



# AGENDA

## Orange County Council of Governments Board of Directors' Regular Meeting

Orange County Transportation Authority Headquarters  
First Floor – Conference Room 103/104  
600 South Main Street, Orange, California  
**Thursday, October 22, 2009, 10:30 a.m. to 12:00 p.m.**

### **Board Members**

Cheryl Brothers, Chair, District 15 Alternate  
Mark Waldman, Vice Chair, OCSD  
Paul Glaab, District 12  
Richard Dixon, District 13  
Beth Krom, District 14  
Michele Martinez, District 16  
John Nielsen, District 17  
Leroy Mills, District 18  
Robert Hernandez, District 19  
Andy Quach, District 20  
Sharon Quirk-Silva, District 21  
John Beaman, District 22

Gil Coerper, District 64  
Bob Ring, Cities At-Large  
John Moorlach, County At-Large  
Phil Anthony, ISDOC  
Peter Herzog, OCD, LOCC  
Arthur Brown, OCTA  
Chris Norby, SCAG – County Representative  
Bill Campbell, SCAQMD – County Representative  
Bert Hack, TCA  
***Vacant***, University Representative  
Kristine Thalman, Private Sector

Agenda descriptions are intended to give notice to members of the public by providing a general summary of items of business to be transacted or discussed. The listed Recommended Action represents staff's recommendation. The Board of Directors may take any action which it deems appropriate on the agenda item and is not limited in any way by the recommended action.

### **Call to Order**

Chair Brothers

### **Oath of Office**

Clerk of the Board

### **Roll Call**

Clerk of the Board

### **Pledge of Allegiance**

Chair Brothers

### **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 which are not separately listed on this agenda. Members of the public will have an opportunity to speak on agendized items at the time the item is called for discussion. No action may be taken on items not listed on the agenda unless authorized by law. Comments shall be limited to three minutes per person and an overall time limit of twenty minutes for the Public Comments portion of the agenda.

# AGENDA

## Orange County Council of Governments Board of Directors' Regular Meeting

Any person wishing to address the Board on any matter, whether or not it appears on this agenda, is requested to complete a "Request to Speak" form available at the door. The completed form is to be submitted to the Clerk of the Board prior to an individual being heard. Whenever possible, lengthy testimony should be presented to the Board of Directors in writing and only pertinent points presented orally.

### **Consent Calendar (Item 1)**

All matters listed under the Consent Calendar are routine and will be enacted by one vote without separate discussion unless Members of the Board, the public, or staff request specific items be removed for separate action or discussion.

- 1. Approval of Minutes for the September 24, 2009, Meeting of the OCCOG Board of Directors**  
Allison Cheshire

Recommended Action: Approve the Minutes of the regular meeting of September 24, 2009, as presented or as amended.

### **Discussion Items**

- 2. SB 375/Sustainable Communities Strategy Planning Discussion**  
Hasan Ikhata, SCAG Executive Director

Recommended Action: Receive and file.

- 3. Legal Services Agreement with Aleshire & Wynder, LLP**  
Kristine L. Murray, OCCOG Executive Director

Recommended Action: Authorize the Chair to approve and execute an agreement between the Orange County Council of Governments and Aleshire & Wynder, LLP, for legal services.

- 4. Appointment to the San Diego Association of Governments (SANDAG) Borders Committee**  
Cheryl Brothers, Chair

Recommended Action: Receive nominations and select replacement.

# AGENDA

## Orange County Council of Governments Board of Directors' Regular Meeting

### Reports

5. **Report from OCCOG Board Chair**  
Chair Brothers

Recommended Action: Receive and file.

6. **Report from OCCOG Executive Director: Status of Cooperative Agreements for Administrative Services and SB 375 Planning Requirements Agreements**  
Kristine L. Murray

Recommended Action: Receive and file.

7. **Report from OCCOG TAC Chair**  
Marika Modugno, City of Irvine

Recommended Action: Receive and file.

8. **Proposed Rule 2301 Update: Control of Emission from New or Redevelopment Projects**  
Tracy Sato, City of Anaheim

Recommended Action: Receive and file.

9. **Matters from Board Members**

10. **Matters from Member Agencies**

11. **Matters from Staff**

12. **Adjournment**

The next regularly scheduled meeting of this Board will be held from **10:30 a.m. to 12:00 p.m. on Thursday, November 19, 2009**, at the Orange County Transportation Authority Headquarters. **Please note special meeting date due to the upcoming holiday.**



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**

**MINUTES OF THE REGULAR MEETING  
OF THE BOARD OF DIRECTORS  
September 24, 2009**

**CALL TO ORDER**

The regular meeting of the Orange County Council of Governments was called to order by Chair Brothers at 10:40 a.m. on Thursday, September 24, 2009, at the Orange County Transportation Authority Headquarters, 600 South Main Street, Conference Room #103/104, Orange, California.

**ROLL CALL**

**BOARD MEMBERS PRESENT**

Cheryl Brothers, Chair, District 15 Alternate  
Paul Glaab, SCAG – District 12  
Phil Tsunoda, District 12 Alternate  
Richard Dixon, District 13  
Michele Martinez, District 16  
John Nielsen, District 17  
Leroy Mills, District 18  
Bob Hernandez, District 19  
Sharon Quirk-Silva, District 21  
Gil Coerper, District 64  
Bob Ring, Cities At-Large  
John Moorlach, County At-Large  
Art Brown, OCTA  
Bert Hack, TCAs  
Peter Herzog, OCD, LOCC  
Kristine Thalman, Private Sector

**BOARD MEMBERS ABSENT**

Mark Waldman, Vice Chair, OCSD  
Beth Krom, District 14  
Leslie Daigle, District 15  
Andy Quach, District 20  
John Beaman, District 22  
Phil Anthony, ISDOC  
Chris Norby, SCAG – County Representative  
Bill Campbell, SCAQMD County Representative

**VACANT**

University Representative

**STAFF PRESENT**

Kristine L. Murray, Executive Director  
David Simpson, Local Government  
Andrea West, OCTA Local Government  
Jason Silver, OCTA Local Government  
Wendy Knowles, OCTA Clerk of the Board  
Allison Cheshire, OCTA Deputy Clerk of the Board  
Marika Modugno, TAC Chair

**PLEDGE OF ALLGIANCE**

The pledge of allegiance was led by Board Member Leroy Mills.

**PUBLIC COMMENTS**

No public comments were offered.

## **Consent Calendar**

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

**1. Approval of Minutes for the August 27, 2009, Meeting of the OCCOG Board of Directors**

Board Member Moorlach pulled this item to indicate that he voted in opposition to Item 2 on Page 5 of the document.

A motion made by Board Member Moorlach, seconded by Board Member Brown, and declared passed by those present, to approve the minutes of the regular meeting of August 27, 2009.

**1a. Urgency Matter: Nomination of Replacement Member to Southern California Association of Governments Community, Economic and Human Development Committee**

A motion was made by Board Member Dixon, seconded by Board Member Coerper, to forward the nomination of Alan Songstad as an OCCOG Subregional Representative to the Southern California Association of Governments Community, Economic and Human Development Committee and direct staff to transmit the recommended nomination to SCAG's Regional Council President for consideration and appointment as an OCCOG Subregional Representative.

## **Discussion Items**

**2. Amended Cooperative Agreement No. C-9-0497 with the Orange County Transportation Authority for SB 375 Planning Requirements**

Kristine Murray, OCCOG Executive Director, commented that Southern California Association of Governments (SCAG) has opined that it is a local determination as to how OCCOG and OCTA choose to structure any planning requirements.

Ms. Murray provided an overview of SB 375 and commented that the bill allows, but does not require, for subregions to work in a cooperative manner to take subregional delegation and conduct a Sustainable Communities Strategy (SCS). It is entirely up to OCCOG and OCTA to determine how the agreements are structured.

A redlined version of the Cooperative Agreement between OCCOG and OCTA was presented for consideration by the Board. The agreement would require OCTA and OCCOG to jointly adopt the subregional SCS. The amended version also eliminates the requirement of a two-thirds vote by the OCCOG Board of Directors to reject the subregional SCS, as prepared and adopted by the OCTA.

**2. (Continued)**

Brian Fisk, Planning and Development Manager, City of Irvine, in reference to a letter submitted by Beth Krom, City of Irvine, outlined Board Member Krom's concerns regarding the Cooperative Agreement.

