor**

20%  
30%  
30%  
20%



**CONTRACT HISTORY FOR THE PAST TWO YEARS**  
**RFP C-9-0252 - "West County Connectors Construction Public Outreach"**

Prime Firm (Alphabetical)	Contract No.	Description	Contract Start Date	Contract Completion Date	Contract Amount
Caltrop Corporation	C-7-1479	West County Connector Outreach Consulting	12/20/2007	12/31/2009	\$99,663
	C-9-0363	Construction Management Services for the San Diego Freeway (I-405) West County Connector (Pending)	Pending	Pending	\$19,000,000
<b>Sub Total</b>					<b>\$19,099,663</b>
Westbound Communications, Inc.	C-7-1433	Public Outreach for State Route 91 Corridor Improvement Projects	7/3/2008	6/30/2010	\$589,000
	C-7-1493	Outreach for State Route 57 Project	6/18/2009	6/30/2011	\$382,175
<b>Sub Total</b>					<b>\$971,175</b>





MEMO

September 23, 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.



**September 24, 2009**

**To:** Transit Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Cooperative Agreements with the Cities of Fullerton, Santa Ana, and Tustin for Video Surveillance Systems at Metrolink Stations

**Overview**

Cooperative agreements are required with the cities of Fullerton, Santa Ana, and Tustin for implementation of a video surveillance system at the Fullerton Transportation Center, Santa Ana Regional Transportation Center, and Tustin Metrolink Station.

**Recommendations**

- A. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0599 between the Orange County Transportation Authority and the City of Fullerton, in an amount not to exceed \$750,000, to define roles, responsibilities, and funding for the implementation of a video surveillance system at the Fullerton Transportation Center.
- B. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0560 between the Orange County Transportation Authority and the City of Santa Ana, in an amount not to exceed \$750,000, to define roles, responsibilities, and funding for the implementation of a video surveillance system at the Santa Ana Regional Transportation Center.
- C. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0590 between the Orange County Transportation Authority and the City of Tustin, in an amount not to exceed \$750,000, to define roles, responsibilities, and funding for the implementation of a video surveillance system at the Tustin Metrolink Station.

**Discussion**

In 2006, in conformance with the Federal Transit Administration (FTA) Transit Security Design Guidelines, the Orange County Transportation Authority (OCTA)

developed strategic security plans for commuter rail facilities along with standards for design and procurement of security camera networks known as video surveillance systems (VSS).

In June 2007, the United States Department of Homeland Security completed transit risk assessment models showing that Metrolink commuter rail stations needed increased security. On September 13, 2007, the OCTA Board of Directors (Board) approved the Metrolink VSS Deployment Program and use of FTA Grant Program 5309 money to fund 80 percent of the VSS with a 20 percent match from the Commuter Urban Rail Endowment (CURE) fund.

The Fullerton Transportation Center (FTC), Santa Ana Regional Transportation Center (SARTC), and Tustin Metrolink Station are commuter stations listed in the deployment program to receive funding for the design and installation of a VSS.

OCTA will take the lead on the procurement of a design-build contract with the cities of Santa Ana and Tustin, with the cities providing support. Proposals are anticipated to be solicited in late 2009 through early 2010. Staff will return to the Board with a recommendation for award of these agreements for the design, construction, and implementation of the VSS at SARTC and the Tustin Metrolink Station.

The City of Fullerton will take the lead on the procurement of a design-build contract, while OCTA will provide support and oversight. The City of Fullerton expects to solicit proposals in late 2009. The VSS should be fully implemented by mid-2011 in conjunction with the construction of a new parking structure at FTC.

Upon completion of installation and acceptance by OCTA and all three cities, the cities will assume ownership, operation, and maintenance of the VSS.

#### Fiscal Impact

There is no fiscal impact at this time for the cooperative agreements with the cities of Santa Ana and Tustin, as OCTA will be the lead on procuring the design-build consultant.

The City of Fullerton project was approved in OCTA's Fiscal Year 2009-10 Budget, Rail Programs, Account 1724-7831-A4459-SC9, and is funded through Grant No. CA-03-0709 (\$315,534) and Grant No. CA 04-0078 (\$284,466) with a 20 percent match (\$150,000) funded through CURE.

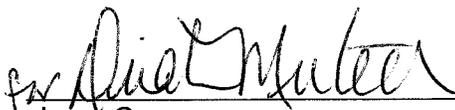
**Summary**

Staff is seeking authorization to enter into cooperative agreements with the cities of Fullerton, Santa Ana, and Tustin to define roles, responsibilities, and funding for the installation of a VSS at the FTC, SARTC, and Tustin Metrolink Station. Each city will own, operate, and maintain the systems once installed and accepted.

**Attachments**

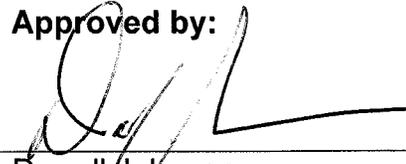
- A. Cooperative Agreement No. C-9-0599 Between Orange County Transportation Authority and City of Fullerton for Implementation of Video Surveillance System at Fullerton Transportation Center
- B. Cooperative Agreement No. C-9-0560 Between Orange County Transportation Authority and City of Santa Ana for Implementation of Video Surveillance System at Santa Ana Regional Transportation Center
- C. Cooperative Agreement No. C-9-0590 Between Orange County Transportation Authority and City of Tustin for Implementation of Video Surveillance System at Tustin Metrolink Station

**Prepared by:**

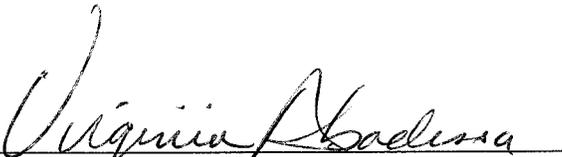


Lora Cross  
Project Manager  
(714) 560-5788

**Approved by:**



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



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

**COOPERATIVE AGREEMENT NO. C-9-0599**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**CITY OF FULLERTON**

**FOR**

**IMPLEMENTATION OF VIDEO SURVEILLANCE SYSTEM AT  
FULLERTON TRANSPORTATION CENTER**

**THIS AGREEMENT**, is effective as of this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and the City of Fullerton, 303 W. Commonwealth, Fullerton, CA 92832, a municipal corporation duly organized and existing under the constitution and laws of the State of California (hereinafter referred to as "CITY").

**RECITALS:**

**WHEREAS**, AUTHORITY and CITY desire to enter into a Cooperative Agreement to determine roles, responsibilities and funding for a Video Surveillance System (VSS) at the Fullerton Transportation Center at 122 E. Commonwealth Avenue in Fullerton, California, (hereinafter referred to as "PROJECT"); and

**WHEREAS**, On September 13, 2007 AUTHORITY's Board of Directors (BOARD) approved the use of Federal Transportation Administration (FTA) Grant Program 5309 to fund 80% of the Metrolink Video Surveillance System Deployment Program with 20% match from the Commuter Urban Rail Endowment (CURE) ; and

**WHEREAS**, based on the budget established by the Board-approved Metrolink Video Surveillance System Deployment Program, the Fullerton Transportation Center budget for equipment, design, and installation of a Video Surveillance System (VSS) is Seven Hundred Fifty Thousand Dollars

1 (\$750,000.00), utilizing Six Hundred Thousand Dollars (\$600,000.00), of FTA Grant Program 5309  
2 funds and One Hundred, Fifty Thousand Dollars (\$150,000.00) CURE funds; and

3 **WHEREAS**, CITY will serve as the lead agency for the design and construction phase of the  
4 PROJECT; and AUTHORITY will serve as the support agency and provide funding, and oversight; and

5 **WHEREAS**, Closed Circuit Television (CCTV) cameras will be installed throughout the Fullerton  
6 Transportation Center, and conduit and cabling from the cameras will be routed to the Police  
7 Department's Central Processing Unit for the City of Fullerton; and

8 **WHEREAS**, AUTHORITY agrees to reimburse CITY directly for eligible design and construction  
9 phase costs for the installation of the VSS system up to a maximum amount of Seven Hundred Fifty  
10 Thousand Dollars (\$750,000) ; and

11 **WHEREAS**, the timing of the PROJECT will coincide with the CITY'S construction of a new  
12 parking structure at the FTC that will incorporate infrastructure to accommodate CCTV at this new  
13 structure.

14 **WHEREAS**, after installation is completed, inspected, and accepted by AUTHORITY and CITY,  
15 the CITY will be responsible to own, operate, and maintain the system; and

16 **WHEREAS**, this Cooperative Agreement (hereinafter referred to as "AGREEMENT") defines  
17 the specific terms, conditions, funding, and roles and responsibilities between the AUTHORITY and  
18 CITY only as they relate to the PROJECT; and

19 **WHEREAS**, the AUTHORITY's Board of Directors approved this Agreement on \_\_\_\_\_.

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

22 **ARTICLE 1. COMPLETE AGREEMENT**

23 A. This Agreement, including all exhibits and documents incorporated herein and made  
24 applicable by reference, constitute the complete and exclusive statement of the term(s) and condition(s)  
25 of this Agreement between AUTHORITY and CITY and supersedes all prior representations,  
26 understandings, and communications. The invalidity in whole or part of any term or condition of this

1 Agreement shall not affect the validity of other term(s) and condition(s) of this Agreement. The above-  
2 referenced Recitals are true and correct and are incorporated by reference herein.

3 B. AUTHORITY'S failure to insist on any instance(s) of CITY's performance of any term(s)  
4 or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's  
5 right to such performance or to future performance of such term(s) or condition(s) and CITY'S obligation  
6 in respect thereto shall continue in full force and effect. Changes to any portion of this Agreement shall  
7 not be binding upon AUTHORITY except when specifically confirmed in writing by an authorized  
8 representative of AUTHORITY by way of a written amendment to this Agreement and issued in  
9 accordance with the provisions of this Agreement.

10 C. CITY's failure to insist on any instance(s) of AUTHORITY's performance of any term(s)  
11 or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of CITY's right to  
12 such performance or to future performance of such term(s) or condition(s), and AUTHORITY's  
13 obligation in respect thereto shall continue in full force and effect. Changes to any portion of this  
14 Agreement shall not be binding upon CITY except when specifically confirmed in writing by an  
15 authorized representative of CITY by way of a written amendment to this Agreement and issued in  
16 accordance with the provisions of this Agreement.

17 **ARTICLE 2. RESPONSIBILITIES OF THE CITY**

18 CITY agrees to the following responsibilities for the PROJECT:

- 19 A. Lead the procurement for design-build consultant services for PROJECT.
- 20 B. Identify approvals and permits required by CITY, third party public agencies or private  
21 sector entities, including utilities; and insure that such approvals and permits are secured by contractor.
- 22 C. Complete PROJECT per scope of work summarized in Exhibit 1, and in accordance with  
23 PROJECT schedule and allocated funding, as outlined in Exhibits 2 and 3 to this Agreement.
- 24 D. Provide AUTHORITY opportunities to review, comment on, and/or approve studies,  
25 reports, plans, specifications, third party agreements, and other documents related to PROJECT  
26 developments, which are in CITY's possession and/or which have been provided to CITY for review, to

1 the extent that such documents or third party agreements may obligate AUTHORITY, prior to document  
2 acceptance by CITY.

3 E. Comply with all applicable federal and state third party contracting laws and regulations,  
4 to include Federal Transportation (FTA) Circular 4220.1F, and include these requirements in  
5 subsequent agreements.

6 F. Perform project management and project administration.

7 G. Prepare design-build construction contract documents, advertise and award design-build  
8 construction contract, and conduct construction administration and construction management.

9 H. Coordinate facilities operations, maintenance plans, facility security plans, public safety,  
10 and policing and emergency preparedness plans during project construction.

11 I. Perform PROJECT closeout activities, including walk-through, punch list, as-built  
12 records, final accounting, etc.

13 J. Upon completion of installation, inspection, and acceptance by AUTHORITY and CITY,  
14 assume responsibility of the VSS for operation and maintenance.

15 K. City shall invoice AUTHORITY for all eligible project related costs up to the amount not  
16 to exceed Seven Hundred Fifty Thousand Dollars (\$750,000). Eligible project related costs are defined  
17 as costs that are associated with the scope of work as defined in Exhibit 1 incorporated and attached  
18 here.

19 **ARTICLE 3. RESPONSIBILITIES OF AUTHORITY**

20 AUTHORITY shall be the support agency for PROJECT implementation, and shall perform the  
21 following essential activities:

22 A. Identify and secure funding sources, and administer funding during all phases of  
23 PROJECT;

24 B. Provide funding for Design and Construction Phases of PROJECT up to a maximum  
25 cumulative payment obligation amount of Seven Hundred Fifty Thousand Dollars (\$750,000.00).

26 C. Coordinate with CITY during the procurement of the design/build contract for PROJECT

1 by providing Technical Provisions portion of the bid documents.

2 D. Payment: AUTHORITY shall remit to CITY, within thirty (30) days of receipt of an  
3 acceptable invoice, reimbursement for said work up to on hundred (100%) percent of eligible project  
4 costs. See article 6L.

5 E. AUTHORITY will perform oversight of the fund expenditures in compliance with the  
6 approved PROJECT budget and scope by attending regular progress meetings.

7 F. AUTHORITY will review and provide written approval to the CITY for the scope of work  
8 for design-build construction of PROJECT prior to advertisement of the project.

9 **ARTICLE 4. TERM OF AGREEMENT**

10 This AGREEMENT shall commence upon execution by both parties and shall continue in full  
11 force and affect through March 31, 2011, unless terminated earlier, or extended, by mutual written  
12 consent by both parties.

13 **ARTICLE 5. INDEMNIFICATION**

14 A. CITY shall defend, indemnify, and hold harmless the AUTHORITY, its officers, directors,  
15 agents, and employees, from all liability, claims, losses and demands, including defense costs and  
16 reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or  
17 omissions of CITY, its officers, agents, or employees, in the performance of the Agreement;

18 B. CITY shall maintain adequate levels of insurance, or self-insurance to insure full  
19 indemnification of AUTHORITY;

20 C. AUTHORITY shall defend, indemnify, and hold harmless the CITY, its officers, directors,  
21 agents, and employees, from all liability, claims, losses and demands, including defense costs and  
22 reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or  
23 omissions of AUTHORITY, its officers, agents, or employees, in the performance of the AGREEMENT;

24 D. AUTHORITY shall maintain adequate levels of insurance, or self-insurance to assure full  
25 indemnification of CITY.

26 **ARTICLE 6. MUTUAL AGREEMENTS OF ALL PARTIES**

The AUTHORITY and CITY agree to the following mutual responsibilities for PROJECT:

A. AUTHORITY and CITY will jointly participate in progress, coordination and additional team meetings as needed to implement the PROJECT.

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

C. Notices – Any notices, requests, or demands made between the Parties pursuant to this AGREEMENT sent by first class mail, postage paid, to the address and addressee shall be deemed to have been given when in the ordinary course it would be delivered. The representatives of the parties who are primarily responsible for the administration of this COOPERATIVE Agreement, and to whom notices, demands and communications shall be given are as follows:

To CITY:	To AUTHORITY:
City of Fullerton	Orange County Transportation Authority
303 W. Commonwealth Avenue  Fullerton, CA 92832-1881	550 South Main Street  P. O. Box 14184  Orange, CA 92863-1584
Attention: Mr. Donald Hoppe  Director of Engineering  Engineering Department	Attention: Mr. Darrell Johnson  Executive Director, Rail Programs
Telephone Direct: (714) 738-6864  General Phone: (714) 738-6845	Telephone: (714) 560-5343  Facsimile: (714) 560-5794
E-mail: <a href="mailto:donh@ci.fullerton.ca.us">donh@ci.fullerton.ca.us</a>	E-mail: <a href="mailto:djohnson@octa.net">djohnson@octa.net</a>

If there are any changes in the above names and/or addresses, the party desiring to make such change shall give a written notice to the other respective party within five (5) days of such change.

D. The provision of this AGREEMENT shall bind and inure to the benefit of each of the parties hereto and all successors or assigns of the parties hereto.

E. Severability – If any term, provision, covenant, or condition of this AGREEMENT is held

1 to be invalid, void, or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the  
2 remainder of this AGREEMENT shall not be affected thereby, and each term,  
3 provision, covenant or condition of this AGREEMENT shall be valid and enforceable to the fullest extent  
4 permitted by law.

5 F. Counterparts of Agreement – This AGREEMENT may be executed and delivered in any  
6 number of counterparts, each of which, when executed and delivered shall be deemed an original and  
7 all of which together shall constitute the same agreement. Facsimile signatures will be permitted.

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

15 H. Assignment – Neither this AGREEMENT, nor any of the Parties rights, obligations,  
16 duties, or authority hereunder may be assigned in whole or in part by either Party without the prior  
17 written consent of the other Party in its sole and absolute discretion. Any such attempt of assignment  
18 shall be deemed void and of no force and effect. Consent to one assignment shall not be deemed  
19 consent to any subsequent assignment, nor the waiver of any right to consent to such subsequent  
20 assignment.

21 I. Obligations to Comply with Law – Nothing herein shall be deemed nor construed to  
22 authorize or require any Party to issue bonds, notes, or other evidences of indebtedness under the  
23 terms, in amounts, or for purposes other than as authorized by local, state or federal law.

24 J. Governing Law – The laws of the State of California and applicable local and federal  
25 laws, regulations, and guidelines shall govern this AGREEMENT.

26 K. Legal Authority – The persons executing this Agreement on behalf of AUTHORITY and

1 CITY hereto warrant that they are duly authorized to execute this AGREEMENT on behalf of said  
2 respective Parties and that, by so executing this AGREEMENT, the Parties hereto are formally bound  
3 to the provisions of this AGREEMENT.

4 L. Form of Invoice – Each invoice shall be executed by a designated representative of  
5 CITY appointed by CITY to have such authority in accordance with Article 8. Subparagraph D, Notices,  
6 and shall include the following:

- 7 1. Agreement No. C-9-0599
- 8 2. Total invoice amount; and include the following:
  - 9 • Invoices should be submitted on local agency letterhead and include the
  - 10 following:
  - 11 • Project number.
  - 12 • Local agency Internal Revenue Service tax identification number.
  - 13 • Invoice number.
  - 14 • Reimbursement ratio.
  - 15 • Cost breakdown by phase of work:
    - 16 a) Total cost to date
    - 17 b) Retention withheld
    - 18 c) Liquidated damages
    - 19 d) Non participating or ineligible costs to date
    - 20 e) Participating costs on previous invoice
    - 21 f) Amount of current charges (summary sheet)
    - 22 g) Invoice total
  - 23 • Summary of construction activity completed for the period the invoice covers.
- 24 3. Such other information as requested by AUTHORITY.

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This AGREEMENT shall be effective upon execution by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No.C-9-0599 to be executed on the date first above written.

**CITY OF FULLERTON**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Don Bankhead  
Mayor

By: \_\_\_\_\_  
Will Kempton  
Chief Executive Officer

ATTEST:

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Beverly White  
City Clerk of City of Fullerton

By: \_\_\_\_\_  
Kennard R. Smart, Jr.  
General Counsel

APPROVED AS TO FORM:

APPROVAL RECOMMENDED:

By: \_\_\_\_\_  
Richard D. Jones  
City Attorney of City of Fullerton

By: \_\_\_\_\_  
Darrell Johnson  
Executive Director, Rail Programs

Date: \_\_\_\_\_

**Exhibit 1:**

**Scope of Work Summary**

1  
2  
3 The City of Fullerton will be installing a Video Surveillance System (VSS) at the Fullerton  
4 Transportation Center (Fullerton Station), located at 122 E. Commonwealth Avenue., Fullerton, CA  
5 92832-1916. The nearest cross street/intersection to the property is Commonwealth Avenue and  
6 South Harbor Boulevard. The site currently contains a pedestrian bridge, lighted surface parking lots,  
a multi-level parking garage, and several commercial buildings occupied by independent enterprises.

7  
8 The VSS will provide cameras to provide video coverage to five primary station facilities; the existing  
9 parking structure on Pomona Avenue and new parking structure to be constructed on the west side of  
10 Harbor Boulevard, the existing pedestrian bridge over the railroad tracks and new pedestrian bridge  
to be constructed across Harbor Boulevard, and both the northbound and southbound train platforms.

11 The system will be linked with the existing City of Fullerton downtown VSS, installed in 2008-09 and  
12 cameras will be connected to the Fullerton Police Department Command Monitoring Center via the  
13 City's Information Technology Department at City Hall. Captured VSS images from the station  
14 cameras will be recorded and maintained for 365 days per California Public Utilities Commission  
15 (CPUC) regulations and may be monitored as needed by the City of Fullerton Police Department  
dispatch.

16 The City will be the lead on the project and will be eligible to be reimbursed for administrative costs ,  
17 project management and construction management costs based on an amount not to exceed 15% of  
the overall construction costs and must be within the overall project budget of \$750,000.

18  
19 After installation is completed, inspected, and accepted by OCTA and the City of Fullerton, the VSS  
20 will be turned over to the City of Fullerton. The City of Fullerton will solely be responsible for the  
21 operation and maintenance of the VSS.  
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**Exhibit 2:  
Approved Project Budget**

Station/Description	Amount	Fiscal Year Allocated
<b><i>Fullerton VSS</i></b>		
Federal 5309 Earmark for Fullerton VSS Grant No. CA-03-0709	\$315,534	2005
Federal 5309 VSS for Metrolink Grant No. CA-04-0078	\$284,466	2009
Commuter Urban Rail Endowment (Supplemental match)	\$150,000	2009/10
<b><i>Total</i></b>	<b><i>\$750,000</i></b>	

Source: Metrolink Station Funding

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Exhibit 3:

Approved Project Schedule

April 20, 2009	Draft Concept of Operations sent to City of Fullerton
April 21, 2009	Site Visit by Technical Specialists
May 18, 2009	Comments on Draft Concept of Operations due to OCTA
May 25, 2009	Final Concept of Operations sent to Fullerton
June 11, 2009	Draft Cooperative Agreement sent to Fullerton
July 23, 2009	Approval of Final Concept of Operations by City of Fullerton
September/October, 2009	Draft site plan and preliminary cost estimates sent to Fullerton
Early September, 2009	Cooperative agreement to OCTA Transit Committee
September, 2009	Expected Approval of Cooperative Agreement by OCTA Board
October, 2009	Expected Approval of Cooperative Agreement by City of Fullerton City Council
December, 2009	Final RFP for review by City and OCTA
March/April 2010	RFP Selection Process for VSS Contractor
April, 2010	Notice to Proceed for selected contractor
Dependent on parking structure	Construction Schedule

Note: Deadlines are approximate and subject to change

**COOPERATIVE AGREEMENT NO. C-9-0560**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**CITY OF SANTA ANA**

**FOR**

**IMPLEMENTATION OF VIDEO SURVEILLANCE SYSTEM**

**AT SANTA ANA REGIONAL TRANSPORTATION CENTER**

**THIS AGREEMENT**, is effective as of this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and the City of Santa Ana, 20 Civic Center Plaza, M-21, Santa Ana, CA 92702, a municipal corporation duly organized and existing under the constitution and laws of the State of California (hereinafter referred to as "CITY").