Board Member Dixon commented that SCAG will not change the SCS and will accept as-is.

Deborah Diep, representing the Center for Demographic Research (CDR), commented that the Southern California Association of Governments Community, Economic and Human Development Committee process was always intended to be collaborative. CDR will work with SCAG in order to not duplicate work performed.

Ms. Murray commented that SCAG is still interested in working with local subregions to conduct an SCS.

Board Member Dixon commented that OCCOG does not have any funds to develop an SCS and would have access to funds when partnered with OCTA. SCAG intends to reimburse those funds as they become available. Member Dixon also commented that OCTA Chairman Peter Buffa feels strongly that a two-thirds vote should be included.

Fred Galante, General Counsel, commented that the two-thirds vote would apply to the disapproval of the SCS.

A discussion ensued among Members regarding concern for the ability to assemble enough Members at a meeting to meet a two-thirds vote requirement.

Dennis Wilburg, City of Mission Viejo, commented that the agreement does not make the decision on whether or not OCCOG accepts delegation.

Chair Brothers commented that once the work plan is drawn, all questions and comments will be addressed, and it is likely that no one will be pleased with the plan, but the plan needs to be fair, equitable, and compliant.

Ms. Murray reiterated that the administrative services agreement is contingent upon concurrent adoption of the SCS planning agreement.

Board Member Glaab expressed concern with eliminating the two-thirds vote requirement.

Board Member Herzog commented that a majority vote by members should be adequate and expressed concern that a two-thirds vote defeats the cooperative process.

**2. (Continued)**

Will Kempton, OCTA Chief Executive Officer, commented that a number of members of the OCTA Board of Directors have concern with the changes recommended to the SCS planning agreements and its tie to the administrative services agreement.

Ms. Murray commented that the grant federal money was included in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users through an earmark that OCTA helped to procure, and OCTA is the only authorized federal grant recipient in the County. The funds are to be used for regional planning in the County and will be used for that purpose regardless of whether or not an agreement between OCTA and OCCOG is reached. OCTA would have to receive the funds on behalf of OCCOG regardless of who is administering the SCS.

A motion was made by Board Member Glaab, seconded by Board Member Hernandez, to include the two-thirds vote requirement language. Member Coerper voted in agreement to the motion. Members Brothers, Brown, Dixon, Hack, Moorlach, Nielsen, Quirk-Silva, and Ring voted in opposition to the motion.

A substitute motion was made by Board Member Martinez, seconded by Board Member Mills, and declared passed by those present, to authorize the Chair to approve the cooperative agreement between Orange County Transportation Authority and the Orange County Council of Governments for SB 375 Planning Requirements as presented.

Members Brothers, Brown, Dixon, Hack, Moorlach, Nielsen, Quirk-Silva, and Ring, voted in agreement with the motion.

Members Coerper, Glaab, and Hernandez, voted in opposition to this item.

**3. Water Legislation Update – Delta Package**

Kristine Murray, Executive Director, provided an overview of recent water legislation discussions. Per several members of the Orange County Delegation, the issue will be addressed prior to the special session. Staff will continue to monitor this item and report back once a package is finalized.

Board Member Hack expressed concern for lack of attention to export water.

Ms. Murray commented that the Metropolitan Water District (MWD) is in favor of the policy arrangement that was presented and export water was addressed but financing is still an issue. A letter from MWD has been circulated to all the cities.

**3. (Continued)**

Chair Brothers commented that the League of Cities has also distributed a sample resolution to all the cities.

No action was taken on this receive and file item.

**Reports**

**4. Report from OCCOG Board Chair**

Chair Brothers reminded Members to notify the Clerk of the Board of any corrections to email addresses for the purpose of agenda distribution.

No action was taken on this receive and file item.

**5. Report from OCCOG Executive Director: Update on SB 375/RTAC Activities**

OCCOG Executive Director, Kristine L. Murray, reported that the Regional Targets Advisory Committee is due to report to the Air Resources Board by September 30, regarding the methodologies for setting targets

No action was taken on this receive and file item.

**6. Report from OCCOG TAC Chair**

Marika Modugno, City of Irvine, referenced the staff report in the agenda, adding that there was nothing further to report.

No action was taken on this receive and file item.

**7. Proposed Rule 2301: Control of Emission from New or Redevelopment Projects**

Tracy Sato, City of Anaheim, provided an update on Proposed Rule 2301. Over the summer, PR 2301 had been placed on hold in order to coordinate with SB 375. The Air Quality Management District (AQMD) has scheduled a meeting for the stakeholders on October 28, 2009, however, AQMD has not yet finalized their recommended revisions to the rule as well as the guidance document.

Chair Brothers requested that all cities and OCCOG agencies be notified of future meetings.

No action was taken on this receive and file item.



# ***MINUTES***

## ***Board of Directors Meeting***

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### **8. Matters from Board Members**

Board Member Hernandez encouraged Members to attend the Disabilities Housing Forum in Anaheim on October 14, 2009.

### **9. Matters from Members Agencies**

No reports were offered.

### **10. Matters from Staff**

No reports were offered.

### **11. Adjournment**

The meeting was adjourned at 12:15 p.m. The next regularly scheduled meeting of this Board will be held from **10:30 a.m. to 12:00 p.m. on Thursday, October 22, 2009**, at the Orange County Transportation Authority Headquarters.

ATTEST

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Allison Cheshire  
OCTA Deputy Clerk of the Board

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Cheryl Brothers  
OCCOG Chair



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**

**October 22, 2009**

**STAFF REPORT**

**Subject:** **SB 375 / Sustainable Communities Strategy Planning Discussion**

**Summary:** Hasan Ikhata, Executive Director of SCAG, will provide an overview of SCAG's collaborative process for the Sustainable Community Strategy required by SB 375.

**Recommendation:** Receive and file.

**Staff Contact:** Kristine L. Murray  
714/560-5908  
KMurray@octa.net



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**

**October 22, 2009**

**STAFF REPORT**

**Subject:**                   **Legal Services Agreement with Aleshire & Wynder, LLP**

**Summary:**               The legal firm of Aleshire & Wynder (A&W) has provided pro bono legal services for the Orange County Council of Governments since October 2001. Throughout this time period, Mr. Fred Galante has served as legal counsel and has provided countless hours of legal service and guidance to OCCOG board members, staff and consultants. He has been a trusted advisor and brings a wealth of expertise representing local government.

With the revised Joint Powers Authority and bylaws changes, implementing a dues structure for OCCOG, and with the expanded scope of work that will be conducted by the OCCOG for SB 375 planning, it is recommended that a fee agreement should be entered into with Mr. Galante. As the concept of implementing dues from member agencies was discussed with various Orange County stakeholders, specifically the Orange County City Managers Association, support for paid legal services was part of the administrative costs discussed and supported.

As outlined in the attached agreement, it is anticipated that OCCOG legal services would include: attending meetings of the OCCOG Board and other boards and bodies of the OCCOG or affiliated agencies as directed by the OCCOG Board or Executive Director, reviewing resolutions, contracts, and generally advising the OCCOG Board and OCCOG staff concerning all legal affairs of the OCCOG.

A&W, as a full-service public law firm, is prepared to, and will, provide representation to the OCCOG in all of its legal affairs, including, but not limited to, regional issues, land use, environmental, housing, finance, contracts and other matters, except where conflicts exist or where the OCCOG Board may otherwise direct. The General Counsel shall represent the OCCOG in initiating and defending all litigation unless otherwise directed by the OCCOG Board.

Legal services provided by A&W would be billed at \$180 per hour and may only be authorized by the OCCOG Board or Executive Director.

**Recommendation:** Authorize the Chair to approve and execute an agreement between the Orange County Council of Governments and Aleshire & Wynder, LLP for legal services.

**Attachments**      Orange County Council of Governments General Counsel Fee Agreement

**Staff Contact:**      Dave Simpson  
714/560-5570  
DSimpson@octa.net

## ORANGE COUNTY COUNCIL OF GOVERNMENTS

### GENERAL COUNSEL FEE AGREEMENT

This GENERAL COUNSEL FEE AGREEMENT (the "Agreement") is entered into on this 24<sup>th</sup> day of September, 2009, by and between the law firm of ALESHIRE & WYNDER, LLP ("A&W"), and the ORANGE COUNTY COUNCIL OF GOVERNMENTS ("OCCOG").

#### 1. A&W's SCOPE OF WORK & DUTIES

OCCOG hereby engages A&W, by Fred Galante, Esq., as a General Counsel to render such legal services as are customarily rendered by a general counsel, including attending meetings of the OCCOG Board and other boards and bodies of the OCCOG or affiliated agencies as directed by the OCCOG Board or Executive Director. Representation shall include, but not be limited to, reviewing resolutions, contracts, recommending, reviewing and overseeing the hiring and supervising of any and all other attorneys employed by the OCCOG to perform legal work on any litigation or other matter, consulting with or advising OCCOG staff on legal issues which arise within their areas of operation, and generally advising the OCCOG Board and OCCOG staff concerning all legal affairs of the OCCOG.

A&W, as a full-service public law firm, is prepared to, and will, provide representation to the OCCOG in all of its legal affairs, including, but not limited to, regional issues, land use, environmental, housing, finance, contracts and other matters, except where conflicts exist or where the OCCOG Board may otherwise direct. The General Counsel shall represent the OCCOG in initiating and defending all litigation unless otherwise directed by the OCCOG Board.

All of these duties shall be performed, as directed by the OCCOG Board, and the General Counsel will keep the OCCOG informed as to the progress and status of all pending matters. Finally, the General Counsel is expected to manage, control and oversee the delivery of legal services in a competent and professional manner. Notwithstanding any other provision in this Agreement, any legal services may only be authorized by the OCCOG Board or Executive Director.

#### 2. OCCOG DUTIES

OCCOG agrees to provide such information, assistance, cooperation, and access to books, records, and other information, as is necessary for A&W to effectively render legal services under this Agreement. OCCOG further agrees to abide by this Agreement, and to timely pay A&W's invoices, as defined in Section 6 below. Nothing in this Section, or any other part of this Agreement, shall be construed in any manner as limiting the ultimate and ***absolute discretion*** of OCCOG, at any time, to assign or reassign legal matters of OCCOG from or to A&W.

### **3. LEGAL FEES, BILLING PRACTICES & PERSONNEL**

A&W's fees will be charged on an hourly basis for all time actually expended. The compensation schedules are set forth in Exhibits "A" and "B" attached hereto and incorporated herein by this reference. Blended rates are computed based upon the hours of service irrespective of the rate of the attorney. Blended rates are also shown for legal assistants.

### **4. BOND OR FINANCIAL SERVICES**

Bond or Financial Services shall mean those situations where A&W acts as Bond Counsel for OCCOG with regard to the issuance of securities by OCCOG. A&W shall be compensated for Bond or Financial Services on a flat fee non-contingent basis of Three Hundred Dollars (\$300) per hour or on a contingent finance option as shown on Exhibit "A". The choice of options shall be solely at the choice of OCCOG. OCCOG may retain independent counsel to review any proposed issue.

### **5. COSTS AND OTHER CHARGES**

A&W may incur various costs and expenses in rendering the legal services required by this Agreement which, if customary and necessary for the performance of legal services hereunder, shall be reimbursable by OCCOG. These costs and expenses are described in more detail in Exhibit "B". OCCOG agrees to reimburse A&W for these costs and expenses in addition to the hourly fees for legal services. Reimbursable costs shall not include any overhead or administrative charge by A&W or A&W's cost of equipment or supplies except as provided herein.

If A&W determines that retention of an outside investigator, consultant, or expert is necessary to render the legal services required (particularly if a matter goes into litigation), A&W shall request approval from the OCCOG to retain the outside investigator, consultant or expert. The OCCOG shall not be liable for any fees or costs associated with the outside investigator, consultant or expert until the OCCOG consents in writing to the retention.

The cost and expenses referred to herein include certain travel expenses; transportation, meals, and lodging; when incurred on behalf of the client. Generally, except in connection with litigation (travel costs to court and for discovery are chargeable), these will only be charged when outside of the area.

Finally, periodically, when on-site, A&W personnel may be required to make local and long-distance telephone calls, or make photocopies, or incur other expenses on behalf of the OCCOG as well as other clients. A&W will not be charged for such expenses and, in exchange, will not charge the OCCOG for calls made from our office or other locations to the OCCOG.

### **6. STATEMENTS AND PAYMENT**

A&W shall render to OCCOG a statement for fees, costs, and expenses incurred on a periodic basis (generally monthly). Such statement(s) shall indicate the basis of the fees, including the hours worked, the hourly rate(s), and a brief description of the work performed.

Separate billing categories can be established to track costs associated with OCCOG funding categories or to track project costs, or such other basis as the OCCOG may direct. Reimbursable costs shall be separately itemized.

Payments shall be made by OCCOG within thirty (30) days of receipt of the statement, except for those specific items on an invoice which are contested or questioned and are returned by OCCOG with a written explanation of the question or contest, within thirty (30) days of receipt of the invoice. Payments made more than thirty (30) days after the due date shall draw interest at the legal rate.

## **7. PROHIBITION AGAINST SUBCONTRACTING OR ASSIGNMENT**

The experience, knowledge, capability and reputation of A&W, its partners, associates, and employees, were a substantial inducement for OCCOG to enter into this Agreement. Therefore, A&W shall not contract with any other person or entity to perform, in whole or in part, the legal services required under this Agreement without the written approval of the OCCOG's Executive Director or Board.

## **8. INDEPENDENT CONTRACTOR**

A&W shall perform all legal services required under this Agreement as an independent contractor of OCCOG, and shall remain, at all times as to OCCOG, a wholly independent contractor with only such obligations as are required under this Agreement. Neither OCCOG, nor any of its employees, shall have any control over the manner, mode, or means by which A&W, its agents or employees, render the legal services required under this Agreement, except as otherwise set forth.

## **9. INSURANCE**

A&W shall procure and maintain, at its sole cost and expense, comprehensive general liability and property damage insurance, including automobile and excess liability insurance, and professional liability insurance against all claims for injuries against persons or damages to property resulting from A&W's negligent acts or omissions arising out of or related to A&W's performance under this Agreement. The minimum amount of such insurance shall be Two Million Dollars (\$2,000,000.00). A&W shall also carry Workers' Compensation Insurance in accordance with applicable workers' compensation laws.

## **10. NOTICES**

Notices required pursuant to this Agreement shall be given by personal service upon the party to be notified, or by delivery of same into the custody of the United States Postal Service, or its lawful successor, postage prepaid and addressed as follows:

OCCOG: To the offices of the OCCOG Executive Director, as may be designated by the OCCOG Board.

A&W: Aleshire & Wynder, LLP  
18881 Von Karman Avenue, Suite 400

Irvine, California 92612  
(949) 223-1170 (office)  
(949) 223-1180 (fax)  
Attention: Fred Galante, Esq.

Service of a notice by personal service shall be deemed to have been given as of the date of such personal service. Notice given by deposit with the United States Postal Service shall be deemed to have been given two (2) consecutive business days following the deposit of the same in the custody of said Postal Service. Either party hereto may, from time to time, by written notice to the other, designate a different address or person which shall be substituted for that specified above.

#### **11. COVENANT AGAINST DISCRIMINATION**

A&W covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against, or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, national origin, or ancestry in the performance of this Agreement. A&W shall take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, or ancestry.

#### **12. TERM, DISCHARGE & WITHDRAWAL**

This Agreement shall be effective beginning on the Effective Date specified above and supersedes that certain retainer agreement commenced on February 18, 2003. This Agreement shall continue in effect until terminated by either party hereto. OCCOG may discharge A&W at any time, without cause, and A&W shall have no right to any pre- or post-termination hearing, including any so-called "Skelly" hearing. A&W may withdraw from OCCOG's representation at any time, to the extent permitted by law, and the Rules of Professional Conduct, upon at least twenty (20) days' prior written notice to OCCOG.

In the event of such discharge or withdrawal, OCCOG shall pay A&W' Reimbursable Expenses, in accordance with the terms of this Agreement, through the date of the cessation of legal services rendered at the request of OCCOG. OCCOG agrees to execute, upon request, a stipulation in such form as to permit A&W to withdraw as its attorneys of record in any legal action then pending. A&W shall deliver all documents and records of OCCOG to its Executive Director, or to counsel designated by OCCOG, and assist to the fullest extent possible in the orderly transition of all pending matters to OCCOG's new counsel.