**RECITALS:**

**WHEREAS**, AUTHORITY and CITY desire to enter into a Cooperative Agreement to install a Video Surveillance System (VSS) at the Santa Ana Regional Transportation Center (SARTC), previously known as the Santa Ana Depot, at 1000 East Santa Ana Boulevard in Santa Ana, California (hereinafter referred to as "PROJECT"); and

**WHEREAS**, On September 13, 2007 AUTHORITY's Board of Directors (BOARD) approved the use of Federal Transportation Administration (FTA) Grant Program 5309 money to fund 80% of the Metrolink Video Surveillance System Deployment Program with 20% match from the Commuter Urban Rail Endowment (CURE) money; and

**WHEREAS**, BOARD established a combined PROJECT budget of Seven Hundred Fifty Thousand Dollars (\$750,000.00) utilizing Six Hundred Thousand Dollars (\$600,000.00) of FTA

/

1 Grant Program 5309 funds and One Hundred, Fifty Thousand Dollars (\$150,000.00) of CURE  
2 funds.

3 **WHEREAS**, AUTHORITY will serve as the lead agency for the design and construction  
4 phase of the PROJECT; and

5 **WHEREAS**, Closed Circuit Television (CCTV) cameras will be installed throughout the  
6 SARTC, and conduit and cabling from the cameras will be routed to the SARTC existing Equipment  
7 Room; and

8 **WHEREAS**, this Cooperative Agreement (hereinafter referred to as "AGREEMENT") defines  
9 the specific terms, conditions, funding, and roles and responsibilities between the AUTHORITY and  
10 CITY only as they relate to the PROJECT; and

11 **WHEREAS**, the AUTHORITY's Board of Directors approved this Agreement on \_\_\_\_\_.

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

14 **ARTICLE 1. COMPLETE AGREEMENT**

15 A. This Agreement, including all exhibits and documents incorporated herein and made  
16 applicable by reference, constitute the complete and exclusive statement of the term(s) and  
17 condition(s) of this Agreement between AUTHORITY and CITY and supersedes all prior  
18 representations, understandings and communications. The invalidity in whole or part of any  
19 term or condition of this Agreement shall not affect the validity of other term(s) and condition(s)  
20 of this Agreement. The above-referenced Recitals are true and correct and are incorporated  
21 by reference herein.

22 B. AUTHORITY'S failure to insist on any instance(s) of CITY's performance of any  
23 term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment  
24 of AUTHORITY's right to such performance or to future performance of such term(s) or  
25 condition(s), and CITY's obligation in respect thereto shall continue in full force and effect.  
26 Changes to any portion of this Agreement shall not be binding upon AUTHORITY except when

1 specifically confirmed in writing by an authorized representative of AUTHORITY by way of a  
2 written amendment to this Agreement and issued in accordance with the provisions of this  
3 Agreement.

4 C. CITY's failure to insist on any instance(s) of AUTHORITY's performance of any  
5 term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment  
6 of CITY's right to such performance or to future performance of such term(s) or condition(s),  
7 and AUTHORITY's obligation in respect thereto shall continue in full force and effect.  
8 Changes to any portion of this Agreement shall not be binding upon CITY except when  
9 specifically confirmed in writing by an authorized representative of CITY by way of a written  
10 amendment to this Agreement and issued in accordance with the provisions of this Agreement.

11 **ARTICLE 2. RESPONSIBILITIES OF THE CITY**

12 CITY agrees to the following additional responsibilities for PROJECT:

13 A. Identify approvals and permits required by CITY, third party public agencies or  
14 private sector entities, including utilities; and secure such approvals and permits for  
15 construction of PROJECT at no cost to the AUTHORITY.

16 B. Issue necessary permits for the implementation of PROJECT at no charge to  
17 AUTHORITY's contractor.

18 C. Perform technical reviews, including required CITY departmental reviews and  
19 commentary, during project development and construction, including design criteria and basis-  
20 of-design documents, plans, specifications, and related construction documents, and related  
21 construction documents in a timely manner of not more than four weeks for each submittal.

22 D. Provide AUTHORITY opportunities to review, comment on, and/or approve  
23 studies, reports, plans, specifications, third party agreements, and other documents related to  
24 PROJECT developments, which are in CITY's possession and/or which have been provided to  
25 CITY for review, to the extent that such documents or third party agreements may obligate  
26 AUTHORITY, prior to document's acceptance by CITY.

1 E. Any betterment or enhancements outside the scope of work , if agreed to by  
2 both CITY and AUTHORITY will be paid 100% by CITY.

3 F. Coordinate with AUTHORITY during the procurement for design/build consultant  
4 services for PROJECT, allowing for CITY support and input in the evaluation and selection of  
5 the design/build contractor.

6 G. Provide, at AUTHORITY cost, plan check and inspection services during design  
7 and construction of the PROJECT.

8 H. Invoice AUTHORITY for plan check and inspection services on a monthly basis,  
9 showing all appropriate documentation of CITY's time.

10 I. Upon completion of installation, inspection, and acceptance by AUTHORITY and  
11 CITY, assume responsibility of the VSS for operation and maintenance.

12 **ARTICLE 3. RESPONSIBILITIES OF AUTHORITY**

13 AUTHORITY agrees to the following additional responsibilities for PROJECT:

14 A. Lead the implementation and procurement for design and construction services  
15 for PROJECT.

16 B. Identify and secure funding sources, and administer funding during all phases of  
17 PROJECT up to a maximum cumulative payment obligation amount of Seven Hundred Fifty  
18 Thousand Dollars (\$750,000).

19 C. Complete PROJECT per scope of work summarized in Exhibit 1 and in  
20 accordance with PROJECT schedule and allocated funding, as outlined in Exhibits 2 and 3 to  
21 this Agreement.

22 D. Provide funding for design and construction phases of PROJECT up to a  
23 maximum cumulative payment obligation amount of Seven Hundred Fifty Thousand Dollars  
24 750,000.00).

1 E. Provide guidance and oversight of the M1 and federal funds in compliance with  
2 Measure M eligibility guidelines and Federal Transit Administration (FTA) funding  
3 requirements.

4 F. Coordinate with CITY during the procurement for design-build consultant  
5 services for PROJECT, allowing for CITY support and input in the evaluation and selection of  
6 the design/build contractor.

7 G. Comply with all federal and state third party contracting laws and regulations.

8 H. Perform project management and project administration.

9 I. Coordinate and assist the activities related to the securing of approvals and  
10 permits required by CITY, third party public agencies or private sector entities, including utilities  
11 for the construction of PROJECT.

12 J. Coordinate facilities operations, maintenance plans, facility security plans, public  
13 safety, and policing and emergency preparedness plans during project construction.

14 K. Prepare construction contract documents, award construction contract, and  
15 conduct construction administration and construction management.

16 L. Remit to CITY, within thirty (30) days of receipt of an invoice with all back up  
17 documentation, reimbursement of plan check and inspection services, during PROJECT.

18 M. Plan check and inspection services performed by CITY and paid by  
19 AUTHORITY will be a not to exceed amount of ten (10%) percent of construction costs and will  
20 be included in the maximum cumulative payment obligation amount of Seven Hundred Fifty  
21 Thousand Dollars (\$750,000).

22 N. Perform PROJECT closeout activities, including walk-through, punch list, as-built  
23 records, final payment accounting, etc.

24 **ARTICLE 4. IT IS MUTUALLY UNDERSTOOD AND AGREED**

25 All parties agree to the following mutual responsibilities:

26 A. This Agreement shall continue in full force and effect through March 31, 2011.

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

4 C. AUTHORITY and CITY will jointly participate in progress, coordination and  
 5 additional team meetings as needed to implement the PROJECT.

6 D. The persons executing this Agreement on behalf of the parties hereto warrant  
 7 that they are duly authorized to execute this Agreement on behalf of said parties and that, by  
 8 so executing this Agreement, the parties hereto are formally bound to the provisions of this  
 9 Agreement.

10 E. All notices hereunder and communications regarding the interpretation of the  
 11 terms of this Agreement, or changes thereto, shall be effected by delivery of said notices in  
 12 person or by depositing said notices in the U.S. mail, registered, or certified mail and  
 13 addressed as follows:

To CITY:	To AUTHORITY:
City of Santa Ana	Orange County Transportation Authority
20 Civic Center Plaza, M-21 Santa Ana, CA 92702	550 South Main Street P. O. Box 14184 Orange, CA 92863-1584
Attention: Ms. Souri Amirani Deputy City Engineer Department of Public Works	Attention: Darrell Johnson Executive Director, Rail Programs
Tele 714/647-5640; Public Works Information: (714) 647-5690	Tele 714/560-5343; Fax 714/562-5794
email: samirani@santa-ana.org	email: <a href="mailto:djohnson@octa.net">djohnson@octa.net</a>

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

4 G. The provision of this Agreement shall bind and inure to the benefit of each of the  
5 parties hereto and all successors or assigns of the parties hereto.

6 If any term, provision, covenant, or condition of this Agreement is held to be invalid, void  
7 or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the  
8 remainder to this Agreement shall not be affected thereby, and each term, provision, covenant  
9 or condition of this Agreement shall be valid and enforceable to the fullest extent permitted by  
10 law.

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

14 I. Neither this Agreement, nor any of a Party's rights, obligations, duties, or  
15 authority hereunder may be assigned in whole or in part by either Party without the prior  
16 written consent of the other Party. Any such attempt of assignment shall be deemed void and  
17 of no force and effect. Consent to one assignment shall not be deemed consent to any  
18 subsequent assignment, nor the waiver of any right to consent to such subsequent  
19 assignment.

20 J. Either party shall be excused from performing its obligations under this  
21 Agreement during the time and to the extent that it is prevented from performing by an  
22 unforeseeable cause beyond its control, including but not limited to: any incidence of fire, flood,  
23 acts of God, commandeering of material, products, plants or facilities by the federal, state or  
24 local government, national fuel shortage, or a material act or omission by the other party, when  
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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 effective upon execution by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement No. C-9-0560 to be executed on the date first above written.

**CITY OF SANTA ANA**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

David N. Ream  
City Manager

Will Kempton  
Chief Executive Officer

**ATTEST:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_

By: \_\_\_\_\_

City Clerk

Kennard R. Smart, Jr.  
General Counsel

**APPROVED AS TO FORM:**

**APPROVAL RECOMMENDED:**

By: \_\_\_\_\_

By: \_\_\_\_\_

City Attorney of City of Santa Ana

Darrell Johnson, Executive Director  
Rail Programs

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

**Exhibit 1:**

**Scope of Work Summary**

The Orange County Transportation Authority (OCTA) will be installing a Video Surveillance System (VSS) at the Santa Ana Regional Transportation Center (SARTC), located at 1000 East Santa Ana Boulevard, Santa Ana, CA 92701. The nearest cross street/intersection to the property is North Santiago Avenue and East Santa Ana Boulevard, which is west of Interstate 5, also known as the Santa Ana Freeway.

The site contains two pedestrian bridges, lighted surface parking lots, a combined lighted three-level covered parking garage, several stair wells and elevators, three story 47,000 sq ft station building, station platforms, several covered veranda areas on the exterior of the main building and two bus depot areas. The VSS will provide cameras throughout the facility to provide video coverage of critical areas as deemed necessary by the City of Santa Ana and the Santa Ana Police Department. The cameras will connect to a recording devise in an existing equipment room for storage and retrieval purposes. After installation is completed, inspected, and accepted by OCTA and the City of Santa Ana, the VSS will be turned over to the City for operation and maintenance. Inspection and plan check fees due to the City for this project will be paid by the contractor and funded by OCTA .

Exhibit 2:

Approved Project Budget

Station/Description	Amount	Fiscal Year Allocated
<b><i>Santa Ana VSS</i></b>		
Commuter Urban Rail Endowment	\$150,000	2009/10
Federal 5309	\$600,000	Various
<b><i>Total</i></b>	<b><i>\$750,000</i></b>	

**Exhibit 3:**

**Approved Project Schedule**

March 26, 2009	Final Concept of Operations Approved by OCTA and City of Santa Ana
April 9, 2009	Draft Cooperative Agreement to Santa Ana for review and comment
April 21, 2009	Site Visit by Technical Specialists
August/September 2009	RFP Selection Process
Early October 2009	Notice to Proceed for selected contractor
February/March 2010	Expected completion of construction / Final Punch List

Note: Deadlines are approximate and subject to change

**COOPERATIVE AGREEMENT NO. C-9-0590**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**CITY OF TUSTIN**

**FOR**

**IMPLEMENTATION OF VIDEO SURVEILLANCE SYSTEM**

**AT TUSTIN METROLINK STATION**

**THIS AGREEMENT** (hereinafter referred to as "AGREEMENT"), is effective this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Orange County Transportation Authority a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and the City of Tustin, 300 Centennial Way, Tustin, CA 92780, a municipal corporation duly organized and existing under the constitution and laws of the State of California (hereinafter referred to as "CITY").

**RECITALS:**

**WHEREAS**, AUTHORITY and CITY desire to enter into a Cooperative Agreement to install a Video Surveillance System (VSS) at the Tustin Metrolink Station at 2975 Edinger Avenue in Tustin, California, (hereinafter referred to as "PROJECT"); and

**WHEREAS**, On September 13, 2007 AUTHORITY's Board of Directors (BOARD) approved the use of Federal Transportation Administration (FTA) Grant Program 5309 to fund 80% of the Metrolink Video Surveillance System Deployment Program with a 20% match from the AUTHORITY'S Commuter Urban Rail Endowment (CURE); and

**WHEREAS**, based on the budget established by the Board-approved "Metrolink Video Surveillance System Deployment Program", the Tustin Metrolink Station's VSS project budget is Seven Hundred Fifty Thousand Dollars (\$750,000.00), for, design, equipment and installation. Such funding consists of Six Hundred Thousand Dollars (\$600,000.00), of FTA Grant Program 5309 funds and One Hundred, Fifty Thousand Dollars (\$150,000.00) CURE funds; and

1           **WHEREAS**, Closed Circuit Television (CCTV) cameras will be installed throughout the Tustin  
2 Metrolink Station and pedestrian walkway adjacent to the station ("Tustin Wye"), and conduit and  
3 cabling from the cameras will be routed to the designated equipment room in the Tustin Metrolink  
4 Station parking structure, to be constructed by others concurrent with installation of the VSS; and

5           **WHEREAS**, after installation is completed, inspected, and accepted by AUTHORITY and CITY,  
6 the VSS will be turned over to CITY for operation and maintenance; and

7           **WHEREAS**, AUTHORITY will serve as the lead agency for the design and construction phase of  
8 the PROJECT; and CITY will serve as the support agency; and

9           **WHEREAS**, this Cooperative Agreement (hereinafter referred to as "AGREEMENT" defines the  
10 specific terms, conditions, funding, and roles and responsibilities between the AUTHORITY and CITY  
11 only as they relate to the PROJECT; and

12           **WHEREAS**, the AUTHORITY's Board of Directors approved this Agreement on \_\_\_\_\_.

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

14           **ARTICLE 1. COMPLETE AGREEMENT**

15           A.       This Agreement, including all exhibits and documents incorporated herein and made  
16 applicable by reference, constitute the complete and exclusive statement of the term(s) and condition(s)  
17 of this Agreement between AUTHORITY and CITY and supersedes all prior representations,  
18 understandings, and communications. The invalidity in whole or part of any term or condition of this  
19 Agreement shall not affect the validity of other term(s) and condition(s) of this  
20 Agreement. The above-referenced Recitals are true and correct and are incorporated by reference  
21 herein.

22           B.       AUTHORITY'S failure to insist on any instance(s) of CITY's performance of any term(s)  
23 and condition(s) of this Agreement shall not be construed as a waiver or relinquishment of  
24 AUTHORITY's right to such performance or to future performance of such term(s) or condition(s) and  
25 CITY'S obligation in respect thereto shall continue in full force and effect. Changes to any portion of this  
26 Agreement shall not be binding upon AUTHORITY, except when specifically confirmed in writing by an

1 authorized representative of AUTHORITY by way of a written amendment to this Agreement and issued  
2 in accordance with the provisions of this Agreement.

3 C. CITY's failure to insist on any instance(s) of AUTHORITY's performance of any term(s)  
4 or condition(s) of this Agreement shall not be construed as a waiver of relinquishment of CITY's right to  
5 such performance or to future performance of such term(s) or condition(s), and AUTHORITY's  
6 obligation in respect thereto shall continue in full force and effect. Changes to any portion of this  
7 Agreement shall not be binding upon CITY except when specifically confirmed in writing by an  
8 authorized representative of CITY by way of a written amendment to this Agreement and issued in  
9 accordance with the provisions of this Agreement.

10 **ARTICLE 2. RESPONSIBILITIES OF THE CITY**

11 CITY agrees to the following additional responsibilities for PROJECT:

12 A. Identify approvals and permits required by CITY, third party public agencies or  
13 private sector entities, including utilities; and assist in securing such approvals and permits for  
14 construction of PROJECT;

15 B. Issue necessary permits for the implementation of PROJECT at no charge to  
16 AUTHORITY'S contractor;

17 C. Perform technical reviews, including required CITY and Police Department reviews and  
18 commentary, design criteria and basis-of-design documents, plans, specifications, and related  
19 construction documents in a timely manner of not more than four weeks for each submittal;

20 D. Provide AUTHORITY opportunities to review, comment on, and/or approve studies,  
21 reports, plans, specifications, third party agreements, and other documents related to PROJECT  
22 developments, which are in CITY's possession and/or which have been provided to CITY for review, to  
23 the extent that such documents or third party agreements may obligate AUTHORITY, prior to document  
24 acceptance by CITY;

25 E. Any betterment or enhancements outside of the scope of work, if agreed to by both CITY  
26 and AUTHORITY, will be paid 100% by CITY;

1 F. Coordinate with AUTHORITY during the procurement for design/build consultant  
2 services for PROJECT, allowing for CITY support and input in the evaluation and selection of the  
3 design/build contract;

4 G. Upon completion of installation, inspection, and acceptance by CITY and AUTHORITY,  
5 assume responsibility of the VSS for ownership, operation and maintenance.

6 **ARTICLE 3. RESPONSIBILITIES OF AUTHORITY**

7 AUTHORITY shall be the lead agency for PROJECT implementation, and shall perform the  
8 following essential activities:

9 A. Lead the implementation and procurement for design and construction services for  
10 PROJECT.

11 B. Complete PROJECT per scope of work summarized in Exhibit 1 and in accordance with  
12 PROJECT schedule and allocated funding, as outlined in Exhibits 2 and 3 to this Agreement.

13 C. Identify and secure funding, and administer funding during all phases of PROJECT up to  
14 a maximum cumulative payment obligation amount of Seven Hundred Fifty Thousand Dollars  
15 (\$750,000.00).

16 D. Comply with all federal and state third party contracting laws and regulations;

17 E. Coordinate and assist with activities related to securing approval and permits required by  
18 CITY, third party public agencies or private sector entities, including utilities for the construction of  
19 PROJECT.

20 F. Provide guidance and oversight of the M1 and federal funds in compliance with Measure  
21 M eligibility and Federal Transit Administration (FTA) funding requirements.

22 G. Perform project management and project administration.

23 H. Perform PROJECT closeout activities, including walk-through, punch list, as-built  
24 records, final payment accounting, etc.

25 /

26 /

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

All parties agree to the following mutual responsibilities:

A. This Agreement shall continue in full force and effect through March 31, 2011.

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

C. AUTHORITY and CITY will jointly participate in progress, coordination and additional team meetings as needed to implement the PROJECT.

D. The persons executing this Agreement on behalf of the parties hereto warrant that they 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.

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

To CITY:	To AUTHORITY:
City of Tustin	Orange County Transportation Authority
300 Centennial Way	550 South Main Street
Tustin, CA 92780	P. O. Box 14184
	Orange, CA 92863-1584
Attention: Douglas S. Stack	Attention: Mr. Darrell Johnson
Acting Director of Public Works/City Engineer	Executive Director, Rail Programs
Department of Public Works	
Telephone: (714) 573-3150	Tele 714/560-5343; Fax 714/562-5794
E-mail: <a href="mailto:dstack@tustinca.org">dstack@tustinca.org</a> .	E-mail: <a href="mailto:djohnson@octa.net">djohnson@octa.net</a>

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

1 G. The provision of this Agreement shall bind and inure to the benefit of each of the parties  
2 hereto and all successors or assigns of the parties hereto.

3 H. If any term, provision, covenant, or condition of this Agreement is held to be invalid, void  
4 or otherwise unenforceable, to any extent, by any court of competent jurisdiction, the remainder to this  
5 Agreement shall not be affected thereby, and each term, provision, covenant or condition of this  
6 Agreement shall be valid and enforceable to the fullest extent permitted by law.

7 I. This Agreement may be executed and delivered in any number of counterparts, each of  
8 which, when executed and delivered shall be deemed an original and all of which together shall  
9 constitute the same agreement. Facsimile signatures will be permitted.

10 J. Neither this Agreement, nor any of a Party's rights, obligations, duties, or authority  
11 hereunder may be assigned in whole or in part by either Party without the prior written consent of the  
12 other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent  
13 to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any  
14 right to consent to such subsequent assignment.

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

22 /  
23 /  
24 /  
25 /  
26 /

This AGREEMENT shall be effective upon execution by both parties.

**IN WITNESS WHEREOF**, the parties hereto have caused this AGREEMENT No. C-9-0590 to be executed on the date first above written.

**CITY OF TUSTIN**

**ORANGE COUNTY TRANSPORTATION  
AUTHORITY**

By: \_\_\_\_\_  
Doug Davert  
Mayor, City of Tustin

By: \_\_\_\_\_  
Will Kempton  
Chief Executive Officer

**ATTEST:**

**APPROVAL RECOMMENDED:**

By: \_\_\_\_\_  
Pamela Stoker  
City Clerk of City of Tustin

By: \_\_\_\_\_  
Darrell Johnson  
Executive Director, Rail Programs

**APPROVED AS TO FORM:**

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Douglas C. Holland  
City Attorney of City of Tustin

Date: \_\_\_\_\_

**Exhibit 1:**

**Scope of Work Summary**

The Orange County Transportation Authority (OCTA) will be installing a Video Surveillance System (VSS) at the Tustin Metrolink Station, located at 2975 Edinger Ave., Tustin, CA 92780. The nearest cross streets/intersection to the property is Edinger Ave. and Jamboree Road, The station was constructed at its present location in 2002 and has a ridership of more than 1,500 daily passengers. The site contains a lighted surface parking lot with 310 parking spaces, a pedestrian underpass, a pedestrian pathway currently being developed to the north of the station area, and a future parking structure to be sited at the station. VSS cameras will be installed in the station area to provide video coverage of surface parking areas; future parking structure (planned but not yet designed); train platforms; pedestrian undercrossing tunnel way; and the Tustin Wye pedestrian pathway, currently under development. Captured VSS images from the station cameras will be recorded and maintained on site for 365 days per California Public Utilities Commission (CPUC) regulations. After installation is completed, inspected, and accepted by OCTA and the City of Tustin, the VSS will be turned over to the City of Tustin. The City of Tustin will solely be responsible for the operation and maintenance of the VSS as well as any future expansions to the system.