#### **13. CONFLICTS**

A&W has no present or contemplated employment which is adverse to the OCCOG. A&W agrees that it shall not represent clients in matters either in litigation or non-litigation against the OCCOG. However, A&W may have past and present clients or may have future clients, which, from time to time, may have interests adverse to OCCOG, and A&W reserves the right to represent such clients in matters not connected with its representation of the OCCOG.



If a potential conflict of interest arises in A&W' representation of two clients, if such conflict is only speculative or minor, A&W shall seek waivers from each client with regards to such representation. However, if real conflicts exist, A&W would withdraw from representing either client in the matter, and assist them in obtaining outside special counsel.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date of execution by OCCOG's Executive Director or the Chair of the OCCOG Board.

"OCCOG"

ORANGE COUNTY COUNCIL OF  
GOVERNMENTS

\_\_\_\_\_  
By: \_\_\_\_\_  
Its: \_\_\_\_\_

"A&W"

ALESHIRE & WYNDER, LLP

\_\_\_\_\_  
Fred Galante, Esq.

**[END OF SIGNATURES]**

**EXHIBIT "A"**  
**FEE ARRANGEMENT**

- (1) General legal services will be billed at the rate of One Hundred Eighty Dollars (\$180) per hour.
- (2) Upon the specific request by the OCCOG Board for public finance, the fee structure shall, at the option of the OCCOG, be contingent or non-contingent as follows: (i) Contingent – one percent of the first \$1 million executed and delivered; one-half percent of the next \$4 million executed and delivered; one-quarter percent of the next \$10 million; one-eighth percent of the next \$5 million; and one-tenth percent of any amount over \$20 million; subject to a minimum fee of Thirty-Five Thousand Dollars (\$35,000); or (ii) Non-Contingent - \$300 per hour on a blended rate for all attorney time incurred. In the event that multiple series of bonds or notes are issued, the foregoing fee schedule would be applied to each issue, subject to the \$35,000 minimum fee. If Contingent, payment of the fees are entirely contingent upon the successful execution and delivery of the bonds or notes to be payable on or after delivery except for out-of-pocket expenses.
- (3) In addition to the foregoing, A&W would be reimbursed for out-of-pocket expenses including: telecopier, messenger, courier, and other communication costs; reproduction expense; computer research services; court reporters; mileage cost to court and administrative proceedings; travel expenses outside of Orange County; and other costs and expenses incurred on OCCOG's behalf. Notwithstanding the foregoing, A&W does not charge for word processing, routine computer-assisted legal research, local calls, or mileage to OCCOG Board or staff meetings in Orange County. In exchange, when on-site, we would have the ability to use OCCOG copiers and telephones without charge.
- (4) The blended rate for legal assistants, irrespective of matter, shall be Ninety-Five Dollars (\$95) per hour, and for document clerks shall be Forty-Five Dollars (\$45) per hour.

The foregoing fee arrangement would remain in effect until December 31, 2011, unless the OCCOG Board and A&W agree in writing to modify the fee arrangement on or after January 1, 2012.

**EXHIBIT "B"**  
**STATEMENT OF BILLING PRACTICES**

A&W's fees are charged on an hourly basis for all time actually expended and are generally billed monthly with payment due within thirty (30) days after the date of the bill. The current hourly design rate for the attorneys and staff working on this matter will be set forth in the billing statement. All fees are charged in tenth-hour increments.

A&W will incur various costs and expenses in performing legal services. These costs and expenses are separately billed to the client and include fees fixed by law or assessed by public agencies, litigation costs including deposition, reporter fees, and transcript fees, long distance telephone calls, messenger and other delivery fees, postage, photocopying (charge of fifteen cents (\$.15) per page) and other reproduction costs, staff overtime when necessitated and authorized in writing by the client, and computer-assisted research fees when authorized by the client in writing, all based on the actual and reasonable cost (mileage, reproduction and other costs are periodically adjusted in accordance with the Firm's actual costs).

Travel costs including mileage (current IRS rate), parking, airfare, lodging, meals, and incidentals are charged in connection with administrative or judicial proceedings, or when traveling outside of Orange County. Travel time may also be charged in connection with such proceedings. In addition, the client will be responsible for paying the fees of consultants and other outside experts who are retained after written authorization from the client. A&W shall not charge for travel time or mileage to and from OCCOG Board or staff meetings in Orange County.

It is understood that A&W will generally not charge for mileage or travel time between our office and OCCOG facilities, nor for local telephone calls or calls made to OCCOG board members or staff. In exchange, A&W shall not be charged for calls made or received at the City, whether local or long-distance, or for copying charges since copying onsite will reduce the charge to the client.

The monthly billing statements for fees and costs shall indicate the basis of the fees, including a detailed and auditable breakdown of the hours worked, the billable rates charged and description of the work performed. All bills are expected to be paid within thirty (30) days of the date of the billing statement. In the event any statement remains unpaid for more than thirty (60) days after the date of the statement, simple interest thereon at the rate of three and a half percent (3.5 %) per annum shall be due and payable thereafter on the unpaid balance.

Registration fees for attorneys attending conferences and seminars are paid by A&W and are never charged to the OCCOG (unless expressly requested by the OCCOG).



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**

**October 22, 2009**

**STAFF REPORT**

**Subject:**           **Appointment to the San Diego Association of Government's Borders Committee**

**Summary:**       The Borders Committee is one of the many Policy Advisory Committees of San Diego Association of Government's (SANDAG) newly reorganized structure. SANDAG's Borders Committee provides oversight for planning activities that impact the borders of the San Diego region (Orange, Riverside and Imperial Counties, and the Republic of Mexico) as well as government-to-government relations with tribal nations in San Diego County. The Borders Committee membership consists of representatives and alternates from the cities of each sub-region in the San Diego region and advisory members needed to fulfill its mission. SANDAG has asked the OCCOG Board to select a local elected representative from Orange County to participate on the committee. Currently, Buena Park Council Member Art Brown serves on the committee but has developed a meeting conflict that will not allow him to continue serving on this committee. Supervisor Bill Campbell serves as an alternate member.

The preparation and implementation of SANDAG binational, Interregional, and Tribal Liaison Planning programs are included under the Borders Committee's scope. It advises the SANDAG Board of Directors on major interregional planning policy-level matters. Recommendations of the Committee are then forwarded to the SANDAG Board of Directors for action. It is helpful, but not required, if committee members have some familiarity with border issues including, but not limited to, immigration policy issues.

A Borders Policy Committee member effectively addresses key public policy and funding responsibilities. All items delegated to the Borders Committee are subject to Board action upon request of any member. Tasks may include the following:

- Provide oversight for planning activities that impact the borders
- Provide oversight for the preparation of binational and interregional planning programs

- Recommend border infrastructure financing strategies to the Board
- Establish closer SANDAG working relations with surrounding counties and Mexico
- Advise Board on binational and interregional policy-level issues
- Review and comment on regionally significant projects in adjoining counties.

Additionally, the Borders Committee has identified six critical planning areas around which to focus its collaborative efforts with San Diego's regional neighbors: jobs/housing accessibility, transportation, energy and water supply, environment, economic development, and homeland security.

Borders Committee meetings are held the fourth Friday of each month from 12:30 to 2:30 p.m. at SANDAG's office (401 B Street, Suite 800, San Diego). One can effectively take Amtrak to downtown San Diego's Union Station, which is a short walk to SANDAG's offices.

Additional information is included in Attachment A, "Borders Committee Fact Sheet" provided by SANDAG.

**Recommendation:** Receive nominations and select replacement.

**Attachment:** A. Borders Committee Fact Sheet

**Staff Contact:** Dave Simpson  
714/560-5570  
DSimpson@octa.net

# SANDAG BORDERS COMMITTEE

## FACT SHEET

Background	<p>On November 16, 2001, SANDAG's Board of Directors authorized the creation of the Borders Committee as one of several Policy Advisory Committees. The Borders Committee membership consists of representatives and alternates from the cities of each sub-region in the San Diego region and advisory members needed to fulfill its mission.</p>
Senate Bill 1703	<p>Senate Bill (SB) 1703 enacted on January 1, 2003, affirmed the creation of the Borders Committee and authorized the committee to perform specific functions.</p>
Mission	<p>The Borders Committee provides oversight for planning activities that impact the borders of the San Diego region (Orange, Riverside and Imperial Counties, and the Republic of Mexico) as well as government-to-government relations with tribal nations in San Diego County. The preparation and implementation of SANDAG's Binational, Interregional, and Tribal Liaison Planning programs are included under this purview. This Committee is charged with advising the SANDAG Board of Directors on major interregional planning policy-level matters. The recommendations of the Committee are then forwarded to the Board of Directors for action.</p>
Responsibilities	<p>Board Policy No. 001 enlists selected responsibilities that are delegated by the Board of Directors to the Borders Policy Committee to effectively address key public policy and funding responsibilities. All items delegated to the Borders Committee are subject to Board action upon request of any member.</p> <ol style="list-style-type: none"><li>1. Provide oversight for planning activities that impact the borders</li><li>2. Provide oversight for the preparation of binational and interregional planning programs</li><li>3. Recommend border infrastructure financing strategies to the Board</li></ol>

4. Establish closer SANDAG working relations with surrounding counties and Mexico
5. Advise Board on binational and interregional policy-level issues

Review and comment on regionally significant projects in adjoining counties.

#### Meetings, Time and Location

The Borders Committee follows policies regarding vacancies, attendance and quorum, approved by SANDAG's Board on January 10, 2003. The Borders Committee meets at 12:30 p.m. on the fourth Friday of every month, at SANDAG.

#### Borders of the San Diego Region

With its abundance of natural resources, as well as its location on the United States-Mexico border, the San Diego region is an attractive place to live and work. Continued growth here, as well as in the surrounding regions, is evidence of the appeal of the San Diego region.

The borders of this region have traditionally been thought of as limited to the jurisdictional boundaries of San Diego County; however, over the years, the perceptions of our borders have expanded. San Diego County increasingly has close ties to its neighboring counties and Mexico, which challenge us to think of our region beyond our borders. The San Diego region is also home to seventeen diverse tribal governments which are sovereign nations within our border. The diverse characteristics of the San Diego region present a variety of opportunities and challenges for planning and coordination along our interregional and binational borders.

#### Regional Comprehensive Plan (RCP)

Approved in 2004, the Regional Comprehensive Plan became a long-term planning framework for the San Diego region that lays out a regional vision, and provides a broad context in which local and regional decisions can be made. A full chapter, Chapter V Borders, is dedicated to addressing border issues from two perspectives – the binational perspective with relation to our international border with Mexico; and the interregional perspective regarding issues with our Orange, Riverside, and Imperial County neighbors. Additionally, the Borders Chapter addresses working with the tribal governments in the San Diego County boundaries.

Within the framework of the RCP, the Borders Committee identified six critical planning areas around which to focus its collaborative efforts with our neighbors: jobs/housing accessibility, transportation, energy and water supply,

environment, economic development, and homeland security.

Accomplishments FY 2008

*Binational*

Recent binational planning accomplishments include the recommendation for the approval by the Board of Directors in FY 2007 of the *Otay Mesa – Mesa de Otay Binational Corridor Strategic Plan*. Under this plan, the Borders Committee held the first Joint Meeting with COBRO and the City of Tijuana City Council to receive progress reports on the implementation of several strategies on June 2008.

Also, the Borders Committee oversees the organization of SANDAG's binational annual event. In 2007, two binational mobile seminars were held, and in 2008 the binational event focused on smart growth and sustainability between the U.S.-Mexico border.

In addition to these achievements, the Borders Committee has been briefed on several diverse issues such as the San Ysidro Port of Entry reconfiguration and expansion project, binational activities of the California Biodiversity Council (CBC), and activities toward the construction of the future Otay Mesa East Port of Entry.

Accomplishments FY 2008

*Interregional*

In the context of Interregional Planning, the focus of the Borders Committee was the I-15 Interregional Partnership (IRP) with Riverside, and the San Diego – Imperial County I-8 Corridor Strategic Plan.

Riverside

The Borders Committee has accepted updates on the I-15 Interregional Partnership: Phase III, which allows the Western Riverside Council of Governments (WRCOG) and SANDAG to continue with activities in all three of the focus areas of their partnership: economic development, transportation, and housing. Also, SANDAG and Riverside County Transportation Commission (RCTC) are working to improve the vanpool programs that the two agencies administer and determine how vanpool/carpool ridership can be shifted into transit options such as the Express Bus or Bus Rapid Transit.

Imperial

On March 27, 2009 the Borders Committee approved the San Diego-Imperial County Interstate 8 (I-8) Corridor Strategic Plan that included the formation of a Joint Policy Advisory Group formed by three members and one alternate.



Accomplishments FY 2008

*Government-to-Government  
with Tribal Nations*

On November 2007, the Borders Committee recommended that the SANDAG Board of Directors approve the Tribal Transit Feasibility Study. This was the first substantive planning collaboration between tribal nations, SANDAG, and the transit agencies. As a result of this study, the tribes in San Diego are well-positioned and prepared to apply for a new funding program designed exclusively for tribal nations. They successfully competed for the FTA Tribal Transit Program and were awarded a \$425,000 grant for Year 1 of a four-year program to strengthen the connections between the rural parts of San Diego where tribal reservations are located and the urban transit system.

In addition, SANDAG facilitated discussions between the County of San Diego and the tribal governments to resolve issues related to the tribal updates of the Indian Reservation Roads program. This will result in additional federal funding through the Bureau of Indian Affairs (BIA) to the San Diego tribes for transportation planning.



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**

**October 22, 2009**

**EXECUTIVE DIRECTOR REPORT**

**Subject:**                **Status of Cooperative Agreements for Administrative Services and SB 375 Planning Requirements Agreements.**

**Summary:**            On September 24, 2009, the Orange County Council of Governments (OCCOG) took action to amend the cooperative agreement with the Orange County Transportation Authority (OCTA) required to establish roles, responsibilities, and financial commitments associated with SB 375 planning requirements. The original agreement was unanimously approved by the OCTA Board of Directors on July 13, 2009, along with a cooperative agreement for administrative services of the OCCOG.

**Discussion:**        The enactment of SB 375 (Chapter 728, Statutes of 2008) provided for subregional councils of governments in the SCAG region to work with their respective county transportation commissions to develop transportation and land use strategies to meet greenhouse gas reduction targets. This legislation presented a unique opportunity for Orange County Transportation Authority (OCTA) and OCCOG staffs to discuss compliance with SB 375 along with administrative responsibilities for the OCCOG.

***Cooperative Agreement for Administrative Services***

After several months of negotiations earlier this year, OCTA and the OCCOG Board Members and staff agreed to terms for the administration of OCCOG contingent upon development and approval of a concurrent agreement specifying the respective roles and responsibilities in complying with the provisions of SB 375. Cooperative Agreement No. C-9-0496 (Attachment A) identifies the roles and responsibilities for each agency for administration of the OCCOG.

This agreement was approved by the OCCOG Board of Directors on June 25, 2009, and the OCTA Board of Directors on July 13, 2009. It authorized OCTA to provide for the administration of the OCCOG including providing a meeting location; preparation of agendas, staff reports, and minutes for the OCCOG Board of Directors meetings; distribution and posting of meeting notices and meeting materials; management of election of SCAG Regional Council/OCCOG Board of

Directors; management of financial requirements; invoicing and collection of dues from member agencies and payments from Orange County cities for OCCOG's sponsorship of the Center for Demographic Research (CDR); and maintenance and storage of records.

OCTA will also assist with the administration of the OCCOG Technical Advisory Committee. In order to provide these administrative services and in compliance with the laws governing joint powers agencies, OCTA is also required to provide an executive director, clerk of the board, treasurer, and auditor/controller either through direct staff and/or consultant support. The OCCOG executive director, or his/her designee, will also serve as the OCCOG subregional coordinator to SCAG and represent OCCOG on the SCAG Plans and Programs Technical Advisory Committee.

The executive director's activities include preparing for and attending OCCOG Board meetings and the SCAG subregional coordinators meetings. The clerk of the board activities include the labor costs for general services and information systems to prepare the meeting rooms, the clerk of the board's office to compile and post the agenda, a deputy clerk of the board to attend meetings, take and transcribe minutes, finalize resolutions, and processing other legally required documents, and assist in the elections process. The treasurer's and auditor/controller's activities include the processing of invoices for dues and payments for the CDR, receipt and processing of receivables and payables, balancing of accounts, preparation of financial statements, and managing the financial audit. Support staff will assist in monitoring areas of interest, assist in the preparation of staff reports as needed, and will manage the election of SCAG Regional Council/OCCOG Board of Directors.