**Exhibit 2:  
Approved Project Budget**

Station/Description	Amount	Fiscal Year Allocated
<b><i>Tustin VSS</i></b>		
Federal 5309	\$600,000	FY 2006/2009
Commuter Urban Rail Endowment (local match)	\$150,000	TBD
<b><i>Total</i></b>	<b><i>\$750,000</i></b>	

**Exhibit 3:**

**Approved Project Schedule**

May 18, 2009	Kick-off meeting with City for VSS
June 9, 2009	Draft Concept of Operations sent to Tustin
July 10, 2009	Draft Cooperative Agreement sent to Tustin
July 15, 2009	Draft site plan and preliminary cost estimates sent to Tustin
August 13, 2009	Cooperative agreement to OCTA Transit Committee
August 24, 2009	Consideration of Cooperative Agreement by OCTA Board
September 1, 2009	Expected Approval of Cooperative Agreement by City of Tustin City Council
Early September 2009	Final RFP for review by City and OCTA
October/November 2009	RFP Selection Process
Early December 2009	Notice to Proceed for selected contractor
May/June 2010	Expected completion of construction / Final Punch List

Note: Deadlines are approximate and subject to change





MEMO

September 23, 2009

To: Members of the Board of Directors  
From: <sup>WK</sup> 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.



**September 24, 2009**

**To:** Transit Committee  
**From:** Will Kempton, Chief Executive Officer  
**Subject:** Memorandum of Understanding with the City of Laguna Niguel for the Expansion of Parking at the Laguna Niguel/Mission Viejo Metrolink Station

**Overview**

The City of Laguna Niguel and the Orange County Transportation Authority have been working to expand parking at the Laguna Niguel/Mission Viejo Metrolink Station. This memorandum of understanding defines roles and responsibilities between the City of Laguna Niguel and the Orange County Transportation Authority to do further studies to determine the feasibility and costs of acquiring the right-of-way and construction of a surface parking lot.

**Recommendation**

Authorize the Chief Executive Officer to execute Memorandum of Understanding No. C-9-0716 between the Orange County Transportation Authority and the City of Laguna Niguel to define roles and responsibilities related to the study of the possible right-of-way acquisition and construction of a surface parking lot on property located east of Camino Capistrano in Laguna Niguel.

**Discussion**

As part of the Orange County Transportation Authority's (OCTA) Metrolink Service Expansion Program (MSEP), staff has been working together with the City of Laguna Niguel (City) to define a project that will expand the parking at the Laguna Niguel/Mission Viejo (LN/MV) Metrolink Station to meet projected ridership demand. One option that has been reviewed is the possibility of building a parking structure on the existing station parking lot. However, the City has shown a desire to utilize surface parking in order to minimize operations and maintenance costs of the station facilities. The City has also stated a preference to have station parking located on the east side of the station, along Camino Capistrano. This option will require the acquisition of additional right-of-way. The City has been approached by a property owner regarding the

sale of a parcel of land east of Camino Capistrano that may be feasible for a surface parking lot.

Currently, there are 300 parking spaces at the LN/MV Metrolink Station. With the addition of the recently acquired California Department of Transportation lot, located at Forbes Road, there will be an additional 180 spaces, providing a total of 480 parking spaces. The parcel east of Camino Capistrano may add approximately 160 to 292 additional surface parking spaces. This would provide up to 772 parking spaces, which the City and OCTA deem sufficient to accommodate the forecasted parking demand through 2015 for the start-up phase of the MSEP. The build-out phase of the MSEP is estimated to have a parking demand of 1,000 spaces. A new project may be requested by the City in the future to meet this demand.

Further studies are needed to determine costs involved and the number of parking spaces that could be accommodated on the site. The memorandum of understanding identifies roles and responsibilities for both the City and OCTA as shown below:

**City Responsibilities:**

- Obtain an appraisal for the proposed property, which will be performed by a California state certified appraiser in accordance with state and local requirements.
- Obtain California Environmental Quality Act and National Environmental Protection Act clearance, including traffic impacts, for the proposed site in the event the project advances.
- Review and coordinate the various studies and plans with its partner city, Mission Viejo, and make good faith efforts to receive approval from Mission Viejo. Such coordination and approval will include all facets of a parking expansion project, including parking layout studies, cost estimates, and pedestrian access plans.

**OCTA Responsibilities:**

- Support City efforts to study the possible acquisition of the proposed property being considered by the City.
- Prepare parking layout studies, pedestrian access plans, and cost estimates for the site/space.

**Memorandum of Understanding with the City of Laguna Niguel for the Expansion of Parking at the Laguna Niguel/ Mission Viejo Metrolink Station**

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**Page 3**

- Review the appraisal of the property to be provided by the City and approve based on proper methodology and reasonableness.
- Determine funding sources for the project.

If the study finds that this acquisition of property is a feasible and sound way of expanding the parking at the LN/MV Metrolink Station, OCTA staff will return to the Board of Directors with a cooperative agreement to determine roles, responsibilities, and funding for implementation of the project.

***Summary***

Staff recommends the Chief Executive Officer execute a memorandum of understanding between the Orange County Transportation Authority and the City of Laguna Niguel to study a surface parking option for the Laguna Niguel/ Mission Viejo Metrolink Station.

**Memorandum of Understanding with the City of Laguna Niguel for the Expansion of Parking at the Laguna Niguel/ Mission Viejo Metrolink Station**

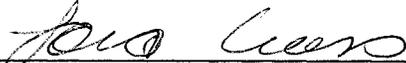
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**Page 4**

**Attachment**

- A. Memorandum of Understanding No. C-9-0716 Between Orange County Transportation Authority and City of Laguna Niguel to Conduct a Parking Expansion Study for the Laguna Niguel/Mission Viejo Metrolink Station

**Prepared by:**

  
\_\_\_\_\_  
Lora Cross  
Project Manager  
(714) 560-5788

**Approved by:**

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

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

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**MEMORANDUM OF UNDERSTANDING NO. C-9-0716**  
**BETWEEN**  
**ORANGE COUNTY TRANSPORTATION AUTHORITY**  
**AND**  
**CITY OF LAGUNA NIGUEL**  
**TO**  
**CONDUCT A PARKING EXPANSION STUDY FOR THE LAGUNA NIGUEL/MISSION VIEJO**  
**METROLINK STATION**

This Memorandum of Understanding (hereinafter, "MOU") is effective \_\_\_\_ day of \_\_\_\_\_, 2009, entered by and between the Orange County Transportation Authority (hereinafter, "AUTHORITY"), the City of Laguna Niguel ("CITY") .

**WHEREAS**, on November 14, 2005, AUTHORITY Board of Directors adopted the Metrolink Service Expansion Program, which authorized AUTHORITY staff to begin implementation of high-frequency rail service between the Fullerton Transportation Center and the Laguna Niguel/Mission Viejo Station in Orange County ; and

**WHEREAS**, based on parking demand analysis, the increased Metrolink service will ultimately call for approximately 1,000 parking spaces at the Laguna Niguel/Mission Viejo station; and

**WHEREAS**, currently there are 480 projected parking spaces at the station with the addition of the Caltrans lot, south of the existing parking lot; and

**WHEREAS**, CITY and AUTHORITY wish to do further studies to add surface parking spaces at the Laguna Niguel/Mission Viejo station; and

**WHEREAS**, the owners of Allen Cadillac have approached the CITY about possibly selling a portion of their property located on Camino Capistrano as shown on Exhibit 1 attached here, to expand Metrolink parking at the Laguna Niguel/Mission Viejo station; and

**WHEREAS**, the Allen Cadillac parcel may add approximately 160 - 292 additional surface parking spaces to bring the total count up to 772, which the CITY feels is sufficient to accommodate the

1 current roll out plan of the Metrolink Service Expansion Program; and

2 **WHEREAS**, CITY and AUTHORITY wish to study said property to determine the feasibility of a  
3 parking expansion project; and

4 **WHEREAS**, the parties will enter into a future cooperative agreement to further define roles and  
5 responsibilities if an agreed upon parking expansion project has been determined;

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

8 **ARTICLE 1. COMPLETE AGREEMENT**

9 This MOU, including all exhibits and documents incorporated herein and made applicable by  
10 reference, constitutes the complete and exclusive statement of the term(s) and condition(s) of the  
11 agreement between AUTHORITY and CITY and it supersedes all prior representations, understandings  
12 and communications. The invalidity in whole or part of any term or condition of this Agreement shall not  
13 affect the validity of other term(s) or condition(s).

14 **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

15 AUTHORITY agrees to be responsible for the following:

- 16 a. To support the CITY efforts to study the possible acquisition of property shown on  
17 Exhibit 1.
- 18 b. To complete parking layout studies, pedestrian access and cost estimates of the site.
- 19 c. To review and approve the appraisal of the property to be done by a California State  
20 Certified Appraiser in accordance with state and local requirements.
- 21 d. To determine funding sources for the project.

22 **ARTICLE 3. RESPONSIBILITIES OF CITY**

23 CITY agrees to the following:

- 24 a. To obtain an appraisal of property located on Camino Capistrano as shown in Exhibit 1, by  
25 a California State Certified Professional Appraiser.
- 26 b. To obtain California Environmental Quality Act (CEQA) as well as National Environmental

1 Protection Agency (NEPA) clearance with traffic review for subject site, in the event that  
2 CITY and AUTHORITY decide to move into the acquisition phase of project development.

- 3 c. To review, coordinate and attempt to obtain approval of the parking layout studies, cost  
4 estimates and pedestrian access plans for any parking expansion project from its project  
5 partner, the City of Mission Viejo.

6 **ARTICLE 4. DELEGATED AUTHORITY**

7 The actions required to be taken by CITY in the implementation of this MOU are delegated to its  
8 City Manager, or his designee, and the actions required to be taken by AUTHORITY in the  
9 implementation for this MOU are delegated to its Chief Executive Officer, or his designee.

10 **ARTICLE 5. MUTUAL RESPONSIBILITIES**

11 The AUTHORITY and CITY agree to the following mutual responsibilities for PROJECT:

12 a. Term of Agreement – All work under this MOU shall be completed no later than  
13 December 31, 2010, unless terminated earlier, or extended, by mutual written consent by both Parties.

14 b. This MOU may only be modified or amended in writing. All modifications, amendments,  
15 changes and revisions of this MOU in whole or part, and from time to time, shall be binding upon the  
16 parties, so long as the same shall be in writing and executed by AUTHORITY and the CITY.

17 c. This MOU shall be governed by and construed with the Federal, State and Local laws.  
18 AUTHORITY and CITY warrant that in the performance of this MOU, it shall comply with all applicable  
19 Federal, State and Local laws, statutes and ordinances and all lawful orders, rules and regulations  
20 promulgated there under.

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

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

2 e. Any notice sent by first class mail, postage paid, to the address and addressee, shall be  
3 deemed to have been given when in the ordinary course it would be delivered. The representatives of  
4 the parties who are primarily responsible for the administration of this MOU, and to whom notices,  
5 demands and communications shall be given are as follows:

6 **To CITY:**

7 Mr. Tim Casey

8 City Manager

9 City of Laguna Niguel

10 27801 La Paz Road

11 Laguna Niguel, CA 92677

12 E-mail: [tcasey@ci.laguna-niguel.ca.us](mailto:tcasey@ci.laguna-niguel.ca.us)

13 Telephone: (949) 443-6314

14 Facsimile: (949) 488-3874

**To AUTHORITY:**

Darrell Johnson

Executive Director, Rail Programs

Orange County Transportation Authority

550 South Main Street

P. O. Box 14184

Orange, CA 92863-1584

E-mail: [djohnson@octa.net](mailto:djohnson@octa.net)

Telephone: (714) 560-5343

Facsimile: (714) 560-5734

16 If there are any changes in the above names and/or addresses, the party desiring to make such  
17 change shall give a written notice to the other respective party within five (5) days of such  
18 change.

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**MEMORANDUM OF UNDERSTANDING NO. C-9-0716**

The term of this MOU may only be extended upon mutual written agreement by all agencies.

**IN WITNESS WHEREOF**, the AGENCIES hereto have caused this Agreement No. C-9-0716 to be executed on the date first above written.

**CITY OF LAGUNA NIGUEL**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_  
Tim Casey  
City Manager

By: \_\_\_\_\_  
Will Kempton  
Chief Executive Officer

**ATTEST:**

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Kennard R. Smart, Jr.  
General Counsel

**APPROVED AS TO FORM:**

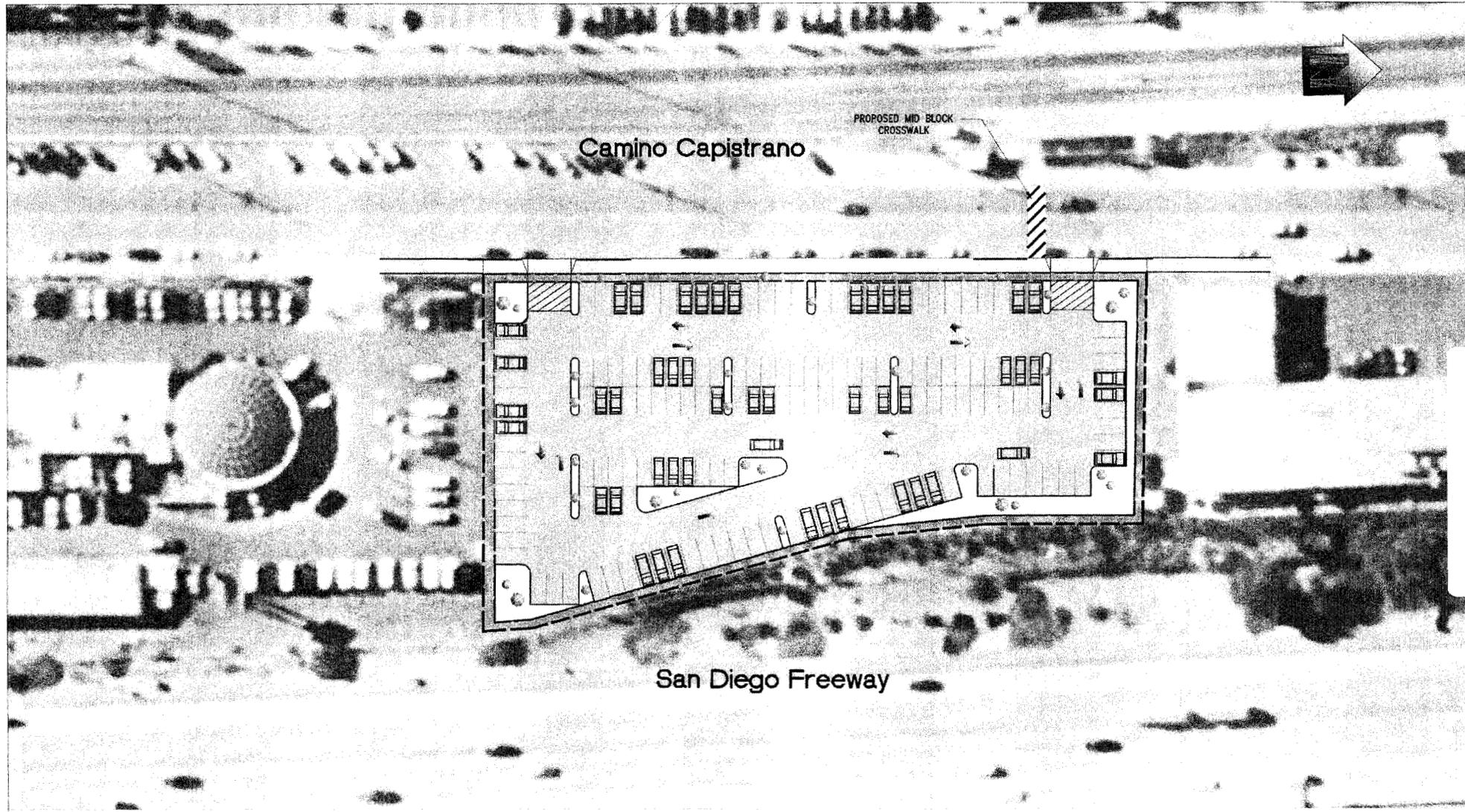
**APPROVAL RECOMMENDED:**

By: \_\_\_\_\_  
City Attorney

By: \_\_\_\_\_  
Darrell Johnson  
Executive Director, Rail Programs

Date: \_\_\_\_\_

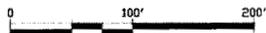
Date: \_\_\_\_\_



Camino Capistrano

PROPOSED MID BLOCK  
CROSSWALK

San Diego Freeway

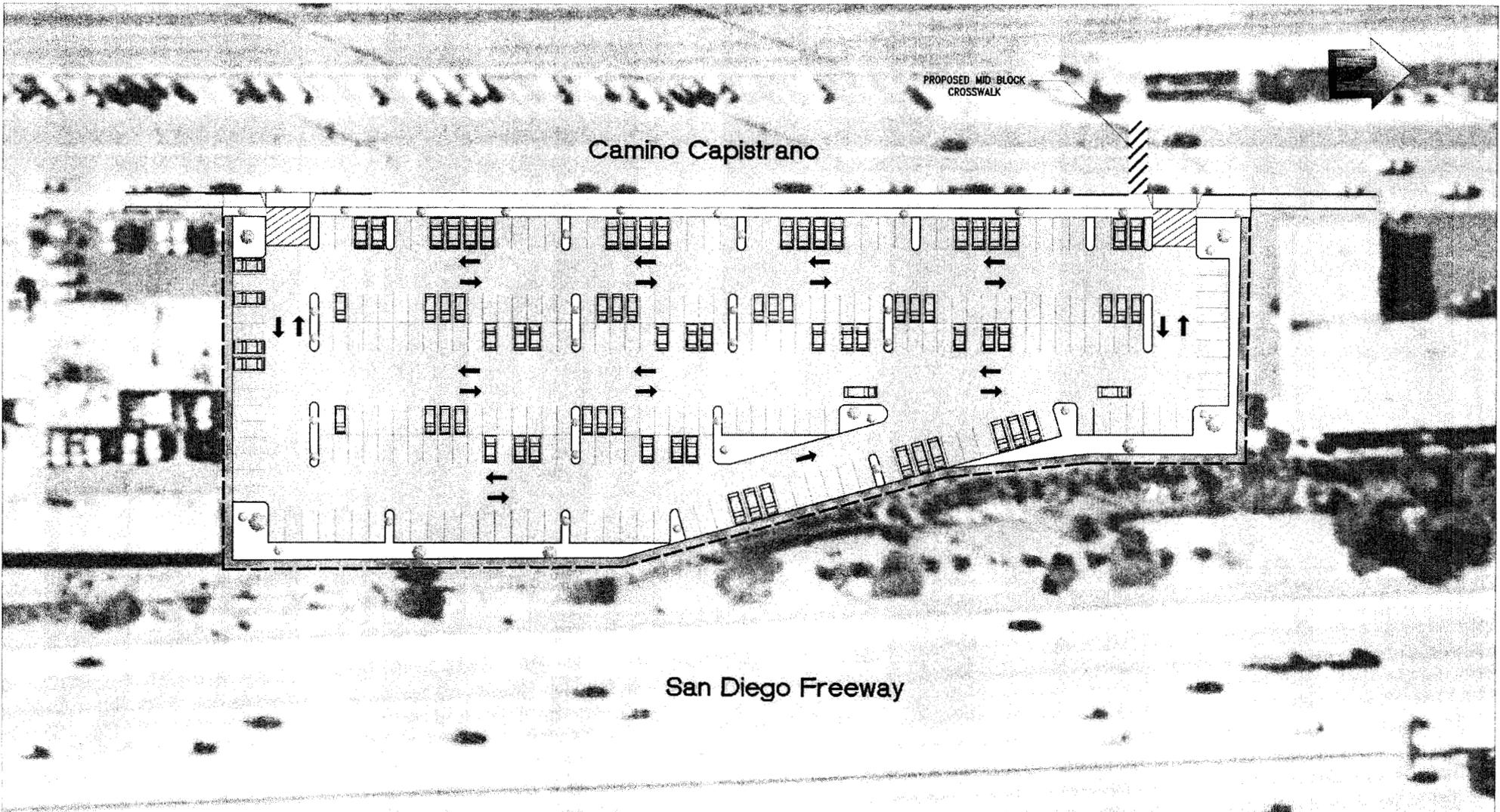


NOTES:  
• PARKING SPACES - 162

### CONCEPTUAL Phase Plan Study Phase 1

Scale 1"=50'

Exhibit 1



Camino Capistrano

PROPOSED MID-BLOCK  
CROSSWALK

San Diego Freeway



NOTES:  
• PARKING SPACES - 292

CONCEPTUAL Phase Plan Study  
Phase 2  
Scale 1"=50'





BOARD COMMITTEE TRANSMITTAL

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** Wendy Knowles, Clerk of the Board <sup>WK</sup>  
**Subject:** Agreement for Public Outreach Consultant to Support Right-of-Way, Final Design, and Construction Phases of Grade Separation Projects

Legislative and Communications Committee Meeting of September 17, 2009

**Present:** Directors Buffa, Cavecche, Dalton, and Mansoor  
**Absent:** Directors Bates, Brown, and Glaab

**Committee Vote**

This item was passed by all Committee Members present.

**Committee Recommendation**

Authorize the Chief Executive Officer to execute Agreement No. C-9-0250 between the Orange County Transportation Authority and Arellano Associates, in an amount not to exceed \$610,000 over a four-year term, for comprehensive public outreach services during the right-of-way, final design and construction phases of the five grade separation projects.



**September 17, 2009**

**To:** Legislative and Communications Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Agreement for Public Outreach Consultant to Support Right-of-Way, Final Design, and Construction Phases of Grade Separation Projects

### **Overview**

The Orange County Transportation Authority will serve as the lead agency for five grade separation projects located along the Orangethorpe rail corridor and within the cities of Placentia and/or Fullerton and Anaheim. Consultant services are needed to support the public outreach effort during the right-of-way, final design, and construction phases of these projects. Proposals have been received and evaluated in accordance with the Orange County Transportation Authority's procurement procedures for professional and technical services.

### **Recommendation**

Authorize the Chief Executive Officer to execute Agreement No. C-9-0250 between the Orange County Transportation Authority and Arellano Associates, in an amount not exceed \$610,000 over a four-year term, for comprehensive public outreach services during the right-of-way, final design, and construction phases of the grade separation projects.

### **Background**

For several years, the Orange County Transportation Authority (OCTA) has been working together with the cities of Placentia, Fullerton and Anaheim to develop five grade separation projects along the Burlington Northern Santa Fe (BNSF) railroad line.

These grade separation projects are located at:

<u>Rail Crossing</u>	<u>City</u>
Placentia Avenue	Placentia/Fullerton
Kraemer Boulevard	Placentia/Anaheim
Orangethorpe Avenue	Placentia/Anaheim
Tustin Avenue/Rose Drive	Placentia/Anaheim
Lakeview Avenue	Placentia/Anaheim

The long-term purpose of these projects is to improve the quality of life and enhance safe and efficient mobility for Orange County taxpayers/commuters by separating vehicle traffic from growing train traffic at major north-south intersections along the BNSF corridor.

Presently, the City of Placentia is the lead agency and is completing the necessary environmental document for the projects. Once the City of Placentia completes the environmental analysis, including resolving associated legal issues, OCTA will assume responsibility for advancing these projects through final design, right-of-way, and construction. Completion of the environmental analysis phase is estimated for fall/winter 2009.

Last year, the California Transportation Commission (CTC) awarded OCTA the state funding it needs to construct the projects. As a condition for this funding, the CTC has set a goal to have these, as well as other Trade Corridor Improvement Fund projects, under construction by December 2013. Therefore, OCTA needs to retain the professional/outreach consulting services that will help move the projects forward, protect funding, and maintain community awareness and support.

Given the number and complexity of projects, OCTA will require a professional outreach consultant with excellent strategic, tactical and community-based experience, including first-hand experience on transportation projects through the various phases of development. The consultant will be expected to provide support with community-based, business and governmental outreach, as well as assist with the development of traditional and new media communications.