The technical support costs provide for a consultant to review material, provide recommendations, and attend the various SCAG related meetings as well as address other specialized issues such as land use and housing. Technical support services have been estimated at 50 hours per month.

The annual cost of OCTA staff resources (calculated using only salaries and benefits), technical support, legal counsel, and the financial audit is estimated at \$196,070.54. With membership dues covering \$172,799.65 of the cost, OCTA would be providing \$23,270.89 of in-kind services. This estimate does not include calculations for the staff resources that will be committed to the development of the Sustainable Communities Strategy (SCS). Those costs will be calculated for both boards once an agreement to conduct the SCS has been negotiated with SCAG and a full work plan for the development of the SCS is prepared for approval by the OCTA and OCCOG Boards.

SCAG's Executive Director has calculated Orange County's costs for SB 375 planning and development of the SCS to be \$1.5 million-\$2 million – the full SCAG region is estimated to cost approximately \$15 million to complete the SCS.

### ***Cooperative Agreement for SB 375 Planning Requirements***

A joint responsibility identified in Cooperative Agreement No. C-9-0496 was to “develop and approve concurrent with the Administrative Services Agreement a separate agreement between the entities specifying their respective roles and responsibilities in complying with the provisions of SB 375 (Chapter 728, 2008 laws).”

SB 375 authorizes a subregional council of governments and the county transportation commissions in the SCAG region to work together to propose the SCS and an alternative planning strategy (APS), if needed. SCAG would be required to include the subregional SCS within its regional SCS to the extent that it is consistent with existing state and federal law, and approve the APS if consistent with SB 375. SB 375 also authorizes SCAG to develop and adopt a framework for the subregional SCS and APS to address the intraregional land use, transportation, economic, air quality, and climate policy relationships. SCAG has requested the subregions to notify them by December 31, 2009, if they intend to develop and submit a subregional SCS.

Following several months of negotiations between OCTA and OCCOG board members and staff, an initial SB 375 planning requirements agreement was submitted to both Boards for approval, Cooperative Agreement No. C-9-0497 (Attachment B) to identify the roles and responsibilities of each entity. This agreement was adopted by the OCTA Board, along with the cooperative agreement for administrative services, on July 13, 2009. The original agreement defined the responsibilities of each agency should the Boards of directors of OCTA and the OCCOG decide to prepare a subregional SCS. Under the terms of the agreement, OCTA would be responsible for the preparation and adoption of the long-range transportation plan (LRTP) for Orange County and would also be responsible for the preparation, in consultation with OCCOG, and adoption of the SCS as it is now a requirement of the regional transportation plan (RTP). The agreement also required OCTA to only use the land use scenarios within the SCS that have been approved by the respective cities or the County.

On August 27, 2009, the OCCOG Board considered for approval the cooperative agreement for SB 375 planning requirements. However, following a lengthy discussion and significant concerns raised by OCCOG members, action on the cooperative agreement was deferred to the next monthly OCCOG Board meeting.

Following its August board meeting, members of the OCCOG bylaws committee convened and met with OCCOG counsel and OCTA staff to discuss the concerns raised by the OCCOG members. An amended agreement was drafted to address those concerns and presented to a small group of OCTA Board members and staff. Following both meetings, the amended agreement (Attachment C) was presented to and approved by the OCCOG Board at its September 24, 2009, Board meeting with direction to take the amended SB 375 planning requirements agreement to the OCTA Board for approval.

The primary concerns raised by the OCCOG Board members in attendance at the August and September board meetings are outlined below:

1. The cooperative agreement needed to clarify that there would be joint approval of the SCS, and if needed APS, by the OCTA and OCCOG Boards.
2. Additional language was needed to provide OCCOG an opportunity to review and make adjustments to the final subregional SCS, and if needed APS, prior to submitting it to OCTA for final approval and ultimately to SCAG.
3. Language providing a “two-thirds veto clause” in the agreement must be eliminated.
4. Additional concerns were raised by the City of Irvine in a letter provided by Councilwoman Beth Krom (Attachment D)

### ***Status of Administrative and SB 375 Planning Requirements Agreements***

On October 5, 2009, OCTA’s Executive Committee unanimously opposed the amendments to the SB 375 Planning Requirements Agreement and made the following recommendation to the OCTA Board of Directors:

1. Opposed the OCCOG amended SB 375 Planning Requirements Agreement originally approved by OCTA Board of Directors on July 13, 2009.
2. Direct staff to forward a letter from Chairman Peter Buffa, on behalf of OCTA, informing the Orange County Council of Governments that the Authority received recent changes submitted by OCCOG to the SB 375 Planning Requirements Agreement that was voted on by OCTA in July 2009, but that the revisions now being submitted by OCCOG are not acceptable to OCTA.
3. Declare the Cooperative Agreement for Administrative Services, which required concurrent adoption of the SB 375 Planning Requirements Agreement, null and void.

The item was scheduled for consideration by the full OCTA Board on Friday, October 9, 2009 but was pulled from consideration by Chairman Buffa at the request of several board members who could not be in attendance at that meeting. The item is likely to be scheduled for consideration by the OCTA Board on Monday, November 9, 2009.

**Recommendation:** Receive and file.

**Attachments:**

- A. Cooperative Agreement No. C-9-0496 Between Orange County Transportation Authority and Orange County Council of Governments for Administrative Services
- B. Cooperative Agreement No. C-9-0497 Between Orange County Transportation Authority and Orange County Council of Governments for SB 375 Planning Requirements
- C. Amended (redlined) Cooperative Agreement No. C-9-0497 Between Orange County Transportation Authority and Orange County Council of Governments for SB 375 Planning Requirements
- D. Letter from City of Irvine, Councilwoman Beth Krom, outlining the city's concerns with the SB 375 Planning Requirements Agreement negotiated between OCTA and OCCOG.

**Staff Contact:** Kristine L. Murray  
714/560-5908  
kmurray@octa.net

**COOPERATIVE AGREEMENT NO. C-9-0496**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**ORANGE COUNTY COUNCIL OF GOVERNMENTS**

**FOR**

**ADMINISTRATIVE SERVICES**

**THIS AGREEMENT** (hereinafter referred to as "AGREEMENT"), is effective this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Orange County Transportation Authority ("AUTHORITY"), a public corporation of the State of California and the Orange County Council of Governments ("OCCOG"), a public joint powers entity of the State of California.

**RECITALS:**

**WHEREAS**, OCCOG has requested AUTHORITY to provide staff to administer the functions and activities of OCCOG; and

**WHEREAS**, AUTHORITY is willing to accept responsibility for the administration of OCCOG functions and activities as provided in this Agreement.

**WHEREAS**, AUTHORITY's Board of Directors approved this Agreement on July 13, 2009.

**NOW THEREFORE**, it is mutually understood and agreed by AUTHORITY and OCCOG as follows:

**ARTICLE 1. RESPONSIBILITIES OF OCCOG**

A. Make available to AUTHORITY all records in the possession of OCCOG and its consultants as may regard any matter within the jurisdiction of OCCOG and as may be required for AUTHORITY to perform its duties under this Agreement.

B. Provide legal counsel to advise and represent OCCOG.

C. Appoint an OCCOG representative to the Center for Demographic Research ("CDR").

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D. Pursue the adoption by OCCOG member agencies of annual membership dues in the amount approved by the OCCOG Board to pay for the administrative services provided by AUTHORITY as well as the activities and programs of OCCOG.

E. Upon OCCOG member agencies' approval of an amended Joint Powers Agreement requiring the member agencies to pay dues to the OCCOG in amounts as approved by the OCCOG Board, pay AUTHORITY the sum of \$141,000 per year for the services provided by AUTHORITY. Twenty-five percent (25%) of this sum shall be paid to AUTHORITY on the first day of each quarter (first day of July, October, January and April), commencing July 1, 2009.

## **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

A. Provide administrative services to OCCOG consistent with and subject to the OCCOG Joint Powers Agreement, Bylaws and other formally adopted policies, contracts and applicable regulations, with the understanding that the AUTHORITY'S policies and procedures for procurements and grant management shall govern all services provided by AUTHORITY pursuant to this Agreement.

B. Assume responsibility for the administration of OCCOG, including providing meeting sites; administration of the OCCOG Board of Directors and the OCCOG Technical Advisory Committee; conduct elections of the Southern California Association of Governments ("SCAG") Regional Council/OCCOG Board of Directors; preparation of agendas, staff reports and minutes; distribution and posting of meeting notices and meeting materials; conduct of OCCOG financial requirements pursuant to the OCCOG Bylaws and Caltrans pre-award audit determinations; invoicing and collection of payments from Orange County cities for OCCOG's sponsorship of the CDR; invoicing and collection of payments from member agencies for OCCOG dues; and maintenance and storage of records.

C. Provide staff and/or contract for consultant support for OCCOG to carry out its responsibilities, including the designation of:

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- (1) OCCOG Executive Director, subject to the approval of OCCOG Board of Directors;
- (2) Clerk of the OCCOG Board;
- (3) OCCOG Treasurer;
- (4) OCCOG Auditor/Controller.

D. Responsibilities of the OCCOG Executive Director (or his/her designee) shall be as specified in the OCCOG Bylaws, and shall also include the following:

- (1) OCCOG Subregional Coordinator to the SCAG; and
- (2) OCCOG representative to the SCAG Plans and Programs Technical Advisory Committee.

### **ARTICLE 3. JOINT RESPONSIBILITIES OF OCCOG AND AUTHORITY**

A. Develop and adopt a work plan for Fiscal Year 2009-10 and 2010-11 to comply with the responsibilities of each entity. The work plan shall identify the tasks, staffing, costs, schedules, necessary services and deliverables, and shall assign financial and policy responsibilities for each entity.

B. Each entity to maintain a sponsor membership with the CDR and use the CDR for demographic forecasts.

C. Develop and approve concurrent with this Administrative Services Agreement a separate Agreement between the entities specifying their respective roles and responsibilities in complying with the provisions of SB 375 (Chapter 728, 2008 laws).

D. AUTHORITY and/or OCCOG may elect to participate in additional regional monitoring and planning activities outside of those covered by this Agreement. In that case, each entity may independently support those activities with monetary and resources other than those specified in this Agreement.

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**ARTICLE 4. PRE-EXISTING CIRCUMSTANCES**

OCCOG hereby discloses, in general terms, that OCCOG is currently the subject of regular and/or special audits by one or more sources of funds. AUTHORITY will assist OCCOG in its efforts to complete the audits and develop a beneficial remedial program to respond to any required programmatic modifications. The OCCOG hereby represents and acknowledges that these pre-existing conditions are not directly or indirectly, related to any action or failure to act of AUTHORITY'S and that, if AUTHORITY cannot achieve a remedy suitable to all interested parties, AUTHORITY will not be deemed to have any fault or responsibility for such conclusion.

**ARTICLE 5. INDEMNIFICATION**

A. OCCOG shall defend, indemnify, and hold harmless the AUTHORITY, its officers, directors, agents, and employees, from all liability, claims, losses and demands, including defense costs and reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or omissions of OCCOG, its officers, directors, agents, or employees, in the performance of this Agreement.

B. AUTHORITY shall defend, indemnify, and hold harmless the OCCOG, its officers, directors, agents, and employees, from all liability, claims, losses and demands, including defense costs and reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or omissions of AUTHORITY, its officers, directors, agents, or employees, in the performance of this Agreement.

**ARTICLE 6. ASSIGNMENT**

AUTHORITY shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of OCCOG.

**ARTICLE 7. TERM OF AGREEMENT**

This Agreement shall commence upon execution by both parties and approval by both parties of a separate agreement regarding SB 375 planning requirements, and shall continue in full force and effect through June 30, 2013, unless terminated earlier by any party. The term may be

extended by mutual consent; for a period of time agreed upon in writing between the parties. AUTHORITY or OCCOG may terminate this Agreement, without cause, by delivering written notice of termination to the other party not less than one hundred twenty (120) calendar days before the date of termination. Upon the date of termination each party shall, at no cost to the other party, make available all equipment, materials, documents or records in their possession to the party that requests the same.

**ARTICLE 8. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**ARTICLE 9. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement warrant and represent that he or she has the authority to execute this Agreement on behalf of their principal and has the authority to bind such party to the performance of its obligations hereunder.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year written below.

**ORANGE COUNTY COUNCIL OF GOVERNMENTS**

By: \_\_\_\_\_

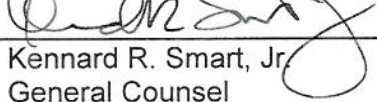
Date: \_\_\_\_\_

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By:  \_\_\_\_\_  
for James S. Kenan  
Chief Executive Officer

Date: 7/14/09

APPROVED AS TO FORM:

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

APPROVED AS TO FORM:

By:  \_\_\_\_\_

APPROVAL RECOMMENDED:

By:  \_\_\_\_\_  
P. Sue Zuhlke  
Chief of Staff

Date: \_\_\_\_\_

**COOPERATIVE AGREEMENT NO. C-9-0497**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**ORANGE COUNTY COUNCIL OF GOVERNMENTS**

**FOR**

**SB 375 PLANNING REQUIREMENTS**

**THIS AGREEMENT** (hereinafter referred to as "AGREEMENT"), is effective this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Orange County Transportation Authority ("AUTHORITY"), a public corporation of the State of California and the Orange County Council of Governments ("OCCOG"), a public joint powers entity of the State of California.

**RECITALS:**

**WHEREAS**, SB 375 (Chapter 728, laws of 2008) ("SB 375") authorizes, pursuant to Government Code Subsection 65080(b)(2)(C) OCCOG, as a subregional council of governments, and AUTHORITY, as a county transportation commission, to work together to propose a sustainable communities strategy ("SCS") and, if necessary, an alternative planning strategy ("APS") for the subregional area of Orange County; and

**WHEREAS**, OCCOG and AUTHORITY desire to evaluate and consider a cooperative relationship for the preparation of the SCS and, if necessary, the APS for Orange County.

**WHEREAS**, AUTHORITY's Board of Directors approved this Agreement on July 13, 2009.

**NOW THEREFORE**, it is mutually understood and agreed by AUTHORITY and OCCOG as follows:

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B. AUTHORITY shall defend, indemnify, and hold harmless the OCCOG, its officers, directors, agents, and employees, from all liability, claims, losses and demands, including defense costs and reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or omissions of AUTHORITY, its officers, directors, agents, or employees, in the performance of the Agreement.

**ARTICLE 6. ASSIGNMENT**

AUTHORITY shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of OCCOG.

**ARTICLE 7. TERM OF AGREEMENT**

This Agreement shall commence upon execution by both parties and shall continue in full force and effect through June 30, 2011, unless terminated earlier by any party. The term may be extended by mutual consent; for a period of time agreed upon in writing between the parties. AUTHORITY or OCCOG may terminate this Agreement, without cause, by delivering written notice of termination to the other party not less than one hundred twenty (120) calendar days before the date of termination. Upon the date of termination each party shall, at no cost to the other party, make available all equipment, materials, documents or records in their possession to the party that requests the same.

**ARTICLE 8. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

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**ARTICLE 9. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement warrant and represent that he or she has the authority to execute this Agreement on behalf of their principal and has the authority to bind such party to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year written below.

**ORANGE COUNTY COUNCIL OF GOVERNMENTS**

By: \_\_\_\_\_

Date: \_\_\_\_\_

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

By: \_\_\_\_\_

James S. Kenan  
for Chief Executive Officer

Date: 7/14/09

APPROVED AS TO FORM:

By: \_\_\_\_\_

Kennard R. Smart, Jr.  
General Counsel

APPROVED AS TO FORM:

By: \_\_\_\_\_

APPROVAL RECOMMENDED:

By: \_\_\_\_\_

P. Sue Zuhike  
Chief of Staff

Date: \_\_\_\_\_

**ARTICLE 1. JOINT RESPONSIBILITIES OF OCCOG AND AUTHORITY**

A. Develop and adopt an SB 375 work plan for fiscal years (FY) 2009-10 and 2010-11 to comply with the responsibilities of each entity under SB 375. The work plan shall identify the entity tasks, costs, schedules, staffing, necessary professional services, and deliverables and shall assign financial and policy responsibilities for each entity.