### ***Procurement Approach***

This procurement was handled in accordance with OCTA's procedures for professional and technical services. On March 27, 2009, a request for proposal (RFP) was released and sent electronically to 479 firms registered on CAMM NET. The competitive time and expense RFP was advertised in a

newspaper of general circulation on March 27 and March 30, 2009. The budget is \$610,000 for a term of four years. The RFP did not require Board approval prior to release. A pre-proposal conference was held on April 1, 2009, and was attended by 25 firms.

Addenda were issued to post the pre-proposal conference registration sheet, respond to questions, and advise of administrative changes.

The following evaluation criteria and weights were used to evaluate the proposals received:

- Qualifications of the Firm 20 percent
- Staffing and Project Organization 30 percent
- Work Plan 30 percent
- Cost and Price 20 percent

The standard 25 percent for each criterion was not used for this procurement. The weights are consistent with the weights developed for similar professional services for public outreach. The qualifications of the staff and the work plan were the most important factors. Therefore, each of these was weighted at 30 percent. Staffing is critical because staff will provide outreach to cities and audiences affected by the grade separation project. Firms were expected to demonstrate experience in community outreach. The work plan was essential in determining the firm's grasp of the project scope and identifying effective and innovative outreach tactics.

On May 21, 2009, eight proposals were received. An evaluation committee was comprised of staff from Public Communications, Marketing, Strategic Planning, Customer Relations, and Contracts Administration and Materials Management. Four firms scored within a competitive range. These firms are listed in alphabetical order:

Firm and Location

Arellano Associates  
Chino, California

Consensus Planning Group  
Irvine, California

Faubel Public Affairs  
Lake Forest, California

Westbound Communications  
Orange, California

On June 18, 2009, the evaluation committee interviewed the four firms. During the interview, each firm presented its proposed project strategy and overview of its public outreach/communications plan. Following their presentations, the firms participated in a question and answer session. Based on the proposal evaluations and interviews, staff recommends Arellano Associates (Arellano) to provide public outreach services for the grade separation projects.

#### Qualifications of the Firm

All four firms are experienced in providing public outreach services. Arellano demonstrated extensive and relevant experience in providing public outreach services of similar complexity as requested in the RFP. The firm submitted an excellent proposal and had an excellent interview. The firm's team provided comprehensive responses to the interview questions.

#### Staffing and Project Organization

The proposed project manager and assistant project manager are highly experienced in working on construction and grade separation projects involving outreach to public officials and the community, including at the neighborhood/grass-roots level. The project manager was responsible for San Bernardino Associated Governments' comprehensive public information and safety program during widening of the San Bernardino Freeway (Interstate 10) in Redlands. This outreach program included construction meetings, weekly updates to residents, community presentations as well as city council updates and briefings. Arellano's other projects include organizing public meetings and conducting outreach for highway improvement projects in the preliminary engineering phase. The assistant project manager's outreach experience includes conducting public workshops and developing outreach strategies for projects with local agencies and the California Department of Transportation.

During the interview, the project manager discussed the outreach team's role in building trust and goodwill with the community by working in a cooperative manner, as well as the importance of a collaborative management style with the construction contractors.

### Work Plan

The work plan proposed by the four firms conformed to the requirements of the scope of work. Arellano's work plan provided a detailed discussion of each phase of the project – final design, right-of-way and construction – and its relationship to the public outreach process. The firm's approach included creating public awareness and understanding of the grade separations and the underlying benefits, while communicating with and providing valuable information to commuters, stakeholders, and other audiences during construction. The work plan also accounted for special issues and proposed enhancements, such as a crisis communication plan and a construction safety campaign.

During the interview, the firm's team addressed the importance of using a range of outreach tools, including new media as well as traditional means of informing the community.

### Cost and Price

Pricing scores are based on a formula which assigns the highest weight of 5.0 to the lowest proposed value, and weighs the remaining proposal prices based on their relation to the lowest price weight. All firms were very competitive, with little difference in total pricing and only \$5,500 between the lowest and highest priced offers. Therefore, all firms received the same weight of 5.0.

Based on the evaluation of the written proposals, team qualifications, work plan, and information obtained from the interviews, it is recommended that Arellano Associates be awarded the contract.

### Fiscal Impact

The project was approved in OCTA's Fiscal Year 2009-2010 Budget, External Affairs, Account 0017-7519-S0201-PPG and is funded through Renewed Measure M.

### **Summary**

Based on the information provided, staff recommends award of Agreement No. C-9-0250 to Arellano Associates, in the amount of \$610,000 over a four-year term, for comprehensive public outreach services during the

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***Attachments***

- A. RFP C-9-0250 "Grade Separation Public Outreach" Review of Proposals – Presented to the Legislative and Communications Committee on September 17, 2009
- B. Proposal Evaluation Criteria Matrix Short-List After Interviews RFP C-9-0250 "Grade Separation Public Outreach"
- C. Contract History for the Past Two Years RFP C-9-0250 – "Grade Separation Public Outreach"

**Prepared by:**



Fernando Chavarria  
Community Relations Officer  
(714) 560-5306

**Approved by:**



Ellen S. Burton  
Executive Director, External Affairs  
(714) 560-5923



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

**RFP C-9-0250 "GRADE SEPARATION PUBLIC OUTREACH"**

**Review of Proposals**

PRESENTED TO THE LEGISLATIVE AND COMMUNICATIONS COMMITTEE ON SEPTEMBER 17, 2009

8 proposals were received, 4 firms were interviewed

Overall Ranking	Overall Score	Firm & Location	Sub-Contractors	Evaluation Committee Comments	Proposed Value
1	84	<b>Arellano Associates</b> Chino, CA	Civic Resources Group James Klein & Associates Sarah Catz Iron Duke Productions	Excellent experience in general and construction outreach. Project Manager has extensive experience with outreach including as SANBAG Public Information Officer. Detailed work plan including Crisis Communication Plan and Safety Campaign. Excellent presentation and answers to interview questions. Second highest proposed value.	\$609,227.00
2	77	<b>Westbound Communications</b> Orange, CA	Toledo Public Relations Lista Design Studio	Good experience with transportation and grade separation community outreach. Project Manager has experience with public relations and community outreach. Work plan included a discussion of quiet zones and rail safety concerns. Good presentation and answers to interview questions. Lowest proposed value.	\$604,490.00
3	76	<b>Consensus Planning Group</b> Irvine, CA	Maria Guerra Associates	Good experience with outreach projects including rail. Project Manager has experience with transportation and rail projects. Good work plan including discussion of all forms of outreach materials. Good presentation and answers to interview questions. Highest proposed value.	\$610,000.00
4	71	<b>Faubel Public Affairs</b> Lake Forest, CA	Sheldon Group EMC Design Dymanic Language Solutions Probolsky Research	Firm has limited construction experience and lacks rail experience. Project Manager experience includes support of Transportation Corridor agencies and local cities. Limited target audience for community outreach. Good interview presentation, but lacked specific answers to some questions. Second lowest proposed value.	\$606,951.00

**Evaluation Panel**

Public Communications (2)  
Marketing (1)  
Strategic Planning (1)  
Contracts Administration and Materials Management (1)

**Proposal Criteria**

Qualifications of the Firm  
Staffing/Project Organization  
Work Plan  
Cost and Price

**Weight Factor**

20%  
30%  
30%  
20%

PROPOSAL EVALUATION CRITERIA MATRIX SHORT-LIST AFTER INTERVIEWS									
RFP C-9-0250 "GRADE SEPARATION PUBLIC OUTREACH"									
ARELLANO ASSOCIATES									
Evaluation Number								Weights	Overall Score
1	2	3	4	5					
Qualifications of Firm	4.50	4.50	3.50	4.00	4.00			4	16.40
Staffing/Project Organization	3.50	4.50	4.00	4.00	4.00			6	24.00
Work Plan	4.00	4.00	4.00	4.00	4.00			6	24.00
Cost and Price	5.00	5.00	5.00	5.00	5.00			4	20.00
83.00 89.00 82.00 84.00 84.00									
84									
WESTBOUND COMMUNICATIONS									
Evaluation Number								Weights	Overall Score
1	2	3	4	5					
Qualifications of Firm	3.50	4.00	3.50	4.00	3.50			4	14.80
Staffing/Project Organization	3.50	4.00	3.50	3.50	3.50			6	21.60
Work Plan	3.00	3.50	3.50	3.00	4.00			6	20.40
Cost and Price	5.00	5.00	5.00	5.00	5.00			4	20.00
73.00 81.00 76.00 75.00 79.00									
77									
CONSENSUS PLANNING GROUP									
Evaluation Number								Weights	Overall Score
1	2	3	4	5					
Qualifications of Firm	3.50	4.00	3.50	3.50	4.00			4	14.80
Staffing/Project Organization	3.50	3.50	3.50	3.50	3.50			6	21.00
Work Plan	3.50	3.50	3.50	3.00	3.00			6	19.80
Cost and Price	5.00	5.00	5.00	5.00	5.00			4	20.00
76.00 78.00 76.00 73.00 75.00									
76									
FAUBEL PUBLIC AFFAIRS									
Evaluation Number								Weights	Overall Score
1	2	3	4	5					
Qualifications of Firm	3.00	3.50	3.50	3.00	3.00			4	12.80
Staffing/Project Organization	3.00	3.00	3.50	3.00	3.00			6	18.60
Work Plan	3.00	3.00	3.50	3.50	3.50			6	19.80
Cost and Price	5.00	5.00	5.00	5.00	5.00			4	20.00
68.00 70.00 76.00 71.00 71.00									
71									
Scores of non-shortlisted firms ranged 48 to 61.									

**CONTRACT HISTORY FOR THE PAST TWO YEARS  
RFP C-9-0250 - "Grade Separation Public Outreach"**

<b>Firm - Prime Only</b>	<b>Contract No.</b>	<b>Description</b>	<b>Contract Start Date</b>	<b>Contract Completion Date</b>	<b>Contract Amount</b>
Arellano Associates	C-8-1274	On-call Community Outreach	1/12/2009	12/31/2010	\$100,000
<b>Sub Total</b>					<b>\$100,000</b>
Westbound Communications	C-7-1433	SR-91 Public Outreach	7/3/2008	6/30/2010	\$589,000
Westbound Communications	C-7-1493	SR-57 Public Outreach	6/18/2008	6/30/2011	\$382,175
<b>Sub Total</b>					<b>\$971,175</b>
Consensus Planning Group	C-7-1369	I-405 Public Outreach	7/8/2008	3/31/2011	\$385,000
<b>Sub Total</b>					<b>\$385,000</b>
Faubel Public Affairs	None	No Contracts Awarded	NA	NA	\$0
<b>Sub Total</b>					<b>\$0</b>





MEMO

September 23, 2009

To: Members of the Board of Directors  
From: <sup>WK</sup> 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.



**September 24, 2009**

**To:** Transit Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Agreement for Construction of Drainage Improvements at the Pacific Electric Right-of-Way from Susan Street to the Santa Ana River in the City of Santa Ana

**Overview**

The Orange County Transportation Authority needs to improve the existing drainage on the Pacific Electric right-of-way from Susan Street to the Santa Ana River in the City of Santa Ana. The project is ready for construction and the Board of Directors' authorization is required to execute the agreement.

**Recommendation**

Authorize the Chief Executive Officer to execute Agreement No. C-9-0513 between the Orange County Transportation Authority and Bali Construction, Inc., the lowest responsive, responsible bidder, in an amount not to exceed \$233,932, for drainage improvements at the Pacific Electric right-of-way from Susan Street to the Santa Ana River in the City of Santa Ana.

**Discussion**

The Pacific Electric right-of-way (PEROW), formerly a railroad corridor, extends diagonally across Orange County's road system through the cities of Anaheim, Buena Park, Cypress, Garden Grove, La Palma, Santa Ana, and Stanton. In 1982, the Orange County Transit District (OCTD), predecessor to the Orange County Transportation Authority (Authority), purchased seven miles of the PEROW from the City of Santa Ana northwest to the City of Stanton. In 1992, the Authority purchased approximately five additional contiguous miles of the PEROW northwest to the Los Angeles County line. Industrial and commercial tenants occupy some parts of the PEROW on monthly leases. The remaining portions of the property are undeveloped.

Since the Authority acquired the PEROW, issues have periodically arisen with Willowick Royal Mobile Home Park (Willowick), an adjacent property owner.

Upstream drainage of storm water run-off flows from the Willowick property onto the PEROW. Drainage issues have included water backing up from the PEROW onto the Willowick property, ponding of water on the PEROW, and blockage of drainage pipes from the Willowick property terminating on the PEROW that result in flooding at the entrance of Willowick. As a result, foul odors and mosquito breeding have occurred from lack of proper drainage on the PEROW. The Authority's landscape maintenance contractor occasionally clears the debris and weeds from the PEROW to mitigate drainage issues. In May 2008, Willowick filed a lawsuit against the Authority to permanently clear the drain blockages and maintain them to prevent future blockages. The Authority was able to obtain a dismissal of this lawsuit after Willowick was notified that the Authority had taken steps to undertake a permanent solution to the issues.

In August 2008, the Authority issued a contract task order (CTO) to STV, Inc., to prepare a drainage study to evaluate the existing water run-off and drainage issues for the PEROW between Susan Street and the Santa Ana River. The drainage study included an analysis of the existing hydrology and hydraulics for the area. The drainage study was completed in October 2008 and was forwarded to the Authority's general counsel with a recommended solution. In March 2009, the Authority issued a CTO to STV, Inc., to provide design and construction support services for drainage improvements along the PEROW between Susan Street and the Santa Ana River. The project consists of replacing 570 feet of existing earthen channel with a u-shaped concrete channel from Susan Street to Willowick's storm drain outlet, along with regrading and compacting 1,275 feet of earthen channel, adjacent to Willowick, to direct the storm water run-off into an existing Orange County Flood Control District storm water system. The completion of the project will mitigate the drainage issues on the PEROW within the section of the improvements.

### ***Procurement Approach***

This procurement was handled in accordance with the Authority's procedures for public works and construction projects, which conform to federal and state requirements. Public works projects are handled as sealed bids and award is made to the lowest responsive, responsible bidder.

Invitation for Bids 9-0513 was released on July 13, 2009, and posted on CAMM NET with an electronic notification being sent to 919 firms. The project was advertised on July 16 and July 22, 2009, in a newspaper of general circulation. A pre-bid conference was held on July 23, 2009, and was attended by 12 firms. Addendum No. 1 was issued to post pre-bid attendee sheets,

**Agreement for Construction of Drainage Improvements at the Pacific Electric Right-of-Way from Susan Street to the Santa Ana River in the City of Santa Ana**

Addendum No. 2 was issued to answer questions that were received, and Addendum No. 3 was issued to extend the bid due date and to respond to a permitting question. On August 17, 2009, ten bids were received.

All bids were reviewed by staff from the Rail Programs Division and the Contracts Administration and Materials Management (CAMP) Department to ensure compliance with the terms and conditions, specifications, and drawings. Upon the evaluation of the bids received, the three lowest responsive, responsible bidders for the PEROW drainage project are identified below. State law requires award to the lowest responsive, responsible bidder.

<u>Firm and Location</u>	<u>Bid Price</u>
Bali Construction, Inc. South El Monte, California	\$233,932
Engineering/Remediation Resources Group, Inc. Martinez, California	\$248,800
L.H. Engineering Company, Inc. Anaheim, California	\$267,400

The engineer's estimate for this project is \$350,000. The recommended firm's bid is 33 percent below the engineer's estimate and is considered fair and reasonable. Staff recommends award of the PEROW drainage project contract to Bali Construction, Inc., the lowest responsive, responsible bidder, in an amount not to exceed \$233,932.

**Fiscal Impact**

The project was approved in the Authority's Fiscal Year 2009-10 Budget, Rail Programs, Account 1722-9022-D2601-Q3U, and will be funded 80 percent through Section 5307 formula funds (Account 0030-6042-D2601-LBK) with the local 20 percent match funded through OCTD.

**Summary**

Based on the information provided, staff recommends award of Agreement No. C-9-0513 to Bali Construction, Inc., in an amount not to exceed \$233,932,

**Agreement for Construction of Drainage Improvements at the  
Pacific Electric Right-of-Way from Susan Street to the Santa  
Ana River in the City of Santa Ana**

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**Page 4**

for construction of drainage improvements at the PEROW from Susan Street to the Santa Ana River in the City of Santa Ana.

***Attachment***

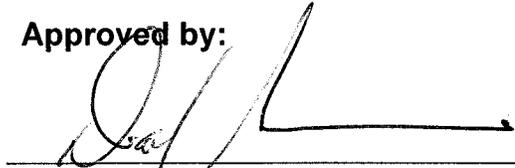
None.

**Prepared by:**

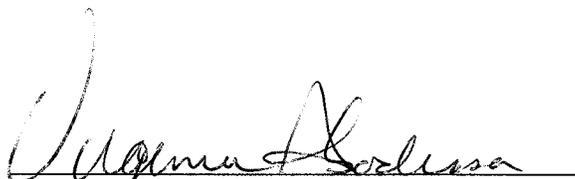


James J. Kramer, P.E.  
Principal Civil Engineer  
(714) 560-5866

**Approved by:**



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



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





BOARD COMMITTEE TRANSMITTAL

**September 28, 2009**

**To:** Members of the Board of Directors  
**From:** <sup>WL</sup> Wendy Knowles, Clerk of the Board  
**Subject:** Proposition 1B Traffic Light Synchronization Program -  
Substitution of Valley View Street/Bolsa Chica Road with  
El Toro Road

Highways Committee Meeting of September 21, 2009

**Present:** Directors Amante, Dixon, Green, and Pringle  
**Absent:** Directors Cavecche, Glaab, Mansoor, and Norby

**Committee Vote**

Due to lack of quorum, there was no action taken on this item.

**Staff Recommendations**

- A. Authorize the Chief Executive Officer to submit El Toro Road as a substitute corridor for Valley View Street/Bolsa Chica Road to the California Department of Transportation and the California Transportation Commission as part of the Proposition 1B Traffic Light Synchronization Program.
- B. Authorize staff to make all necessary amendments to the Regional Transportation Improvement Program and State Transportation Improvement Program and execute any necessary agreements to facilitate the above action.



**September 21, 2009**

**To:** Highways Committee

**From:** Will Kempton, Chief Executive Officer

**Subject:** Proposition 1B Traffic Light Synchronization Program - Substitution of Valley View Street/Bolsa Chica Road with El Toro Road

**Overview**

On March 24, 2008, the Board of Directors approved ten corridors for the state Proposition 1B Traffic Light Signal Synchronization Program. On May 14, 2009, the state allocated \$1.55 million to the Orange County Transportation Authority for fiscal year 2008-09, allowing work to start on the first three corridor projects: Alicia Parkway, Beach Boulevard, and Chapman Avenue. For fiscal year 2009-10, the state has indicated that it will be postponing the allocation of additional Proposition 1B funds to a future date. To respond to this delay, as well as ensure coordination with the upcoming construction of the West County Connectors Project, staff is recommending a substitute corridor for the Valley View Street/Bolsa Chica Road project. Staff, in coordination with the local agencies, has identified El Toro Road (Laguna Canyon Road to Live Oak Canyon) as a candidate replacement project.

**Recommendations**

- A. Authorize the Chief Executive Officer to submit El Toro Road as a substitute corridor for Valley View Street/Bolsa Chica Road to the California Department of Transportation and the California Transportation Commission as part of the Proposition 1B Traffic Light Synchronization Program.
- B. Authorize staff to make all necessary amendments to the Regional Transportation Improvement Program and State Transportation Improvement Program and execute any necessary agreements to facilitate the above action.

***Background***

Expanding signal synchronization is a cost-effective way to increase roadway throughput without major new construction. Proposition 1B, approved by the voters on November 7, 2006, included a program to fund traffic light synchronization projects and other technology-based improvements to improve safety, operations, and provide optimum capacity of local streets and roads. In 2008, the California Transportation Commission (CTC) released a call for competitive projects statewide for the design and construction of these types of projects. The Orange County Transportation Authority (OCTA) received a funding commitment of \$4 million from the CTC for its proposed projects to synchronize ten significant arterial corridors. Combined with matching Measure M funds of \$4 million, the available funding for OCTA's Traffic Light Synchronization Program (TLSP) projects totals \$8 million.

The current TLSP program and schedule includes the following corridors:

Arterial	Budget	Start Date (Fiscal Year [FY])
Alicia Parkway	\$3.1 million	2008-09
Beach Boulevard		
Chapman Avenue		
Brookhurst Street	\$2.9 million	2009-10
Irvine Center Drive/ Moulton Parkway/ Golden Lantern		
Valley View Street/Bolsa Chica Road		
Orangethorpe Avenue		
La Palma Avenue	\$1.9 million	2010-11
Yorba Linda Boulevard		
Katella Avenue		

Funding has been allocated by the CTC, allowing work to start on the first three projects as part of FY 2008-09 (see the above table). The California Department of Transportation (Caltrans) has notified OCTA that the funding allocation on the next set of projects is expected to be postponed until the end of FY 2009-10. OCTA's schedule had anticipated the start date of the Valley View Street/ Bolsa Chica Road project to be in July 2009. This was in order to complete the

project in advance of the West County Connectors (WCC) Project that is due to commence in March of 2010 and last for three years. The WCC Project will result in ongoing changes in travel patterns and includes traffic mitigation as part of its efforts to address the changes in travel throughout the three-year construction period. As a result, timing along Valley View Street/Bolsa Chica Road should be optimized only after the completion of the WCC, which would extend OCTA's TLSP projects completion date of 2011.

As a result of these issues, staff is recommending that the Valley View Street/Bolsa Chica Road project no longer be included as part of the TLSP and be substituted with a similar corridor that has the same travel characteristics including length and average daily traffic. OCTA has been working with the local agencies and together have identified El Toro Road (Laguna Canyon Road to Live Oak Canyon) as a candidate replacement project to satisfy the goals and objectives of the TLSP. Caltrans is supportive of this change given the delay in state funds as well as the construction impacts of the WCC Project.

### ***Discussion***

Staff worked with the members of the Intelligent Transportation Systems Roundtable, a local advisory committee, to develop a suitable replacement for Valley View Street/Bolsa Chica Road. Key issues discussed included similarity between any replacement corridor and Valley View Street/Bolsa Chica Road and local agency support for the replacement corridor.

The El Toro Road and Valley View Street/Bolsa Chica Road corridors have very similar traffic characteristics. Both are approximately 11 miles long and have average daily traffic between 52,000 and 54,000 vehicles. Additionally, El Toro Road involves seven agencies while Valley View Street/Bolsa Chica Road involves eight agencies. Initial review indicates that both corridors would require the same amount and type of infrastructure modifications and enhancements. As a result, no change in funding is required. Conversations between OCTA and Caltrans confirm that this exchange of corridors is acceptable. The El Toro Road project would be scheduled for implementation in FY 2009-10.

Staff will continue to work with the local agencies along El Toro Road to develop cooperative agreements between the agencies as part of the project. Additionally, OCTA will also work with the local agencies along Valley View Street/Bolsa Chica Road to include the corridor in future OCTA efforts when appropriate. It is possible the Valley View/Bolsa Chica Road project will be an early priority for Renewed Measure M signal synchronization funds, contingent on Board of Directors' approval of a countywide signal synchronization plan.

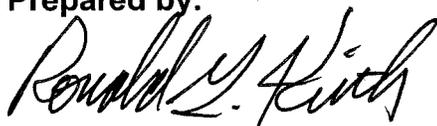
***Summary***

Staff, in coordination with local jurisdictions and Caltrans, has identified an acceptable substitute candidate TLSP corridor for the Valley View Street/Bolsa Chica Road project. El Toro Road is recommended as replacement corridor given its similarity to the previous corridor in overall length, physical infrastructure, synchronization requirements, and funding to accomplish the project. No additional funding or changes in project schedules are anticipated.

***Attachment***

- A. Revised Traffic Light Synchronization Program

**Prepared by:**



Ronald Keith  
Principal Traffic Engineer  
(714) 560-5990

**Approved by:**



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





**September 28, 2009**

**To:** Members of the Board of Directors

**From:** Will Kempton <sup>W.K.</sup> Chief Executive Officer

**Subject:** Approval to Release Request for Proposals for Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement

### **Overview**

The Orange County Transportation Authority has developed a draft request for proposals to retain a consultant team to prepare the Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement along with a Joint Programmatic Environmental Impact Report/Environmental Impact Statement. The draft procurement documents are presented for Board of Directors' review and approval.

### **Recommendations**

- A. Approve the proposed evaluation criteria and weightings for consultant selection for Request for Proposals 9-0687.
- B. Approve the release of Request for Proposals 9-0687 for consultant services to prepare the Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement and Joint Programmatic Environmental Impact Report/Environmental Impact Statement.

### **Discussion**

The Renewed Measure M (M2) Early Action Plan (EAP) calls for implementation of the freeway environmental mitigation program. Subject to a master agreement, the freeway environmental mitigation program would provide programmatic mitigation for impacts related to 13 M2 freeway projects. The approach for this program will be to develop and implement a Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement (NCCP/HCP/MSAA) along with a Joint Programmatic Environmental Impact Report/Environmental Impact

Statement (PEIR/EIS). The Orange County Transportation Authority (Authority) is seeking consultant assistance for the preparation of an NCCP/HCP/MSAA and Joint PEIR/EIS.

On March 23, 2009, an overview of the freeway environmental mitigation program and the NCCP/HCP process was presented to the Authority's Board of Directors (Board). One of the actions of the Board was authorize up to \$2.5 million from the EAP Tax-Exempt Commercial Paper (TECP) program. These funds will be available in fiscal years 2009-10 and 2010-11.

***Procurement Approach***

The Authority's procurement procedures and policies require that the Board approve all requests for proposals (RFP) over \$1,000,000, as well as approve the evaluation criteria and weightings. Staff is submitting for Board approval the draft RFP and evaluation criteria and weights, which will be used to evaluate proposals received in response to the RFP. The evaluation criteria and weights are as follows:

- Qualifications of the Firm 30 percent
- Staffing and Project Organization 35 percent
- Work Plan 35 percent

The evaluation criteria are consistent with criteria developed for similar architectural and engineering (A&E) procurements. Several factors were considered in developing the criteria weights. Staff assigned a high level of importance to staffing and project organization, as the qualifications of the project manager and other key task leaders are of most importance to the timely delivery of the project. Likewise, staff assigned the same level of importance to the qualifications of the firm and the work plan. The firm must have experience in the preparation of environmental documents and the technical approach to the project is critical to the successful performance of the project. As this is an A&E procurement, price is not an evaluation criterion pursuant to state and federal laws.

Approving the release of a RFP at this time will enable the development of the NCCP/HCP/MSAA and Joint PEIR/EIS process to begin. The end result of this process will lead to the acquisition and/or restoration of land in exchange for streamlined permitting process.

**Fiscal Impact**

This project was approved in the Authority's Fiscal Year 2009-10 Budget, Development Division, Account 0017-7519-MX001-P5A, and is funded with local funds with M2 TECP funds.

**Summary**

Staff is requesting that the Board approve the draft RFP and evaluation criteria and weightings to initiate a competitive procurement process for consultant services to prepare the NCCP/HCP/MSAA and Joint PEIR/EIS.

**Attachments**

- A. Request for Proposals (RFP) 9-0687 – Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement
- B. Evaluation Criteria – Approval to Release Request for Proposals for Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement (NCCP/HCP/MSAA) Joint Programmatic Environmental Impact Report/Environmental Impact Statement (EIR/EIS)

**Prepared by:**



Dan Phu  
Section Manager, Strategic Planning  
(714) 560-5907

**Approved by:**



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



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

REQUEST FOR PROPOSALS (RFP) 9-0687

**PREPARATION OF A NATURAL COMMUNITY  
CONSERVATION PLAN/  
HABITAT CONSERVATION PLAN/  
MASTER STREAMBED ALTERATION  
AGREEMENT**



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

Key RFP Dates

<b>Issue Date:</b>	<b>September 28, 2009</b>
<b>Pre-Proposal Conference Date:</b>	<b>October 13, 2009</b>
<b>Question Submittal Date:</b>	<b>October 27, 2009</b>
<b>Proposal Submittal Date:</b>	<b>November 17, 2009</b>
<b>Interview Date:</b>	<b>December 15, 2009</b>

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Vice-Chairman

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*Cindy Quon*  
Governor's  
Ex-Officio Member

CHIEF EXECUTIVE OFFICE

*Will Kempton*  
Chief Executive Officer

**SUBJECT: NOTICE OF REQUEST FOR PROPOSALS  
RFP 9-0687: NATURAL COMMUNITY CONSERVATION  
PLAN/HABITAT CONSERVATION PLAN/MASTER  
STREAMBED ALTERATION AGREEMENT**

Gentlemen/Ladies:

The Orange County Transportation Authority invites proposals from qualified consultants to prepare a Natural Community Conservation Plan, Habitat Conservation Plan and a Master Streambed Alteration.

**Proposals must be received in the Orange County Transportation Authority's office at or before 2:00 p.m. on November 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) 9-0687 may do so by faxing their request to (714) 560-5792, or e-mail your request to [rfp\\_ifb\\_Requests@octa.net](mailto: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) 9-0687

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 9-0687, 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 Consulting  Professional Services	<u>Commodity(s):</u> Consultant Services General Consultant Services Land Use Environmental Consulting Engineering Environmental Engineering General
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A pre-proposal conference will be held on October 13, 2009, at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 154 at 2:30 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 **December 15, 2009** as the date to conduct interviews. All prospective Offeror's will be asked to keep this date available.

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 current wage schedules applicable at the time the work is in progress.

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 October 13, 2009, at the Authority's Administrative Office, 600 South Main Street, Orange, California, in Conference Room 154 at 2:30 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](mailto: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 5:00 p.m., October 27, 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.
- 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, 4<sup>th</sup> 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](mailto:sstrader@octa.net).

**3. Authority Responses**

Responses from the Authority will be posted on CAMMNET, the Authority's interactive website, no later than. Offerors may download responses from CAMMNET at [www.octa.net/CAMMNET](http://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 CAMMNET, 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:

Category(s):  
Professional Consulting

Commodity(s):  
Consultant Services General  
Consultant Services Land Use  
Environmental Consulting

Professional Services

Engineering - Environmental  
Engineering - General

Inquiries received after October 27, 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 November 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 eight 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 9-0687: PREPARATION OF A NATURAL COMMUNITY  
CONSERVATION PLAN/HABITAT CONSERVATION PLAN/MASTER  
STREAMBED ALTERATION AGREEMENT"**

**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 specifying firm-fixed prices for individual tasks specified in the Scope of Work included in this RFP as Section V.

**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. The proposer to whom a contract for the work is awarded by the Authority shall comply with the provision of the California Labor Code, including, without limitation, the obligation to pay the general prevailing rates of wages in the locality in which the work is to be performed in accordance with, without limitation, Sections 1773.1, 1774, 1775 and 1776 of the California Labor Code governing employment of apprentices. Copies of the prevailing rates of per diem wages are on file at the Authority's principal office at 550 S. Main Street, Orange, CAA 92868 and are available to any interested party on request.

**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.

**N. CODE OF CONDUCT**

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

**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, whether the firm is a Disadvantaged Business Enterprise (DBE), 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**

Offeror shall provide a narrative that addresses the Scope of Work and shows Offeror's understanding of Authority's needs and requirements.

Offeror to:

- (1) Describe the approach and work plan for completing the tasks specified in the Scope of Work. The work plan shall be of such detail to demonstrate the Offeror's ability to accomplish the project objectives and overall schedule.
- (2) Outline sequentially the activities that would be undertaken in completing the tasks and specify who in the firm would perform them.
- (3) Furnish a project schedule for each task and subtask in terms of elapsed weeks from the project commencement date.
- (4) Identify methods that Offeror will use to ensure quality control as well as budget and schedule control for the project.

- (5) Identify any special issues or problems that are likely to be encountered during this project and how the Offeror would propose to address them.
- (6) 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 January 25, 2010 .

**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. Level I Safety Specifications**

Offeror is advised that the Authority's safety requirements are to assist Offeror and any subconsultants in recognizing hazards with a potential of injury or property damage while working on Authority property or on the Authority's behalf.

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 30%**

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 35%**

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 35%**

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

December 15, 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 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. All services shall be provided at the  
15 times and places designated by AUTHORITY.

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

18 **Names** **Functions**

19  
20  
21  
22  
23 C. No person named in paragraph B of this Article, or his/her successor approved by  
24 AUTHORITY, shall be removed or replaced by CONSULTANT, nor shall his/her agreed-upon function  
25 or level of commitment hereunder be changed, without the prior written consent of AUTHORITY.  
26 Should the services of any key person become no longer available to CONSULTANT, the resume and

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

6 **ARTICLE 4. TERM OF AGREEMENT**

7 This Agreement shall commence upon execution by both parties, and shall continue in full force  
 8 and effect through March 14, 2012, unless earlier terminated or extended as provided in this  
 9 Agreement.

10 **ARTICLE 5. PAYMENT**

11 A. For CONSULTANT's full and complete performance of its obligations under this Agreement  
 12 and subject to the maximum cumulative payment obligation provisions set forth in Article E.6,  
 13 AUTHORITY shall pay CONSULTANT on a firm fixed price basis in accordance with the following  
 14 provisions.

15 B. The following schedule shall establish the firm fixed payment to CONSULTANT by  
 16 AUTHORITY for each work task set forth in the Scope of Work. The schedule shall not include any  
 17 CONSULTANT expenses not approved by AUTHORITY, including, but not limited to reimbursement for  
 18 local meals.

<u>Tasks</u>	<u>Description</u>	<u>Firm Fixed Price</u>
1	Project Management/Coordination/Administration	.00
2	Public Involvement Process	.00
3	Biological Resources and Wetlands Data Inventory	.00
4	Conservation Strategies Development	.00
5	Assessment of Impacts and Level of Take	.00
6	Economic Analysis of Conservation Funding Mechanism	.00
7	Alternatives to Take Considered and Rejected	.00

1	8	Implementation Approach and Structure	.00
2	9	Administrative/Committee Drafts of NCCP/HCP Document	.00
3	10	Master Streambed Alteration Agreement	.00
4	11	CEQA ad NEPA Documentation Preparation	.00
5	12	NCCP/HCP/MSAA EIR/EIS Public Review	<u>.00</u>
6		<b>TOTAL FIRM FIXED PRICE PAYMENT</b>	<b>.00</b>

7 C. CONSULTANT shall invoice AUTHORITY on a monthly basis for payments corresponding  
8 to the work actually completed by CONSULTANT. Percentage of work completed shall be documented  
9 in a monthly progress report prepared by CONSULTANT, which shall accompany each invoice  
10 submitted by CONSULTANT. CONSULTANT shall also furnish such other information as may be  
11 requested by AUTHORITY to substantiate the validity of an invoice. At its sole discretion, AUTHORITY  
12 may decline to make full payment for any task listed in paragraph B of this Article until such time as  
13 CONSULTANT has documented to AUTHORITY's satisfaction, that CONSULTANT has fully  
14 completed all work required under the task. AUTHORITY's payment in full for any task completed shall  
15 not constitute AUTHORITY's final acceptance of CONSULTANT's work under such task; final  
16 acceptance shall occur only when AUTHORITY's release of the retention described in paragraph D.

17 D. As partial security against CONSULTANT's failure to satisfactorily fulfill all of its obligations  
18 under this Agreement, AUTHORITY shall retain ten percent (10%) of the amount of each invoice  
19 submitted for payment by CONSULTANT. All retained funds shall be released by AUTHORITY and  
20 shall be paid to CONSULTANT within sixty (60) calendar days of payment of final invoice, unless  
21 AUTHORITY elects to audit CONSULTANT's records in accordance with Article 16 of this Agreement.  
22 If AUTHORITY elects to audit, retained funds shall be paid to CONSULTANT within thirty (30) calendar  
23 days of completion of such audit in an amount reflecting any adjustment required by such audit.

24 E. Invoices shall be submitted by CONSULTANT on a monthly basis and shall be submitted in  
25 duplicate to AUTHORITY's Accounts Payable office. Each invoice shall be accompanied by the  
26 monthly progress report specified in paragraph C of this Article. AUTHORITY shall remit payment

1 within thirty (30) calendar days of the receipt and approval of each invoice. Each invoice shall include  
2 the following information:

- 3 1. Agreement No. C-9-06879-0687;
- 4 2. Specify the task number for which payment is being requested;
- 5 3. The time period covered by the invoice;
- 6 4. Total monthly invoice (including project-to-date cumulative invoice amount); and  
7 retention;
- 8 5. Monthly Progress Report;
- 9 6. Certification signed by the CONSULTANT or his/her designated alternate that a)  
10 The invoice is a true, complete and correct statement of reimbursable costs and progress; b) The  
11 backup information included with the invoice is true, complete and correct in all material respects; c) All  
12 payments due and owing to subcontractors and suppliers have been made; d) Timely payments will  
13 be made to subcontractors and suppliers from the proceeds of the payments covered by the  
14 certification and; e) The invoice does not include any amount which CONSULTANT intends to withhold  
15 or retain from a subcontractor or supplier unless so identified on the invoice.
- 16 7. Any other information as agreed or requested by AUTHORITY to substantiate the  
17 validity of an invoice.

18 **ARTICLE 6. MAXIMUM OBLIGATION**

19 Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and  
20 CONSULTANT mutually agree that AUTHORITY's maximum cumulative payment obligation (including  
21 obligation for CONSULTANT's profit) shall be \_\_\_\_\_ Dollars (\$0.00) which shall include all  
22 amounts payable to CONSULTANT for its subcontracts, leases, materials and costs arising from, or  
23 due to termination of, this Agreement.

24 /

25 /

26 /

**ARTICLE 7. NOTICES**

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

To CONSULTANT:	To AUTHORITY:
	Orange County Transportation Authority
	550 South Main Street
	P.O. Box 14184
	Orange, CA 92863-1584
ATTENTION:	ATTENTION: Sarah L. Strader
	Senior Contract Administrator
	(714) 560 -- 5633; e-mail - <i>sstrader@octa.net</i>

**ARTICLE 8. INDEPENDENT CONTRACTOR**

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

**ARTICLE 9. INSURANCE**

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

/

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

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

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

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

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

10           B. Proof of such coverage, in the form of an insurance company issued policy endorsement  
11 and a broker-issued insurance certificate, must be received by AUTHORITY prior to commencement of  
12 any work. Proof of insurance coverage must be received by AUTHORITY within ten (10) calendar days  
13 from the effective date of this Agreement with the AUTHORITY, its officers, directors, employees and  
14 agents designated as additional insured on the general and automobile liability. Such insurance shall  
15 be primary and non-contributive to any insurance or self-insurance maintained by the AUTHORITY.

16           C. CONSULTANT shall include on the face of the Certificate of Insurance the Agreement  
17 Number C-9-0687; and, Sarah L. Strader, Senior Contract Administrator.

18           D. CONSULTANT shall also include in each subcontract the stipulation that subcontractors  
19 shall maintain insurance coverage in the amounts required from CONSULTANT as provided in this  
20 Agreement.

21           **ARTICLE 10. ORDER OF PRECEDENCE**

22           Conflicting provisions hereof, if any, shall prevail in the following descending order of  
23 precedence: (1) the provisions of this Agreement, including all exhibits; (2) the provisions of RFP 9-  
24 0687;(3) CONSULTANT's proposal dated \_\_\_\_\_; (4) all other documents, if any, cited herein or  
25 incorporated by reference.

26 /

1           **ARTICLE 11. CHANGES**

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

10           **ARTICLE 12. DISPUTES**

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

16           B. The provisions of this Article shall not be pleaded in any suit involving a question of fact  
 17           arising under this Agreement as limiting judicial review of any such decision to cases where fraud by  
 18           such official or his representative or board is alleged, provided, however, that any such decision shall  
 19           be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous  
 20           as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any  
 21           appeal proceeding under this Article, CONSULTANT shall be afforded an opportunity to be heard and  
 22           to offer evidence in support of its appeal.

23           C. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with  
 24           the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,  
 25           CAMM. This Disputes clause does not preclude consideration of questions of law in connection with  
 26           decisions provided for above. Nothing in this Agreement, however, shall be construed as making final

1 the decision of any AUTHORITY official or representative on a question of law, which questions shall be  
2 settled in accordance with the laws of the state of California.

3 **ARTICLE 13. TERMINATION**

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

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

16 **ARTICLE 14. INDEMNIFICATION**

17 CONSULTANT shall indemnify, defend and hold harmless AUTHORITY, its officers, directors,  
18 employees and agents from and against any and all claims (including attorneys' fees and reasonable  
19 expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage  
20 to or loss of use of property caused by the negligent acts, omissions or willful misconduct by  
21 CONSULTANT, its officers, directors, employees, agents, subcontractors or suppliers in connection  
22 with or arising out of the performance of this Agreement.

23 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTS**

24 A. Neither this Agreement nor any interest herein nor claim hereunder may be assigned by  
25 CONSULTANT either voluntarily or by operation of law, nor may all or any part of this Agreement be  
26 subcontracted by CONSULTANT, without the prior written consent of AUTHORITY. Consent by

1 AUTHORITY shall not be deemed to relieve CONSULTANT of its obligations to comply fully with all  
2 terms and conditions of this Agreement.

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

<u>Subcontractor Name/Addresses</u>	<u>Subcontractor Amounts</u>
	.00
	.00

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

13 CONSULTANT shall provide AUTHORITY, or other agents of AUTHORITY, such access to  
14 CONSULTANT's accounting books, records, payroll documents and facilities, as AUTHORITY deems  
15 necessary. CONSULTANT shall maintain such books, records, data and documents in accordance  
16 with generally accepted accounting principles and shall clearly identify and make such items readily  
17 accessible to such parties during CONSULTANT's performance hereunder and for a period of four (4)  
18 years from the date of final payment by AUTHORITY. AUTHORITY's right to audit books and records  
19 directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 15  
20 of this Agreement. Consultant shall permit any of the foregoing parties to reproduce documents by any  
21 means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

22 **ARTICLE 17. CONFLICT OF INTEREST**

23 CONSULTANT agrees to avoid organizational conflicts of interest. An organizational conflict  
24 of interest means that due to other activities, relationships or contracts, the CONSULTANT is  
25 unable, or potentially unable to render impartial assistance or advice to the Authority;  
26 CONSULTANT's objectivity in performing the work identified in the Scope of Work is or might be

1 otherwise impaired; or the CONSULTANT has an unfair competitive advantage. CONSULTANT is  
2 obligated to fully disclose to the AUTHORITY in writing Conflict of Interest issues as soon as they  
3 are known to the CONSULTANT. All disclosures must be submitted in writing to AUTHORITY  
4 pursuant to the Notice provision herein. This disclosure requirement is for the entire term of this  
5 Agreement.

6 **ARTICLE 18. CODE OF CONDUCT**

7 CONSULTANT agrees to comply with the AUTHORITY's Code of Conduct as it relates to  
8 Third-Party contracts which is hereby referenced and by this reference is incorporated herein.  
9 CONSULTANT agrees to include these requirements in all of its subcontracts.

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

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

14 **ARTICLE 20. EQUAL EMPLOYMENT OPPORTUNITY**

15 In connection with its performance under this Agreement, CONSULTANT shall not discriminate  
16 against any employee or applicant for employment because of race, religion, color, sex, age or national  
17 origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and that  
18 employees are treated during their employment, without regard to their race, religion, color, sex, age or  
19 national origin. Such actions shall include, but not be limited to, the following: employment, upgrading,  
20 demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other  
21 forms of compensation; and selection for training, including apprenticeship.

22 **ARTICLE 21. PROHIBITED INTERESTS**

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

26 /

**ARTICLE 22. OWNERSHIP OF REPORTS AND DOCUMENTS**

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

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

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

**ARTICLE 23. PATENT AND COPYRIGHT INFRINGEMENT**

A. In lieu of any other warranty by AUTHORITY or CONSULTANT against patent or copyright infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend at its expense any claim or suit against AUTHORITY on account of any allegation that any item furnished under this Agreement or the normal use or sale thereof arising out of the performance of this Agreement, infringes

1 upon any presently existing U. S. letters patent or copyright and CONSULTANT shall pay all costs and  
 2 damages finally awarded in any such suit or claim, provided that CONSULTANT is promptly notified in  
 3 writing of the suit or claim and given authority, information and assistance at CONSULTANT's expense  
 4 for the defense of same. However, CONSULTANT will not indemnify AUTHORITY if the suit or claim  
 5 results from: (1) AUTHORITY's alteration of a deliverable, such that said deliverable in its altered form  
 6 infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in  
 7 combination with other material not provided by CONSULTANT when such use in combination infringes  
 8 upon an existing U.S. letters patent or copyright.

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

17 **ARTICLE 24. FINISHED AND PRELIMINARY DATA**

18 A. All of CONSULTANT's finished technical data, including but not limited to illustrations,  
 19 photographs, tapes, software, software design documents, including without limitation source code,  
 20 binary code, all media, technical documentation and user documentation, photoprints and other graphic  
 21 information required to be furnished under this Agreement, shall be AUTHORITY's property upon  
 22 payment and shall be furnished with unlimited rights and, as such, shall be free from proprietary  
 23 restriction except as elsewhere authorized in this Agreement. CONSULTANT further agrees that it  
 24 shall have no interest or claim to such finished, AUTHORITY-owned, technical data; furthermore, said  
 25 data is subject to the provisions of the Freedom of Information Act, 5 USC 552.

26 /

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

8 **ARTICLE 25. ALCOHOL AND DRUG POLICY**

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

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

15 **ARTICLE 26. FORCE MAJEURE**

16 Either party shall be excused from performing its obligations under this Agreement during the  
17 time and to the extent that it is prevented from performing by an unforeseeable cause beyond its  
18 control, including but not limited to: any incidence of fire, flood; acts of God; commandeering of material,  
19 products, plants or facilities by the federal, state or local government; national fuel shortage; or a  
20 material act or omission by the other party; when satisfactory evidence of such cause is presented to  
21 the other party, and provided further that such nonperformance is unforeseeable, beyond the control  
22 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-9-0687 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 \_\_\_\_\_

Kia Mortazavi  
Executive Director, Development



## 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*

**RFP 9-0687  
ATTACHMENT A**

*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**

**ENVIRONMENTAL SERVICES**

**FOR**

**NCCP/HCP/MSAA JOINT PROGRAMMATIC EIR/EIS**

**FOR THE RENEWED MEASURE M,  
FREEWAY MITIGATION PROGRAM**

**(ENVIRONMENTAL MITIGATION AND RESOURCE PROGRAM)**

**September 28, 2009**

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## SCOPE OF WORK

### SECTION 1

#### DESCRIPTION OF PROJECT

##### 1.1 PROJECT DESCRIPTION

###### 1.1-1 Background

On November 7, 2006, Orange County voters approved the renewal of the Measure M one-half cent sales tax for transportation improvements by a vote of 69.7 percent. With the approval of the Renewed Measure M (M2), the voters agreed to continue investment of local tax dollars in Orange County's transportation infrastructure for another 30 years.

Subject to a Master Agreement between Orange County Transportation Authority (OCTA) and the United States Fish and Wildlife Service (USFWS), California Department of Fish and Game (CDFG), and the California Department of Transportation (Caltrans), an Environmental and Resource Mitigation Program (Program) will be implemented. The Program provides high-value environmental benefits in exchange for streamlined project approvals for 13 M2 freeway improvement projects, which are listed below. Accordingly, a minimum of 5 percent of the total M2 freeway expenditures, estimated at \$243.5 million in 2005 dollars, would be dedicated to this environmental mitigation effort. Based on the current economic conditions, the updated sales tax revenue is estimated to be +/- 30% lower than the 2005 projections.

- 1) **Project A: I-5 Improvements between SR-55 and SR-57**  
Reduce freeway congestion through improvements at the SR-55/I-5 interchange area between the Fourth Street and Newport Boulevard ramps on I-5, and between Fourth Street and Edinger Avenue on SR-55. Also, add capacity on I-5 between SR-55 and SR-57 to relieve congestion at the "Orange Crush."
- 2) **Project B: I-5 Improvements from SR-55 to El Toro "Y"**  
Build new lanes and improve the interchanges in the area between SR-55 and the SR-133 (near the El Toro "Y"). The project will also make improvements at local interchanges, such as Jamboree Road.
- 3) **Project C: I-5 Improvements south of the El Toro "Y"**  
Add new lanes to I-5 from the vicinity of the El Toro Interchange in Lake Forest to the vicinity of SR-73 in Mission Viejo. Also, add new lanes on I-5 between Coast Highway and Avenida Pico interchanges to reduce freeway congestion in San Clemente.

- 4) **Project D: I-5 Local Interchange Upgrades**  
Update and improve key I-5 interchanges such as Avenida Pico, Ortega Highway, Avery Parkway, La Paz Road, El Toro Road, and others to relieve street congestion around older interchanges and on ramps.
- 5) **Project E: SR-22 Access Improvements**  
Construct interchange improvements at Euclid Street, Brookhurst Street, and Harbor Boulevard to reduce freeway and local street congestion.
- 6) **Project F: SR-55 Improvements (between SR-22 and I-405)**  
Add new lanes to SR-55 between SR-22 and I-405, generally within existing right-of-way, including merging lanes between interchanges to smooth traffic flow. This project also provides for freeway operational improvements for the portion of SR-55 between SR-91 and SR-22.
- 7) **Project G: SR-57 Improvements**  
Build a new northbound lane between Orangewood Avenue and Lambert Road. Other projects include improvements to the Lambert interchange and the addition of a northbound truck-climbing lane between Lambert and the county line.
- 8) **Project H: SR-91 Improvements from I-5 to SR-57**  
Add capacity in the westbound direction and provide operational improvements at on and off ramps to the SR-91 between I-5 and SR-57.
- 9) **Project I: SR-91 Improvements from SR-57 to SR-55 Interchange Area**  
Improve the SR-91/SR-55 to SR-91/SR-57 interchange complex, including nearby local interchanges such as Tustin Avenue and Lakeview, as well as adding freeway capacity between SR-55 and SR-57.
- 10) **Project J: SR-91 Improvements from SR-55 to Orange/Riverside County Line**  
Adds capacity on SR-91 beginning at SR-55 to the Orange/Riverside County Line. This will be done in coordination with the Riverside County Transportation Commission's (RCTC) plans to improve the SR-91 freeway into Riverside County. The first priority will be to improve the segment of SR-91 east of SR-241. The goal is to provide up to four new lanes of capacity between SR-241 and Riverside County Line by making best available use of freeway property, adding reversible lanes, building elevated sections and improving connections to SR-241. This project also includes improvements to the segment of SR-91 between SR-241 and SR-55. The concept is to generally add one new lane in each direction and improve the interchanges.

**11) Project K: I-405 Improvements between I-605 freeway in Los Alamitos area and SR-55**

Add new lanes to I-405 between I-605 and SR-55. The project will make best use of available freeway property, update interchanges and widen various local overcrossings according to city and regional plans.

**12) Project L: I-405 Improvements between SR-55 and I-5**

Add new lanes to the freeway from SR-55 to the I-5. The project will also improve chokepoints at interchanges and add merging lanes near on/off ramps such as Lake Forest Drive, Irvine Center Drive and SR-133 to improve the overall freeway operations in the I-405/I-5 El Toro "Y" area.

**13) Project M: I-605 Freeway Access Improvements**

Improve freeway access at I-605/Katella Avenue serving the communities of Los Alamitos and Cypress. Specific improvements will be subject to approved plans developed in cooperation with local jurisdictions and affected communities.

The Environmental Oversight Committee (EOC), a steering advisory committee, has been organized to assist OCTA in its role as project lead for the NCCP/HCP and will recommend proposed plan policies to OCTA's Board of Directors.

The EOC has a Master Agreement Working Group, charged with developing recommendations for a draft framework for the Master Agreement between OCTA and the Resources Agencies to implement the M2 freeway mitigation program. There is also a Habitat Impacts Working Group, charged with determining habitat impacts for the 13 M2 freeway improvement projects.

The Environmental Mitigation Program has the potential to minimize or reduce regulatory delays in the implementation of the 13 M2 freeway improvement projects. The specific type of mitigation will be determined by OCTA working in conjunction with various stakeholders. The various forms of mitigation may include acquisition and/or restoration of land for conservation.

**1.1-2 Objective**

OCTA is issuing a Request for Proposals (RFP) C9-0687 for professional and technical CONSULTANT services for developing a NCCP/HCP Joint Programmatic Environmental Impact Report/Environmental Impact Statement (EIR/EIS), which is to include a Master Streambed Alteration Agreement (MSAA) for the 13 freeway improvement projects under M2. The NCCP/HCP/MSAA Joint Programmatic EIR/EIS is reference as the "Project" or the "planning/environmental document" herein.

The NCCP/HCP will identify the Covered Activities<sup>1</sup> that may result in take of Covered Species<sup>2</sup> within the Planning Area. Anticipated Covered Activities currently consist of 13 M2 freeway projects as they pertain to direct, indirect, cumulative and growth inducing impacts along with other existing and planned projects within the study area of the M2 freeway improvements.

The CONSULTANT shall prepare a EIR/EIS with a MSAA to ensure that the following planning goals are met:

- Conservation and management of covered species within the planning area;
- The preservation, restoration and enhancement of aquatic, riparian and terrestrial natural communities and ecosystems that support covered species within the planning area;
- A means to implement Covered Activities in a manner that complies with applicable state and federal fish and wildlife protection laws and other environmental laws, inclusive of the California and Federal Endangered Species Acts (CESA and ESA), the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA);
- A basis for permits necessary to lawfully take covered species;
- A comprehensive means to coordinate and standardize mitigation and compensation requirements for covered activities within the planning area;
- An accounting process that will document net environmental benefit from regional, programmatic mitigation in exchange for net benefit in the delivery of transportation improvements through streamlined and timely approvals and permitting;
- A less costly, more efficient project review process that results in greater conservation values than project-by-project, species-by-species review; and
- Clear expectations and regulatory assurances regarding covered activities occurring within the planning area.

The CONSULTANT shall prepare the NCCP/HCP as well as the MSAA to ensure compliance with provisions of CEQA, NEPA, the Natural Community Conservation Planning Act (NCCPA) of 1991 (Fish and Game Code Section 2800-2840), the Federal Five Point Policy Guidance for preparing habitat conservation plans and conducting the incidental take permit program under Section 10(a)(1)(B) of the Endangered Species Act, CESA and FESA, and other applicable state laws and regulations which are applicable. The USFWS will serve as the lead agency under NEPA and OCTA as the lead agency under CEQA. The CONSULTANT will also be responsible for implementing the

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<sup>1</sup> "Covered Activities" means those certain activities that will be addressed in the NCCP/HCP and for which the OCTA and Caltrans may seek take authorizations pursuant to the California Fish and Game Code section 2835 and the Federal Endangered Species Act ("ESA").

<sup>2</sup> "Covered Species" means those species identified in the NCCP/HCP, both listed and non-listed, whose conservation and management are provided for in the NCCP/HCP, and which may be authorized for take under state and/or federal law once the NCCP/HCP is approved.

CEQA/NEPA public involvement process and providing support to OCTA on public outreach.

### **1.1-3 Planning Area**

The planning area includes all of Orange County, which consists of approximately 798 square miles encompassing 34 cities and unincorporated areas with consideration of adjacent areas outside of the County.

### **1.1-4 Conservation Assessment Analysis**

A conservation assessment is under way, which includes biological, physical, and land use information. It also includes a GIS database that can be used as a tool for the following purposes: a) conducting landscape level science-based conservation planning, b) researching and developing information documenting the life history, status, and trends of species and their habitats addressed by the planning process, and c) evaluating species and habitat distribution, habitat value, and selection of conservation areas.

### **1.1-5 Statement of Intent**

The EIR/EIS shall address the environmental considerations associated with the approval and implementation of the NCCP/HCP and shall consist of the following elements:

- Creation and long-term management of habitat protection;
- Development of potential avoidance, minimization, and mitigation measures for Covered Activities;
- Receipt of state and federal permits authorizing impacts to Covered Species as a result of conducting Covered Activities

### **1.1-6 Timeframe for Completion - Project Management Plan**

*The timeframe to complete the NCCP/HCP/MSAA EIR/EIS is projected to be 24 months or earlier. Advance mitigation credit provision of the planning agreement and the likelihood of acquisitions and/or restoration expenditures will take place concurrently with the preparation and in advance of the completion of the NCCP/HCP/MSAA EIR/EIS. All submittals shall contain a Project Management Plan to describe all of the tasks to be completed in Section 3, Work Plan. Submittals that do not possess a Project Management Plan will be deemed incomplete.*

The Project Management Plan shall clearly define the roles, responsibilities, procedures, and processes to ensure that the deliverables will result in the Project being managed on time, within budget, with the highest degree of quality, and in a manner to ensure public trust, support, and confidence in the Project.

A detailed project budget and schedule, herein reference to as the Project Master Schedule (PMS), to complete all of the tasks shall also be incorporated into the Project

Management Plan. The PMS shall include activities, start dates, durations, product submittal dates, and relationships among work tasks (including critical path items).

The PMS shall be prepared using the Critical Path Method and shall be consistent with the tasks that have been laid out. Inclusions of additional critical path items are to be added as necessary. The PMS shall reflect the various levels of reviews for the draft and final environmental documents. The PMS shall include:

- Project milestones and delivery of intermediate project deliverables,
- Reviews for the draft and final environmental documents and intermediate project deliverables by OCTA staff and EOC's Working Groups, and
- Work items of agencies and other third parties that may affect or be affected by the CONSULTANT's activities.

## **1.2 STANDARDS**

### **1.2-1 Conflicts**

In case of conflict, ambiguities, discrepancies, errors or omissions among the reference materials obtained by CONSULTANT from other agencies, CONSULTANT shall submit the matter to OCTA for clarification. Any work affected by these inconsistencies, which is performed by CONSULTANT prior to clarification by OCTA, shall be at CONSULTANT's risk.

### **1.2-2 Environmental Documentation**

Environmental documentation work shall be prepared in conformance with both CEQA and NEPA guidelines and regulations, inclusive of, however not limited to:

- FESA, Section 10 permit (incidental take) issued by the USFWS,
- Clean Water Act, Section 401 Compliance (water quality) administered by the Santa Ana and San Diego Regional Water Quality Boards,
- Clean Water Act, Section 404 permit (wetland fill) issued by the U.S. Army Corps of Engineers,
- Fish and Game Code, Section 1600 permit (stream bed alteration) issued by CDFG,
- NCCPA (Fish and Game Code, Section 2800-2840),
- CESA, Section 2081 permit (incidental take) issued by the CDFG, and
- National Historical Preservation Act, Section 106 compliance (cultural resources) administered by the State Historic Preservation Office.

## SECTION 2

### GENERAL CONDITIONS AND REQUIREMENTS

#### 2.1 SCOPE OF WORK GENERAL CONDITIONS AND REQUIREMENTS

- 2.1-1 CONSULTANT shall implement Project as directed by OCTA Project Manager.
- 2.1-2 The above paragraph does not relieve the CONSULTANT of their professional responsibility. In those instances where the CONSULTANT believes a better solution to a problem is possible, CONSULTANT shall promptly confer OCTA.
- 2.1-3 CONSULTANT shall be responsible for the accuracy, consistency and completeness of reports, studies, data, plans, and estimates prepared for Project.
- 2.1-4 Materials produced by CONSULTANT are subject to approval and acceptance by OCTA, USFWS, CDFG, and Caltrans. In the event of non-acceptance due to errors, inconsistencies and omissions, CONSULTANT shall have ten (10) business days to make corrections.
- 2.1-5 The reports, studies, plans, estimates and other documents for Project shall be of a quality acceptable to the foregoing agencies. The minimum acceptable criteria for Project products shall be well organized, technically and grammatically correct, and thoroughly checked.
- 2.1-6 CONSULTANT shall meet with OCTA and the EOC's Working Groups to discuss Project objectives and requirements, and to serve as a forum for resolving any issues related to the development of the Project.
- 2.1-7 OCTA reserves the right to monitor and review the progress and/or processes of the CONSULTANT.
- 2.1-8 CONSULTANT shall confer with OCTA prior to contacting governmental regulatory and resource agencies, and others for the purpose of obtaining information, expertise and assistance in developing baseline data and resource inventories. The CONSULTANT shall maintain a record of such contacts and shall transmit copies of those records to OCTA. These records shall be transmitted monthly or more frequently, if warranted.
- 2.1-9 The CONSULTANT team shall be responsible for supporting and assisting OCTA staff in the Board approval process during the preparation of the Project. These may include but are not limited to: providing project materials for Board packages, assisting and/or making Board presentations, researching /investigating of information requested by the Board, and attending additional meetings as necessary. The CONSULTANT shall obtain approval from OCTA prior to making any changes to key personnel, removal without prior consent from OCTA Project Manager shall be deemed as out of contract compliance.

## SECTION 3

### WORK PLAN

A Work Plan consisting of twelve (12) major tasks (not necessarily sequential) is outlined below. The CONSULTANT's proposal shall augment this proposal with specific schedules by task and subtasks as well as include appropriate detail and supplemental information.

- Task 1 – Project Management/Coordination/Administration
- Task 2 – Public Involvement Process
- Task 3 – Biological Resources and Wetlands Data Inventory
- Task 4 – Conservation Strategies Development
- Task 5 – Assessment of Impacts and Level of Take
- Task 6 – Economic Analysis of Conservation Funding Mechanism
- Task 7 – Alternatives to Take Considered and Rejected
- Task 8 – Implementation Approach and Structure
- Task 9 – Administrative/Committee Drafts of NCCP/HCP Document
- Task 10 – Master Streambed Alteration Agreement
- Task 11 – CEQA and NEPA Documentation Preparation
- Task 12 – NCCP/HCP/MSAA EIR/EIS Public Review

#### 3.1 Task 1 - Project Management/Coordination/Administration

*Purpose:* To provide overall implementation Project, including facilitating OCTA in coordinating with local, state and federal regulatory agencies, tracking progress of the work, administering subcontracts, attending public workshops, preparing invoices, and conducting project meetings.

*Methodology:* The CONSULTANT's Project Manager shall provide overall project management, coordination, and supervision of project staff to facilitate the performance of the work in accordance with the scope and requirements of OCTA. CONSULTANT shall maintain coordination with other members of OCTA staff and regulatory agencies associated with the Project. A kick-off meeting shall be held upon contract execution to review project objectives and requirements, receive initial information from agencies, establish communication plan and protocols, and address other issues as necessary to ensure a successful project initiation. Thereafter, CONSULTANT shall continue to actively participate in meetings to discuss progress, coordinate design activities, obtain direction, exchange project information, and identify issues to be resolved. CONSULTANT's approach to managing the Project will require integration of various technical studies and public involvement processes.

#### **Deliverables:**

- Finalize Project Management Plan, including PMS discussed in Section 1.1-6.

### 3.1-1 Meetings

*Purpose:* To discuss and resolve issues pertinent to the analysis, design, and potential environmental impacts of the Project, obtain direction for the study, and to create a forum for participating shareholders. CONSULTANT shall provide PMS that include project milestones, task durations, products, and responsible parties.

*Methodology:* Project meetings with OCTA, the EOC, and their respective Working Groups shall be held as necessary (estimated up to sixty [60]); to discuss policy, procedure, make decisions affecting the direction of the Project, review assignments/progress, and identify issues to be resolved. CONSULTANT shall assist OCTA's Project Manager in preparing and distributing meeting notices, agendas, handout material relevant to the agenda, and meeting minutes.

#### **Deliverables:**

- Project meeting notices, agendas, handouts, and minutes.
- Progress Plans.

### 3.1-2 Progress Reports

*Purpose:* To track the actual progress relative to the PMS and to ensure that all significant completion dates of the Project are being met.

*Methodology:* At the end of each month, CONSULTANT shall report the progress of the work (See Proposed Agreement, ARTICLE ~~X~~ PAYMENT). Progress reports shall be based on percent complete or estimated progress toward completion. Progress payments will be based upon percent complete on major tasks.

CONSULTANT shall submit one copy of a monthly Progress Report to the OCTA Project Manager consisting of a written narrative and a PMS Gantt chart. The report shall be received no later than the tenth (10<sup>th</sup>) calendar day of the month.

#### **Deliverables:**

- Monthly Progress Reports.
- Budget Tracking (updated regularly).

### 3.1-3 Quality Assurance/Quality Control Plan

*Purpose:* The Quality Assurance/Quality Control (QA/QC) Plan is intended to ensure that the tasks are being prepared, developed is acceptable to the OCTA, and satisfies the CONSULTANT's internal QA/QC standards.

*Methodology:* CONSULTANT shall maintain a QA/QC Plan throughout the duration of this Agreement. The comprehensive quality assurance procedures should outline the

independent checking procedures to be performed on report preparation, calculations, ongoing peer reviews, audits, and management systems to maintain product quality, schedule, and budget adherence.

All deliverables shall be subjected to a quality control review utilizing CONSULTANT QA/QC Procedures. CONSULTANT shall prepare a response-to-comments matrix indicating how and where the changes to the documents have been made and when the revised documents are resubmitted to OCTA.

**Deliverables:**

- QA/QC Plan.
- Response to comment matrices.

**3.2 Task 2 – Public Involvement Process**

*Purpose:* The CONSULTANT shall prepare a Public Participation Plan (PPP) to engage the general public and interested agencies in the preparation of the NCCP/HCP. The PPP will provide information regarding development of the NCCP/HCP that will clarify the implementation process. The PPP will be developed to make the information gathering and decision-making activities that support the NCCP/HCP development and implementation visible and accessible to all interested or affected parties. It will establish a framework for the general public and interested agencies to identify and discuss potential issues to gain consensus on approval of the NCCP/HCP. To the greatest extent possible, the PPP will build upon, and not duplicate or replace, the existing public outreach and participation processes undertaken by OCTA as part of the implementation of Renewed Measure M, including the Freeway Mitigation Program.

The anticipated decision-making structure for the Project entails the following entities:

- OCTA Board of Directors, which is inclusive of the Transportation 2020 Committee.
- EOC.
- Independent Science Review Committee.

*Methodology* – The CONSULTANT shall utilize the PPP as a management tool to support the NCCP/HCP development and ensure its implementation is visible and accessible to interested or affected parties.

The PPP will encompass the following items:

- A public participation process that is broadly visible within the County and elsewhere, and provides access for all interested and affected parties, groups and agencies,
- Clear and understandable information to the public about the NCCP/HCP and its potential impacts on the physical, biological, economic and social environment,
- A framework to provide meaningful opportunities for the public and agencies to identify/discuss potential issues, including forums for soliciting and exchanging ideas,

- Actively designed to engage interested parties in the development and evaluation of proposed conservation measures and project alternatives,
- Identify key issues that must be addressed in the CEQA/NEPA review process, and
- Gain support and understanding for the NCCP/HCP and its implementation.

Emphasis shall be placed on early strategic public outreach as a means to: 1) build acceptance of the NCCP/HCP; 2) ensure the advisory committees, general public, and interested agencies receive accurate information about the Project and related policies as well as information gathering that supports technical studies; and 3) utilize a methodology that allows feedback and responses on all phases of the Project.

Public opinion may be solicited and exchanged through a broad distribution of information, and through multiple public forums and mechanisms made available to interested parties and agencies, inclusive of a dedicated website, which will be furnished, designed, and operated by the CONSULTANT. Materials will include meeting and event information, a project calendar, public feedback through interactive web capacity, project information materials and documents, links to other information sources.

### **3.2-1 Public Involvement/Outreach Requirements.**

The PPP will comply with all applicable state and federal statutes, regulations, and advisories regarding public outreach and involvement including those listed below:

- NCCPA, California Department of Fish and Game Code section 2800 et seq.,
- CEQA, California Public Resources Code section 21000 et seq.,
- FESA, 16 U.S.C. section 1531 et seq.,
- NEPA, 42 U.S.C. section 4321 et seq.,
- Clean Water Act,
- Federal Advisory Committee Act, and
- Brown Open Meetings Act.

### **3.2-2 Coordination**

The CONSULTANT will ensure that the public participation activities throughout the course of the NCCP/HCP process are well coordinated with technical portions of the Scope of Work.

- Coordinate regularly with OCTA Project Manager to deliver information about technical studies and policy development, to provide complete and timely meeting facilitation and information exchange, and to ensure timely provision of public outreach materials to the community and to stakeholders, based upon the schedule for project deliverables.

- Coordinate with the OCTA Project Manager on the progress of community outreach meetings and activities, and to ensure that program direction is consistent with Management Group priorities.
- Coordinate to ensure that comments by Advisory Committees (described in Section 3.2-3), the public and interested agencies/groups are made available to ensure timely refinement of applicable studies..

### **3.2-3 Advisory Committees Support/Facilitation/Information**

Committees will be formed to further the work effort and obtain consensus through the NCCP/HCP process. A description of each committee involved in the NCCP/HCP process is described below.

#### **3.2-3a - OCTA Board of Directors**

An 18-member Board of Directors governs OCTA. The Board consists of 5 (five) county supervisors, 10 (ten) city members, 2 (two) public members and the Director of the Department of Transportation District 12 (Caltrans) as a non-voting member. The Board of Directors are responsible approval of the Project.

#### **3.2.3b – Environmental Oversight Committee**

The EOC's Working Groups will be in place to focus on specific issues pertaining to the NCCP/HCP process and for feedback on CONSULTANT's work. The EOC's Working Groups will meet on a monthly basis, at a minimum, to provide leadership for the development of the Project.

The CONSULTANT shall attend EOC meetings and their respective ad hoc subcommittee meetings and if needed provide updates/presentations on the progress of the Project. *Up to sixty (60) meetings with OCTA staff and/or the EOC and their respective Working Groups should be budgeted.*

#### **3.2.3c Independent Science Advisory Panel**

The Independent Science Advisory Panel (Panel) will be comprised of recognized experts in technical fields relevant to the NCCP/HCP and will operate independently from the EOC and the CONSULTANT.

The Science Facilitator will coordinate the Panel's review and recommendation of the conservation strategy and is responsible for ensuring that the Panel prepares quality deliverables on schedule. The Science Advisory Panel will be charged with the following tasks [California Fish and Game Code Section 2810(5)]:

- Recommendations of scientifically sound conservation strategies for species and natural communities proposed by the NCCP,

- Recommendations of a set of reserve design principles that address the needs of species, landscapes, ecosystems, and ecological processes in the planning area proposed to be addressed by the NCCP,
- Recommendation of management principles and conservation goals that can be used in developing a framework for the monitoring and adaptive management component of the plan, and
- Identification of data gaps and uncertainties so that risk factors can be evaluated.

#### **Deliverables**

- A Public Participation Plan, which details overall the structure of NCCP/HCP decision-making process and a schedule for committee involvement.
- Design and implementation of dedicated website.
- Presentations at a maximum of twelve (12) Board of Directors meetings, which is inclusive of their respective Board Advisory Committee, the Transportation 2020 Committee. A maximum of twelve (12) presentations given on a countywide level for interagency coordination.
- Attendance at a maximum of sixty (60) meetings with the OCTA staff, EOC and their respective Working Groups or Committees should be budgeted within the RFP's Price Summary Sheet.
- Meeting agendas and related materials.
- Preparation of meeting minutes.
- A meeting process and decision record made available to the Environmental Oversight Committee in a timely fashion.
- Timely, accurate and complete representation of each stakeholder group's comments, opinions and perspectives to the Environmental Oversight Committee.

### **3.3 Task 3: Biological Resources and Wetlands Data Inventory**

In March 2009, OCTA entered into an separate agreement with the Conservation Biology Institute to update the M2 freeway improvement projects GIS database with data available from the Orange County Green Vision Map and other publicly available sources, such as the California Natural Diversity Database (CNDDB), California Native Plant Society (CNPS), pertinent scientific literature, and phone conversations with local biologists to obtain conservation-related information that may not be publicly available (i.e., distribution of special status).

OCTA has also developed an assessment of potential habitat conservation sites within Orange County that may be eligible for acquisition and/or restoration. The conservation assessment is based on the inventory within the Orange County Green Vision Map as well as the list of potential properties solicited from OCTA's public outreach effort. The conservation assessment includes a draft list of species to be analyzed for potential

coverage under FESA and CESA as it related to the 13 M2 freeway improvement projects and other existing and planned projects within the planning area.

*Methodology:* The CONSULTANT shall review the existing baseline data information and identify additional information necessary that may be lacking. The CONSULTANT shall focus on identification and collection of data necessary to achieve conservation goals for ecosystems and habitats as well as data necessary to achieve adequate coverage for each target species.

All vector geographic data layers shall be delivered in either ESRI Shapefile or Personal Geodatabase (MS ACCESS) format. Aerial photography shall be delivered in tiled Tagged Image File Format (TIFF) with "world" files or Joint Photographic Experts Group (JPEG) with "world" files. Raster data can be delivered in ArcGRID format. The coordinate system for all geographic data layers shall be California Coordinate System State Plane, Zone VI (FIPS 0406), units = feet, North American Datum 1983.

### **3.3-1 Develop Biological Resources and Wetland Inventory Work Plan**

In coordination with the EOC, Panel, and regulatory agencies, the CONSULTANT shall identify data gaps and methods for filling these gaps to complete a Biological Resources and Wetlands Inventory Work Plan. The Work Plan will describe data needs and methods by which additional data will be obtained. The Work Plan will be developed with a clear understanding of end products, focusing on the gathering of information necessary for successful planning/environmental document completion and permit issuance. The following subtasks shall be conducted:

### **3.3-2 Develop Preliminary NCCP/HCP Conservation Goals**

#### *3.3-2a Define Preliminary Conservation Goals*

Preliminary conservation goals will be developed based on conservation principles identified by the Panel, which are typically general tenets or guidelines on habitat conservation and reserve design to determine what types of data are necessary and how alternative conservation strategies will be evaluated. The Resource Agencies (FWS, CDFG, ACOE, etc.) will coordinate to improve the initial biological goals once additional data is compiled and the conservation strategy takes shape. When developing these conservation goals, the CONSULTANT will take into consideration the need for the NCCP/HCP to be compatible with any 404 permitting process that may be developed concurrently or in the future.

#### *3.3-2b Determination of Existing Information and Identify Data Gaps*

Determine which existing information, including GIS data, should be used in the Biological Resources Inventory and Mapping. The CONSULTANT shall work

with the Resource Agencies to identify which information is appropriate for NCCP/HCP plan development and which data is necessary but currently lacking (data gaps). *Identification of data needs will also take into consideration compatibility with the 404 permitting process.*

The CONSULTANT will work closely with OCTA, the EOC, and the Panel to identify data gaps, which can be completed through incorporating information from other relevant environmental reports and studies.

The CONSULTANT shall develop methods for filling data gaps, including additional habitat mapping, biological surveys and/or ground truthing to be conducted, adding GIS data layers, and incorporation of data from existing reports and studies into the GIS database. The CONSULTANT shall identify target species that would be suitable and appropriate for predictive modeling.

### *3.3-2c Biological Resources Wetland Inventory Work Plan*

The CONSULTANT shall prepare Biological Resources Wetland Inventory Work Plan describing (a) categories of wetland, hydrology, soils, vegetation types, and land cover to be mapped; (b) protocol for any additional mapping and assessment to be conducted based on recent aerial photography, including specification of scale and resolution; (c) existing mapping of vegetation and species occurrences; (d) brief summaries of studies conducted to date; and (e) a description of additional studies to be conducted and outline of categories/characteristics of data to be included within inventories.

#### **Deliverables**

- Biological Resources and Wetlands Inventory Work Plan.

### **3.3-3 Biological Resources and Wetlands Data Inventory and Mapping**

The CONSULTANT shall be responsible for conducting additional studies and collecting additional data as identified in the Work Plan, and preparing a Biological Resources and Wetlands Inventory Report with associated Biological Resources Mapping and GIS data.

#### **Deliverables**

- Conduct additional studies and fill data gaps as identified in the Work Plan.
- Prepare draft and final Biological Resources and Wetlands Data Inventory and Mapping, incorporating newly compiled GIS data with original data .
- Prepare draft and final Biological Resources and Wetlands Inventory Report, incorporating summaries and results of all pertinent studies, and incorporating target species information. Provide information on NCCP/HCP target wildlife

and plant species, summarized in text, table, and graphic format. This will include all species point locality information (i.e., CNDDDB, etc.).

### **3.4 Task 4: Conservation Strategies Development**

*Purpose:* The CONSULTANT shall develop conservation strategies for protecting habitats and targeted species to a level required under FESA, CESA, and the NCCPA. The CONSULTANT shall also take into consideration the EOC's criteria for habitat restoration/acquisition/management, which are attached herein as Attachment C, D, and E, respectively.

Important requirements of the conservation strategy shall include:

- Ensuring the integrity of existing wildlife and stream corridors;
- Preserving species population, diversity and habitats;
- Protecting critical habitat for endangered, threatened and/or sensitive species;
- Improving ecosystem function and integrity;
- Increasing the contiguity of existing network of publicly and privately protected natural lands;
- Protecting keystone species;
- Connecting core habitat areas;
- Restoring habitats to enhance species recovery;
- Enhancing habitats to better meet species needs; and
- Minimizing impacts on species and habitats.

*Methodology:* Sections 3.4-1 to 3.4-10 provide an outline that shall be utilized in developing the conservation strategy for the Project.

#### **3.4-1 Develop Biological Goals and Objectives**

The CONSULTANT shall develop biological objectives related to the ecosystem, covered natural communities, and covered species. This section will also describe the processes used to develop the biological objectives.

#### **3.4-2 Approach to Conservation**

The CONSULTANT shall identify the approaches to the OCTA conservation strategy, which shall include:

- Near-Term Implementation – The approach to conservation over the course of the near-term phase.
- Long-Term Implementation – The general approach to conservation over the course of the long-term phase.

- Conservation Measures – A description of conservation measures that would be implemented in the near-term and long-term implementation phases.
- Science Strategy – A description of the general approach to incorporating science into the near-term and long-term implementation phases.

### **3.4-3 Conservation Concepts**

The CONSULTANT shall describe key conservation concepts that will be addressed in the conservation strategy, including:

- Habitat Protection, which involves the criteria for protecting important habitats.
- Physical Habitat Enhancement Concepts, which identifies key design concepts for enhancing the functions of existing habitats to benefit covered species and natural communities, and set out the criteria for identifying habitat areas suitable for enhancement.
- Habitat Restoration Concepts, which identifies key design concepts for restoring habitat for covered species.
- Other Conservation Concepts, including approaches to conserving covered species that are not habitat-related (i.e., control of non-native vegetation and avoidance/minimization of impacts).

### **3.4-4 Ecosystem Level Conservation Measures**

The CONSULTANT shall describe ecosystem level conservation measures that have been designed to improve the overall ecosystem conditions and physical and biological processes in the planning area. If needed, near-term and long-term implementation measures will be distinguished.

### **3.4-5 Natural Community Conservation Measures**

The CONSULTANT shall describe measures that would be undertaken to protect, enhance, and restore natural communities and their ecosystem functions. If needed, near-term and long-term implementation measures shall be distinguished.

### **3.4-6 Species-Specific Conservation Measures**

The CONSULTANT shall describe conservation measures that will be implemented specifically to benefit covered species, including the expected outcomes for each covered species after full implementation of the conservation measures.

### **3.4-7 Implementation Schedule**

The CONSULTANT shall describe the timeframe for implementing the conservation measures.

### **3.4-8 Monitoring and Research**

The CONSULTANT shall describe OCTA's commitments for implementing a monitoring program to provide the information and monitoring necessary to adaptively manage OCTA preserves.

### **3.4-9 Adaptive Management**

The CONSULTANT shall describe the components of the adaptive management program, including its purpose and scope.

### **3.4-10 Summary of the Approach to Minimization and Mitigation of Effects**

The CONSULTANT shall describe the approach under the NCCP/HCP to ensure that the effects of covered activities are minimized and mitigated to the maximum extent practicable, consistent with the requirements of section 10 of the ESA.

#### **Deliverables:**

- Conservation Strategy Plan, inclusive of a monitoring program.

## **3.5 Task 5: Assessment of Impacts and Level of Take**

*Purpose:* The impact assessment will estimate the impact to covered species as a result of the implementation of the NCCP/HCP, including the effect of covered activities. The analysis will consider the level of incidental take that is reasonably expected to occur within the planning area.

*Methodology:* The CONSULTANT shall address the potential effect of the covered activities involved with the 13 M2 freeway improvements. These potential effects are to be assessed for covered species, vegetation communities, jurisdictional wetlands and waters, etc. The assessment of impacts and level of take shall include the following:

- Regulatory context and environmental baseline, which provides the basis from which to identify impacts on covered natural communities and covered species.
- Impact assessment methods, which shall discuss the infrastructure construction and operations/maintenance, and implementation, inclusive of the methods used to conduct the impact assessment
- Impacts to covered natural communities of the covered activities, including the extent of each community that would remove and have impacts on ecosystems function.

- Impacts to the covered activities on each of the covered species and describes the estimated level of take. Potential impacts shall be assessed on the potential impacts on designated critical habitat in the planning area for each applicable species.
- Cumulative impacts to covered activities and the OCTA's NCCP/HCP conservation measures on covered species will be addressed.
- Indirect effects on listed species that are reasonably certain to be caused by the covered activities and conservation measures.

**Deliverables:**

- Impact and Level of Take Assessment.

**3.6 Task 6: Economic Analysis of Conservation Funding Mechanisms**

*Purpose:* The economic analysis will provide the framework for establishing a mechanism to analyze relative benefits of alternative conservation strategies as well as informing stakeholders of the financial benefits and costs of the plan. In turn, it will aid in the selection of the preferred conservation and funding strategies, and ultimately in the development of an implementation strategy via an agreement among the participating parties. The objectives of the economic analysis are to:

- Estimate the costs, both current and future, associated with each conservation strategy.
- Explore alternative funding options and strategies,
- Examine the effects of the plan on property values,
- Explore incentives available to encourage property owners to participate in the Project and help conserve habitat and species, and
- Determine the potential benefits of the Project relative to the mitigation of the 13 M2 projects in terms of efficiency, expense, and time.

*Methodology:* The CONSULTANT will articulate the results of Task 4, Conservation Strategies, in a manner that supports an economic analysis for planning-level estimates of land acquisition and restoration costs. The CONSULTANT shall estimate the approximate cost of plan implementation associated with the differing conservation alternatives and will include estimates of potential plan cost increases over time. Cost estimates will include land acquisition and restoration costs as well as operating, maintenance, and management costs. The CONSULTANT will estimate land values of properties of interest for acquisition. Land value estimates will consider such factors as distance from city and/or urban growth boundaries, zoning, "highest and best use(s)," regulatory requirements related to habitat values, topography/grade, etc.

**Deliverables:**

- Economic Analysis Plan.

### 3.7 Task 7: Alternatives to Take Considered and Rejected

*Purpose:* As required under the FESA, the NCCP/HCP will include an assessment of alternatives to the proposed taking of covered species and provide reasons why such alternatives are not being chosen.

*Methodology:* The “Alternatives Analyzed” section should include:

- Any specific alternative, whether considered before or after the NCCP/HCP process was begun, that would reduce such take below levels anticipated for the Project;
- A “no action” alternative, which means that no permit would be issued and “take” would be avoided or that the Project would not be constructed or implemented.

#### **Deliverables**

- Assessment of alternatives to the proposed taking of covered species.

### 3.8 Task 8: Implementation Approach and Structure

*Purpose:* This task will involve focused discussions with the EOC and the resource agencies regarding the implementation approach and structure for the Project. A plan for a governance, funding, and administration of plan shall be developed to identify the entity (ies) to assume responsibility for plan implementation and oversight.

*Methodology:* The CONSULTANT shall develop a schedule and plan for implementing all the elements of the NCCP/HCP, which includes, but is not limited to:

- Existing or new organization that could implement the conservation actions;
- The structure and role of the existing organization or new organization that is being created to implement the plan;
- The role of the local agencies, stakeholders, and the public in implementing the plan;
- The role of outside reviewers (i.e., financial auditors, regulatory agencies, scientists) in implementing the plan;
- The timeline for implementation;
- The process of implementing procedures at the local level to adopt provisions of the plan (i.e., implementing ordinance, general plan amendment, etc.);
- Database establishment and tracking procedure;

- Compliance monitoring and reporting requirements, which shall encompass all permit conditions, reporting procedures, and monitoring report contents to the regulatory agencies; and
- Standards and procedures for amending the plan or the permit.

As part of the Implementation Approach Plan, the CONSULTANT shall develop a funding strategy that can cover the costs of the plan implementation. The cost estimate should be broken down by acquisition, restoration, management, monitoring, and administration.

Potential funding sources shall include establishing a mitigation bank, in lieu fee program funding from state and federal grants, and local/regional partnerships. The benefits and drawbacks of each source based on statutory requirements, and previous successes in other NCCP/HCP shall be described. Supplemental funding strategies shall also be recommended to deal with potential cost increases over time, the uncertainty of funding from some sources, the need for NCCP/HCP start-up costs, and the annual nature of operations, management, and maintenance costs.

#### **Deliverables**

- Implementation Approach Plan, inclusive of schedule and funding strategy.

### **3.9 Task 9: Administrative/Committee Drafts for the NCCP/HCP**

The draft plan will undergo various review cycles before distribution for formal public input and comment.

*Methodology:* The CONSULTANT shall incorporate comments from foregoing groups to finalize the NCCP/HCP.

The CONSULTANT shall provide sufficient number of copies of the draft/final NCCP/HCP, including the management information to OCTA's Project Manager who will distribute the documents to participating agencies and for the public review.

#### **Deliverables**

- Administrative/Committee Drafts for the NCCP/HCP

### **3.10 Task 10: Master Streambed Alteration Agreement**

*Purpose:* Pursuant to Sections 1600 to 1607 of the Fish and Game Code, CDFG has jurisdiction over activities that affect the "bed, channel, or bank of any river, stream, or lake designated by the CDFG in which there is at any time an existing fish or wildlife resource, or from which these resources derive benefit." Section 1602(a) of the Streambed Act states that "an entity may not substantially divert or obstruct the natural

flow of, or substantially change or use any material from the bed, channel, or bank of, any river, stream, or lake.....unless” certain requirements are met including, for issuance of a final agreement that includes reasonable measures necessary to protect the resource, and the entity conducts the activity in accordance with the agreement.”

Under Fish and Game Code Section 1605(g), CDFG may enter into long-term agreements if certain conditions are met, including provisions for providing a status report addressing the topics identified in that subsection and provisions for department review and consultation regarding the status report.

*Methodology:* OCTA and CDFG will be entering into a Staffing Agreement, whereas CDFG will be provided additional staff sources for the Project. As part of this Staffing Agreement, CDFG will be drafting the Master Streambed Alteration Agreement (MSAA) related to this Project.

The CONSULTANT shall assist CDFG in drafting a MSAA based on information in the NCCP/HCP, EIR/EIS, and other relevant sources. This will be used to streamline CDFG review of future projects consistent with the provisions in the MSAA. Individual project proponents will be required to submit a formal project description to CDFG to ensure consistency with the MSAA.

**Deliverables:**

- Provide assistance to CDFG in drafting the MSAA.

**3.11 Task 11: CEQA and NEPA Documentation**

*Purpose:* A Joint Environmental Impact Report/Environmental Impact Statement (EIR/EIS) will be drafted to address the environmental considerations associated with the approval and implementation of the NCCP/HCP and MSAA.

*Methodology:* The EIR/EIS shall be prepared pursuant to NEPA (42 United States Code [USC] 4321; 40 Code of Federal Regulations [CFR] 1500.1; the President’s Council on Environmental Quality (CEQ) guidelines on implementing NEPA; and CEQA (Pub. Res. Code Sec.s 21000-21178.1).

For NEPA purposes and for preparation of the EIS, USFWS will serve as the lead agency. For CEQA purposes and preparation of the EIR, OCTA will serve as the lead agency. Actions to be addressed in the EIR/EIS are anticipated to include the following:

- Issuance of a federal Section 10(a)(1)(B) permit for incidental take of listed and unlisted covered species;
- Issuance of state authorization under Section 2835 of the State Fish and Game Code; and
- Approval of local actions of the various jurisdictions necessary for implementation of the NCCP/HCP.

### **3.11-1 Participation in Project Coordination Meetings**

The CONSULTANT, during active development of the environmental analysis and documents, shall participate in coordination meetings as needed with OCTA and the EOC's Working Group.

### **3.11-2 Draft Work Plan**

The CONSULTANT shall work with the EOC on approaches for analysis of the environmental issues to be addressed in the EIR/EIS. The CONSULTANT should also identify any governmental agencies or other parties whose input will be vital to the successful completion of the EIR/EIS.

A draft description of the Project and alternatives to be addressed in the EIR/EIS shall be prepared for review. The description of the Project and alternatives shall be based on information developed during the NCCP/HCP planning process and shall describe features of the Project and alternatives necessary to analyze environmental effects in the EIR/EIS as well as federal, state, and local actions to be addressed.

*It is the intention of OCTA and the EOC to present the all planning/environmental documents in their entirety at all public scoping meetings and hearings.*

#### **Deliverables:**

- Work Plan.

### **3.11-3 Draft Chapters of EIR/EIS**

The sections of the EIR/EIS shall include the following:

*Cover Sheet*, which shall include name of the lead agencies and cooperating agencies, title and location, name, address, and telephone number of the lead agencies contact persons, one paragraph abstract, date by which comments must be received and comment submittal information.

*Executive Summary*, which shall be written as a true summary of EIR/EIS impacts and findings, and shall meet the requirements of CEQA and NEPA.

#### *Table of Contents*

*Introduction*, which shall clearly direct the reader on how to find information in the EIR/EIS. The Introduction shall provide a brief overview of the study area, explain the roles of the CEQA and NEPA lead, responsible and cooperating agencies and the legal authorities guiding each, and explain the connection between the individual elements of the NCCP/HCP and the analysis in and conclusions of the EIR/EIS.

*Purpose and Need/Project Objectives*, which shall fulfill both the requirements of NEPA (Purpose and Need) and CEQA (Projective Objectives) and provide the basis for the action and for defining the range of feasible alternatives that are considered in the EIR/EIS. The purpose and need section shall describe the goals, purpose, and objectives of the USFWS in approving the proposed HCP, the CDFG in approving the NCCP, and the local jurisdiction in approving and implementing the NCCP/HCP. This section shall also describe the goals and objectives of participating agencies as implementing partners.

*Proposed Action and Alternatives*, which shall describe alternatives, including a no projects/no action alternative, required by CEQA and NEPA, and a no take alternative developed for the NCCP/HCP, which is a component of Task 7 within Section 3.7.

In accordance with NEPA, the CEQ, and CEQA regulations, both the EIR and EIS will present a reasonable range of alternatives. The alternatives may include, but not be limited to the proposed action, the no-project alternative (no regional take permit issued), a reduced-take alternative, and at least one additional conservation strategy alternative. Each alternative shall be clearly and concisely compared, and will lead to the reasoning for the inclusion in (or elimination from) further environmental evaluation.

Alternatives will be identified in consultation with USFWS, CDFG, and the ACOE and may include alternative funding mechanisms, different permit terms, different levels of conservation, or combinations of these scenarios. These alternatives will be analyzed at the same level of detail as the proposed action to fulfill the requirements of NEPA and allow for meaningful comparison of the impacts of the alternatives with those of the proposed actions. This section shall also include, as appropriate, text regarding alternatives considered but eliminated from detailed study.

*Affected Environment, Impacts, and Mitigation Measures*, which shall focus on resource issues related to habitat management. Each subsection shall include a description of the setting for each resource topic. The setting shall provide the baseline for comparison of the impacts from the proposed project/action. Each resource section shall include a concise description of the methodology used in the impact analysis and the standards used to determine whether an impact is significant. The standards of significance shall be based on guidance from USFWS, CDFG, and the ACOE. The methodology for development of mitigation measures shall also be described. The impact analysis shall address the direct, indirect, and cumulative impacts that will result from implementation of the plan.

Cumulative impacts will be assessed based on specific criteria for cumulative projects established at the outset of the analysis. The CONSULTANT shall propose, for review and approval by USFWS, CDFG, and the ACOE, a set of cumulative impact criteria.

*Other Analyses Required by CEQA and NEPA*, which shall focus on 1) any significant irreversible environmental changes that would be involved in the proposed action that will be implemented; 2) the relationship between short-term uses of the environment,

maintenance, and enhancement of long-term productivity; 3) significant unavoidable adverse impact; 4) growth inducing effects of the proposed actions; and 5) proposed project consistency with regional plans or other requirements.

*Growth Inducing and Cumulative Impact*, which shall detail the NCCP/HCP Study Area and effects of the proposed covered activities.

*List of Agencies and Organizations Consulted*

*List of Preparers*

*References*

*Appendices* (including glossary and index)

**Deliverables:**

- Copies of draft chapters/text: 15 bound paper copies and 5 CDs distributed to a pre-identified distribution list.

**3.11-4 Working Draft EIR/EIS**

After a review of the draft sections by OCTA staff and the EOC's Working Group, the CONSULTANT shall revised the sections based on the comments received and compile them into a working Draft EIR/EIS.

**Deliverables:**

- Copies of Working Draft EIR/EIS - 15 bound paper copies and 5 CDs distributed to a pre-identified distribution list.

**3.11-5 Administrative Draft EIR/EIS**

After review of the Working Draft EIR/EIS, the CONSULTANT shall revise the document based on the comments received and submit an Administrative Draft EIR/EIS for review and comments.

**Deliverables:**

- Copies of Administrative Draft EIR/EIS - 15 bound paper copies and 5 CDs distributed to a pre-identified distribution list

### **3.11-6 Preprint Draft EIR/EIS**

The CONSULTANT shall revised the Administrative Draft EIR/EIS based on comments received and submit a complete preprint copy of the Draft EIR/EIS for a final review and authorization to the EOC.

#### **Deliverables:**

- Copies of Pre-Print Draft EIR/EIS - 25 bound paper copies and 10 CDs distributed to a pre-identified distribution list.

### **3.12 Task 12: NCCP/HCP/MSAA EIR/EIS Public Review**

#### **3.12-1 Local, State, and Federal Notices**

The Notices of Availability, Preparation, and Intent (NOA/NOP/NOI) shall describe the Project and indicate the appropriate environmental analyses have been initiated to request comments from stakeholders and interested parties. An environmental checklist shall accompany the NOP/NOI. The CONSULTANT will send the NOA/NOP/NOI to stakeholders, elected officials, affected agencies, and other special interest groups on the project mailing list. The CONSULTANT will advertise the public notice for the scoping meetings in widely circulated newspapers (e.g., *Times Orange County Edition and Orange County Register*) and in a local Spanish and Vietnamese newspaper. The CONSULTANT shall coordinate with OCTA to ensure that the notices are properly posted (e.g., newspaper, mass mailers, State Clearinghouse, and the Federal Register). The CONSULTANT shall designate an individual (with concurrence by the OCTA Project Manager) as the main point of contact with interested parties during CEQA/NEPA public review process.

#### **3.12-2 Participation in Scoping Meetings and Public Hearings**

The CONSULTANT shall provide support to OCTA and take the lead on providing technical information and staff support on public hearings during the Project public review period.

In coordination and consultation with OCTA, the CONSULTANT will also be responsible for providing copies of the draft planning/environmental documents for review/comment at local city halls and libraries.

*Assumptions:* The CONSULTANT shall attend and actively participate in the following public meetings:

- Public scoping meetings and
- Public hearing on the Project.

OCTA will arrange for hearing rooms, provide related logistics and support staffing, and provide display easels for the public hearing exhibits.

The CONSULTANT shall prepare meeting/public hearing reports based on the results of the meetings and the letters of comments received in response to the NOA/NOI/NOP. The reports shall collate and summarize the comments received and will identify environmental issues and alternatives to be addressed in the Project that emerge from the scoping process.

**Deliverables:**

- Preparing notifications (e.g., newspapers advertisements) for the Project's public scoping meetings and hearings.
- Coordinating and providing technical information including handouts, visual displays and other materials for the public hearings.
- Documentation and gathering of public comments for the Project records.

**3.12-3 Response to Comments Matrix**

*Purpose:* To document the responses on comments on the Project.

*Methodology:* The CONSULTANT shall be responsible for maintaining documentation and providing the adequate response to internal and public comments on the Project and Draft EIR/EIS in a response to comments matrix. The matrix shall be provided to OCTA for review and concurrence prior to the release of the Final EIR/EIS.

*Deliverables:*

- Response to Comments Matrix.

**3.12-4 NCCP/HCP/MSAA EIR/EIS Decision Documents**

The CONSULTANT shall assist OCTA in preparation of CEQA decision documents (Findings; Statement of Overriding Considerations, if necessary; Mitigation Monitoring and Reporting Program; Notice of Determination [NOD]). The CONSULTANT shall assist USFWS in preparation of NEPA decision documents including Records of Decision (ROD).

**3.12-5 Public Review Draft NCCP/HCP/MSAA EIR/EIS**

The CONSULTANT shall prepare the Draft planning/environmental document, including any revisions from the pre-print review, and distribute to affected agencies and the public.

**Deliverables:**

- Copies of Pre-Print Draft planning/environmental document – up to 150 bound paper copies and 50 CDs distributed to a pre-identified distribution list.
- Post the Draft planning/environmental document on the dedicated website for download.

**3.12-6 Administrative Draft of Final NCCP/HCP/MSAA EIR/EIS**

The CONSULTANT shall revise the Draft planning/environmental document based on substantial comments received from the public during the public review period and prepare an Administrative Draft Final EIR/EIS, which will include the following:

- The completed planning/environmental document including Technical Appendices (as modified in response to comments received).
- Letters of comments and responses.
- Mitigation Monitoring Report (if required)

The CONSULTANT shall provide the Administrative Draft of the Final planning/environmental document to the EOC for review and comment in response to comments and input.

**Deliverables:**

- 25 bound paper copies and 10 CDs of the Administrative Draft Final of the planning/environmental document distributed to a pre-identified distribution list.

**3.12-7 Preprint Copy of Final NCCP/HCP/MSAA EIR/EIS**

The CONSULTANT shall prepare a preprint copy of the Final planning/environmental document for review by OCTA, EOC, T2020, and the Board of Directors' approval.

**Deliverables:**

- 75 bound paper copies and 25 CDs of the Preprint Final planning/environmental document distributed to a pre-identified distribution list.

**3.12-8 Prepare and Distribute Final NCCP/HCP/MSAA EIR/EIS**

The CONSULTANT shall finalize and distribute the Final planning/environmental document to those who commented on the Draft and interested parties.

**Deliverables:**

- up to 150 bound paper copies and 50 CDs of the Final planning/environmental document distributed to a pre-identified distribution list.
- Post the Final planning/environmental document on the dedicated website for download.

**3.12-9 Notice of Determination/Record of Decision (NOD/ROD)**

Upon approval of the Final planning/environmental document, the CONSULTANT shall prepare the NOD/ROD pursuant to CEQA/NEPA, respectively. The NOD/ROD shall indicate OCTA's and USFWS's decision to proceed and include responses to public comments generated during the Draft EIR/EIS public review period. The CONSULTANT is responsible for assisting OCTA and USFWS in posting the NOD with the State Clearinghouse as well as the ROD in the Federal Register.

## **Attachment A**

### **Mitigation and Resource Protection Program Oversight Committee Environmental Oversight Committee Committee Charter**

#### **Purpose**

Renewed Measure M (M2) provides for the allocation of at least 5 percent of net freeway program revenues (or \$243.5 million in 2005 dollars) for programmatic mitigation of freeway projects, subject to a Master Agreement between the Orange County Transportation Authority (OCTA) and state and federal resource agencies. The intent is to provide for comprehensive, rather than piecemeal, mitigation of the impacts of freeway projects and to do so in a way that results in high-value environmental benefits in exchange for streamlined project approvals and greater certainty in the delivery of the freeway program as a whole.

The Environmental Oversight Committee (EOC) makes recommendations to the OCTA Board of Directors regarding the allocation of revenues for programmatic mitigation and monitors the implementation of the Master Agreement.

#### **Line of Reporting**

The EOC will provide recommendations to the OCTA Board of Directors. Currently, all matters related to M2 are considered first by the OCTA Transportation 2020 Committee, a subcommittee of the OCTA, for recommendation to the full OCTA Board.

#### **Responsibilities**

The EOC provides advice on the development and implementation of programmatic mitigation of freeway projects under M2. Activities undertaken by the EOC may consist of the following:

- Inventory and assessment of freeway impacts.
- Inventory and assessment of mitigation opportunities.
- Review and provide input on funding opportunities, including M2 financing, matching funds and grant funding.
- Review and provide input on both the monetary and environmental value of property or other mitigation elements.
- Review and provide input on the Master Agreement.
- Monitor implementation of the Master Agreement, including acquisitions, management, operations and maintenance activities.

### **Membership**

The EOC shall consist of 12 members appointed by the OCTA Board of Directors as follows:

- Two members representing OCTA, one of whom shall serve as chairman;
- One member representing Caltrans;
- One member representing the California Department of Fish and Game;
- One member representing the United States Fish and Wildlife Service;
- One member representing the Army Corps of Engineers;
- One member representing the California Wildlife Conservation Board;
- One member representing the Measure M Taxpayers Oversight Committee;
- Two members representing non-governmental environmental organizations;
- Two members representing the public.

Members are expected to be able to devote at least 25 hours per year to Committee business. Alternates are not permitted.

### **Terms of Office**

Terms of office are three years with no term limitations.

### **Meeting Time and Location**

The committee meeting will take place on the first Wednesday of the month from 10 to 11:30 a.m. at the Orange County Transportation Authority, 600 South Main Street in Orange.

### **Selection of the Vice-Chair**

The Vice-Chair will be selected by the EOC from among its members.

### **Duration of Existence**

The EOC will continue throughout the duration of the implementation of the Master Agreement

**Attachment B**  
**Environmental Oversight Committee**  
**Roster**

**Chairman Patricia Bates**  
OCTA Board of Directors  
Orange County Supervisor, 5<sup>th</sup> District  
County of Orange

**Adam Probolsky**  
Chairman & CEO  
Probolsky Research

**Vice Chairman Melanie Schlotterbeck**  
Environmental Consultant  
Environmental Coalition that Supported Measure  
M

**Dan Silver**  
Executive Director  
Endangered Habitats League

**Cathy Green**  
OCTA Board of Directors  
Huntington Beach City Council Member  
City of Huntington Beach

**Jonathan Snyder**  
Wildlife Biologist  
US Fish and Wildlife Service

**Rose Coffin**  
OCTA Taxpayers Oversight Committee Member

**Debbie Townsend**  
Assistant Executive Director, Land  
Acquisition Program  
California Wildlife Conservation Board

**Mark Cohen**  
Senior Project Manager  
US Army Corps of Engineers

**Sylvia Vega**  
Deputy District Director,  
Environmental Division  
Caltrans, District 12

**Veronica Chan (alternate)**  
Project Manager  
US Army Corps of Engineers

**Erinn Wilson**  
Staff Environmental Scientist  
South Coast Region  
CA Department of Fish & Game

**Judy McKeehan**  
Environmental CONSULTANT

## ATTACHMENT C

### Renewed Measure M Property Acquisition Criteria

#### BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of sites for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential acquisitions.

- Aligns with Impacted Habitats**  
An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as coastal sage scrub, riparian woodlands, grasslands, etc.
- Conserves Sensitive Habitats**  
The property's habitat includes the conservation and possible restoration of species, sub-species, and natural communities ranked as sensitive under California Natural Diversity Database (CNDDB).
- Considers Property Acreage**  
Generally larger properties are better.
- Contains Target Species**  
The potential property includes the presence of endangered, threatened, species of special concern, and other sensitive species impacted by freeway projects.
- Considers the Threat of Development and Urgency**  
The evaluation considers where the landowner is in CEQA and other permitting processes, quantifies the degree of the development threat, and determines if this acquisition creates an opportunity for leveraging expiring conservation funding.
- Enhances Natural Lands Connectivity, including significant Wildlife Corridors**  
Acquisition of this property would connect to existing protected areas, examine the effects on multiple taxa (such as birds, large mammals) and could be identified as an essential habitat linkage in regional or local plans.
- Enhances Natural Lands Contiguity**  
The property borders existing open spaces and acquisition increases the amount of core habitat or reduces edge effects.

- Includes Species/Habitat Diversity**  
The property includes a wide variety of habitat types and species (including subspecies, if known). Special emphasis would be provided for properties with examples of various stages of vegetative structural diversity and functional ecosystem diversity present (e.g., habitat with a natural flood regime).
  
- Provides for Quality Habitat or Potential for Quality Habitat**  
The property includes mature habitats or property constraints are minimal and property has a high potential to support high-quality habitat after acquisition.

### **OTHER CRITERIA**

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

- Aligns with Resource Agency Priorities**  
The property is included on the DFG & USFWS's list of acquisition priorities.
  
- Includes a Cooperative Landowner**  
The landowner effectively coordinates with the entity responsible for acquisition to complete tasks required for acquisition.
  
- Includes Support from Local and State Governments**  
This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.
  
- Includes Support from the Community**  
This acquisition is supported by the public, environmental and community organizations.
  
- Utilizes Partnership & Leveraging Opportunities**  
Working on this acquisition would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

### **CO-BENEFITS**

The following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Watershed Protection
- Proximity to Underserved Area

- Scenic/Viewshed
- Trail Connectors
- Economic Benefits (supports local businesses)

## PROPERTY CONSTRAINTS

The following criteria are potential constraints to property acquisition, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

- Considers Cost**  
In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential acquisitions will be an important factor in selecting mitigation sites.
- Consider Conflicting Easements or Inholdings**  
The property may have restrictive deeds, easements, other agreements, and/or inholdings that would limit management/public use options.
- Considers Neighboring Land Uses**  
Neighboring land uses may decrease the habitat mitigation value of the mitigation property.
- Considers Other Complications**  
The property may have unidentified complications associated with acquisition and management including, vector control, vandalism, inadequate access, significant obstacles to restoring water quality (toxics, pesticides, salts), etc.
- Considers the extent of Isolation or Habitat Fragmentation**  
The property may be fragmented or isolated from other valuable habitats that may impede its long-term biological value. Fragmented or isolated habitats would make it challenging to have a variety of flora and fauna.
- Determines Hazardous Conditions**  
Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.
- Understands Management Encroachments**  
The property may have unauthorized users; there are adopted plans for future infrastructure that may be inconsistent with habitat mitigation; or the type and quantity of public use inside or adjacent to the property. (e.g. vegetative fuel modification zones are adjacent)

**ATTACHMENT D**

**Renewed Measure M Property Restoration Criteria**

**BIOLOGICAL ASSESSMENT CRITERIA**

The following criteria are intended to guide the permitting/resource agencies in the recommendation of restoration for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential restoration projects.

**Benefits Targeted Species**

The potential restoration site includes a net benefit (both immediate and long term) in the ecological value for target species through increased breeding/foraging habitat and increases connectivity between areas of suitable habitat.

**Considers the Threat of Habitat Degradation and Urgency**

The threat of increasing the amount and coverage of non-native species determines restoration urgency, and there may be unique opportunities for restoration, such as burn areas.

**Enhances Natural Lands Contiguity**

Restoration of this site will limit edge effect, supplement existing open space and improve the quantity and quality of core habitat.

**Enhances of Already Conserved Lands for Habitat and Wildlife Connectivity**

Allows funding of restoration and management endowments on previously conserved lands to benefit species and wildlife connectivity in situations deemed appropriate by the permitting/resource agencies.

**Evaluates Adequacy of Protection and Management**

The existing level of protection, anticipated public use inside and adjacent to the restoration site should be considered.

**Restores Impacted Habitats**

An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as: coastal sage scrub, riparian woodlands, grasslands, etc. and possibly includes ties to historical land coverage.

**Restores Sensitive Habitats**

The property's habitat restoration includes the restoration of species, sub-species, and natural communities ranked as sensitive under CNDDDB (California Natural Diversity Database).

## **OTHER CRITERIA**

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

**Aligns with Resource Agency Priorities**

Proposed restoration meets resource agencies' particular requirements (e.g., the restoration satisfies the agencies' (ACOE, RWCB, and DFG) definition of habitat creation for the purposes of no-net loss policies for wetlands) and/or is determined to otherwise benefit fish and wildlife resources and the habitats upon which they depend.

**Includes Support from Local and State Governments**

This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.

**Includes Support from the Community**

This acquisition is supported by the public, environmental and community organizations.

**Utilizes Partnership & Leveraging Opportunities**

Working on this restoration project would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

## **CO-BENEFITS**

Where applicable, the following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Watershed Protection
- Proximity to Underserved Area
- Scenic/Viewshed/Enhanced recreation experience
- Economic Benefits (supports local businesses)
- Public Access
- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Trail Connectors

## RESTORATION CONSTRAINTS

The following criteria are potential constraints to restoration, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

- Considers Cost**  
In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential restoration will be an important factor in selecting mitigation sites.
- Determines Hazardous Conditions**  
Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.
- Includes Access to Site**  
The restoration site is accessible for restoration work, maintenance and management.
- Includes Availability and Delivery of Water**  
The water used for the restoration is available, does not increase environmental impacts when delivered to the site and works with local water agencies to ensure groundwater sources are not impacted by water withdrawal.

**ATTACHMENT E**

**Draft Criteria for Allocation of Measure M Funding for Property and Habitat Management**

Endowments will be provided through Measure M funding for long term management of the acquired and restored properties. The amount of funding provided will be determined in each case through the preparation of Property Analysis Record (PAR) or an equivalent method. A PAR analysis involves application of a computer database methodology developed by the Center for Natural Lands Management for estimating the required amount for endowments. Every effort will be made to work with partners to leverage the available Measure M funding to accomplish the necessary long-term management of acquired and restored habitat.

**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.

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

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 \_\_\_\_\_

## LEVEL 1 SAFETY SPECIFICATIONS

**APPLICATION** - Level 1 Safety Specifications apply to contracts as determined by the Authority, including subcontracts, with consultants that are entered into by and between the Authority or in the case of subcontracts, that arise out of a contract entered into by the Authority. The scope of these contracts require the contractor or consultant to manage recognized hazards with a potential of injury or property damage and may require routine unescorted access to Authority property, and including, but not limited to, work in and around maintenance areas, shop and bus base areas, on-board buses, highways, rail construction sites.

Examples of Level 1 scopes of work may include, but are not limited to, performing engineering, design or oversight tasks, audits or inspections and similar activities.

### COMMODITY CODES

Safety specifications for the codes that follow generally apply to contracts that require work on Authority property or Authority controlled projects. Those exempt are generally delivery of parts or materials and some office services.

The following are **generally exempt** from safety specifications: Equipment, Parts, Rental, Supplies, Employment Services

200-1990	5330	5940-5970
2420-2890	5330	6150
5320	5560	

The following generally requires **Level 1** Safety Specifications

5920-5930	6410	6580-6700	6760-6770	6950-7100
5980	6550-6560	6715-6740	6790-6930	7120-8680

## PART I – GENERAL

### 1.1 GENERAL HEALTH, SAFETY & ENVIRONMENTAL REQUIREMENTS

- A. The Consultants, its sub-tier Consultants, suppliers, and employees have the obligation to comply with all Authority HSEC policies, as well as all federal, state, and local regulations pertaining to scope of work, contracts or agreements with the Authority. Additionally, manufacturer requirements are considered incorporated by reference as applicable to this scope of work.
- B. Observance of repeated unsafe acts or conditions, serious violation of safety standards, non-conformance of Authority health, safety and environmental compliance (HSEC) requirements, or disregard for the intent of these safety specifications to protect people and property, by Consultants or its sub-tier contractors may be cause for termination of scope, contracts, or agreements with the Authority, at the sole discretion of the Authority.
- C. The health, safety, and environmental requirements, and references contained within this scope of work shall not be considered all-inclusive as to

the hazards that might be encountered. Safe work practices shall be planned and performed, and safe conditions shall be maintained during the course of this work scope.

- D. The Authority Project Manager shall be responsible to ensure a safety orientation is conducted for all Consultant personnel, sub-tier Consultants, suppliers, vendors, and new employees assigned to the project prior to commencement of the project.
- E. The Consultant shall ensure that all Consultant vehicles, including those of its sub-tier Consultants, suppliers, vendors and employees are parked in designated parking areas, and comply with traffic routes, and posted traffic signs in areas other than the employee parking lots.
- F. California Code of Regulations (CCR) Title 8 Standards are minimum requirements, each Consultant is encouraged to exceed minimum requirements. When the Consultant safety requirements exceed statutory standards, the more stringent requirements shall be achieved for the safeguard of public and workers.

## 1.2 HAZARD COMMUNICATION

- A. Consultant shall comply with CCR Title 8, Section 5194, Hazard Communication Standard. Prior to use on Authority property and/or project work areas Consultant shall provide the Authority Project Manager copies of MSDS for all chemical products used if any.
- B. All chemicals including paint, solvents, detergents and similar substances shall comply with South Coast Air Quality Management District (SCAQMD) rules 103, 1113, and 1171.

## 1.3 ACCIDENT INVESTIGATION

- A. The Authority shall be promptly notified of any damage to the Authority's property, or incidents involving third party property damage, or reportable and/or recordable injuries (as defined by the U. S. Occupational Safety and Health Administration) to Authority employees and agents; Contractor, vendor employees or visitors and members of the general public that occurs or arises from the performance of Authority contract work. A comprehensive investigation and written report shall be submitted to Authority's Project Manager within 24 hours of the incident.
- B. A serious injury or incident may require a formal incident review at the discretion of the Authority's Project Manager. The incident review shall be conducted within 7 calendar days of the incident. The serious incident presentation shall include action taken for the welfare of the injured, a status report of the injured, causation factors leading to the incident, a root cause analysis, and a detailed recovery plan that identifies corrective actions to prevent a similar incident, and actions to enhance safety awareness.

1.4 PERSONAL PROTECTIVE EQUIPMENT

- A. The Consultant, its sub-tier Consultants, suppliers, and employees are required to comply with the Authority's personal protective equipment (PPE) policy while performing work at any Authority facility, i.e. eye protection policy, hearing protection policy, head protection, safety vests, work shoe policy.
- B. The Consultant, its sub-tier Consultants, suppliers, and employees are required to provide their own PPE, including eye, head, foot, and hand protection, safety vests, or other PPE required to perform their work safely on Authority projects. The Authority requires eye protection on construction projects and work areas that meet ANSI Z-87.1 Standards.

END OF SECTION



## ATTACHMENT B

September 28, 2009

### **Evaluation Criteria – Approval to Release Request for Proposals for Preparation of a Natural Community Conservation Plan/Habitat Conservation Plan/Master Streambed Alteration Agreement (NCCP/HCP/MSAA) Joint Programmatic Environmental Impact Report/Environmental Impact Statement (EIR/EIS)**

The following evaluation criteria weighting will be used to rate proposals received in response to a Request for Proposal (RFP) for this purpose.

#### Qualifications of the CONSULTANT Team – 30 percent

Technical experience in evaluating and preparing NCCP/HCP/MSAA, EIR/EIS, and technical studies for multi-jurisdictional transportation projects. This includes but are not limited to expertise in the following environmental and engineering disciplines: biology, ecology, community impacts, cultural resources, floodplain, Sections 4(f) and 6(f), water quality, drainages, land use, and growth inducement and cumulative impacts. Experience in dealing with multiple private and quasi-private entities, and public agencies; strength and stability of the firm; strength, stability, experience and technical competence of subcontractors, if any.

CEQA/NEPA public involvement experience in dealing with controversial transportation and land use projects. The CONSULTANT shall take the lead in the CEQA/NEPA public involvement process.

#### Staffing and Project Organization – 35 percent

Qualifications of project staff, particularly key personnel and especially the Project Manager and Environmental Task Manager; key personnel's level of involvement in performing related work cited in "Qualifications of the CONSULTANT Team" section; logic of project organization; adequacy of labor commitment; concurrence in the restrictions on changes in key personnel. Qualifications of sub-consultants and their key personnel.

#### Work Plan – 35 percent

Depth of Offeror's understanding of Authority, Caltrans/FHWA, and resource agencies' policies and 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. The work plan shall also clearly and concisely lay out the CONSULTANT'S approach on

preparing the NCCP/HCP/MSAA and environmental document in a timely manner taking into account the various layers of approvals required by Authority, Caltrans, and resource agencies.