B. Contract with a demographic consultant to develop demographic forecasts that will be utilized for the development of the SCS for greenhouse gas emissions reduction (and which, by statute, will also be used to allocate the subregion's Regional Housing Need Allocation); and, further, to develop additional forecasts for the preparation of an APS, if necessary.

**ARTICLE 2. PREPARATION OF SCS AND, IF NECESSARY, PREPARATION OF APS FOR ORANGE COUNTY**

A. OCCOG and AUTHORITY shall decide, by a majority vote of each party's Board of Directors, whether to prepare a subregional SCS, and if necessary, a subregional APS for Orange County. This decision shall be made after review and consideration of the approach and methodology for subregional SCS development established by the Southern California Association of Governments ("SCAG"). The decisions by OCCOG and AUTHORITY shall be prior to the date required by SCAG for such a decision.

B. OCCOG and AUTHORITY recognize that working relationships, approval authority, work tasks and deadlines for SCS and APS development shall be framed by terms and requirements, processes, work products and deliverables that are yet to be established, but shall be in an SB 375 subregional framework with guidelines that will be adopted by SCAG.

C. If OCCOG and AUTHORITY do not agree to develop an Orange County SCS/APS, each entity shall support the use of the Orange County Projections, as prepared by the Center for Demographic Research ("CDR"), for use in the 2012 Regional Transportation Plan; and further, shall secure additional funding for CDR to prepare interim drafts of the Orange County Plan ("OCP") for SCAG's development of the SCS, APS and the Regional Housing Needs Assessment ("RHNA").



D. If OCCOG and AUTHORITY agree to develop an Orange County SCS/APS, then the parties agree as follows:

- (1) Work with SCAG to identify a timeline for SCS preparation and submission, and determine if preparation of an APS is necessary;
- (2) Secure additional funding resources for consultant support to produce the SB 375 demographic forecasts for development of the SCS/APS, which would include the subregion's RHNA development and allocations. The consultant shall prepare the demographic forecast, with input from local jurisdictions, for the SCS, and APS, if necessary, in consultation with both AUTHORITY and OCCOG;
- (3) AUTHORITY shall prepare a long-range transportation plan for Orange County;
- (4) OCCOG shall review and approve the Orange County Projections developed by the demographics consultant;
- (5) AUTHORITY shall use the OCCOG-adopted Orange County Projections to be submitted to SCAG for inclusion into the 2012 Regional Transportation Plan ("RTP");
- (6) AUTHORITY, in consultation and cooperation with OCCOG, shall be responsible for the preparation and shall adopt the subregional SCS and, if necessary, the APS to be proposed to SCAG;
  - (i) AUTHORITY shall make a good faith effort to consider and include a summary of all input provided by OCCOG to the SCS or, if necessary, the APS;
  - (ii) AUTHORITY shall only use land use scenarios within the SCS that have been approved by the respective cities or the County;

/

(iii) OCCOG may, by a two-thirds vote of its Board of Directors, reject the subregional SCS and/or the APS prepared and adopted by AUTHORITY, in which event AUTHORITY and OCCOG shall agree to provisions for approval and adoption as established pursuant to the guidelines to be established by SCAG for subregional development of an SCS/APS.

(7) OCCOG agrees that the AUTHORITY-adopted subregional SCS and, if necessary, the APS shall be submitted to SCAG as the subregional plan unless it is rejected by a two-thirds vote of its Board of Directors.

### **ARTICLE 3. REGIONAL HOUSING NEEDS ASSESSMENT**

SCAG shall maintain all responsibilities for administering and conducting the state-mandated Regional Housing Needs Assessment and Allocation processes, which are required to be consistent with the adopted 2012 SCS.

### **ARTICLE 4. REDUCE ORANGE COUNTY CONGESTION ("ROCC") GRANT**

Upon authorization from the Federal Transit Administration and/or other approving agencies, OCCOG shall agree to AUTHORITY'S use of ROCC federal planning grant in the amount of approximately \$834,077 for the purpose of implementing the SB 375 work plans for FY 2009-10 and 2010-11. Use of the ROCC funds shall be in conformance with all federal and state requirements, including audit and procurement processes.

### **ARTICLE 5. INDEMNIFICATION**

A. OCCOG shall defend, indemnify, and hold harmless the AUTHORITY, its officers, directors, agents, and employees, from all liability, claims, losses and demands, including defense costs and reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or omissions of OCCOG, its officers, directors, agents, or employees, in the performance of the Agreement.

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**AMENDED (REDLINED) COOPERATIVE AGREEMENT NO. C-9-0497**

**BETWEEN**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

**AND**

**ORANGE COUNTY COUNCIL OF GOVERNMENTS**

**FOR**

**SB 375 PLANNING REQUIREMENTS**

**THIS AGREEMENT** (hereinafter referred to as "AGREEMENT"), is effective this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the Orange County Transportation Authority ("AUTHORITY"), a public corporation of the State of California and the Orange County Council of Governments ("OCCOG"), a public joint powers entity of the State of California.

**RECITALS:**

**WHEREAS**, SB 375 (Chapter 728, laws of 2008)( "SB 375") authorizes, pursuant to Government Code Subsection 65080(b)(2)(C) OCCOG, as a subregional council of governments, and AUTHORITY, as a county transportation commission, to work together to propose a sustainable communities strategy ("SCS") and, if necessary, an alternative planning strategy ("APS") for the subregional area of Orange County; and

**WHEREAS**, OCCOG and AUTHORITY desire to evaluate and consider a cooperative relationship for the preparation of the SCS and, if necessary, the APS for Orange County.

**WHEREAS**, AUTHORITY's Board of Directors approved this Agreement on July 13, 2009.

**NOW THEREFORE**, it is mutually understood and agreed by AUTHORITY and OCCOG as follows:

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**ARTICLE 1. JOINT RESPONSIBILITIES OF OCCOG AND AUTHORITY**

A. Develop and adopt an SB 375 work plan for fiscal years (FY) 2009-10 and 2010-11 to comply with the responsibilities of each entity under SB 375. The work plan shall identify the entity tasks, costs, schedules, staffing, necessary professional services, and deliverables and shall assign financial and policy responsibilities for each entity.

B. Contract with a demographic consultant to develop demographic forecasts that will be utilized for the development of the SCS for greenhouse gas emissions reduction (and which, by statute, will also be used to allocate the subregion's Regional Housing Need Allocation); and, further, to develop additional forecasts for the preparation of an APS, if necessary.

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B. OCCOG and AUTHORITY recognize that working relationships, approval authority, work tasks and deadlines for SCS and APS development shall be framed by terms and requirements, processes, work products and deliverables that are yet to be established, but shall be in an SB 375 subregional framework with guidelines that will be adopted by SCAG.

C. If OCCOG and AUTHORITY do not agree to develop an Orange County SCS/APS, each entity shall support the use of the Orange County Projections, as prepared by the Center for Demographic Research ("CDR"), for use in the 2012 Regional Transportation Plan; and further, shall secure additional funding for CDR to prepare interim drafts of the Orange County Plan ("OCP") for SCAG's development of the SCS, APS and the Regional Housing Needs Assessment ("RHNA").

D. If OCCOG and AUTHORITY agree to develop an Orange County SCS/APS, then the parties agree as follows:

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- (3) AUTHORITY shall prepare a long-range transportation plan for Orange County;
- (4) OCCOG shall review and approve the Orange County Projections developed by the demographics consultant;
- (5) AUTHORITY shall use the OCCOG-adopted Orange County Projections to be submitted to SCAG for inclusion into the 2012 Regional Transportation Plan ("RTP");
- (6) AUTHORITY in consultation and cooperation with OCCOG, shall be responsible for the preparation and shall jointly adopt the subregional SCS and, if necessary, the APS to be proposed to SCAG;
  - (i) AUTHORITY shall make a good faith effort to consider and include a summary of all input provided by OCCOG to the SCS or, if necessary, the APS;
  - (ii) AUTHORITY shall only use land use scenarios within the SCS that have been approved by the respective cities or the County;



(iii) ~~OCCOG may, by a two-thirds vote of its Board of Directors, reject the subregional SCS and/or the APS prepared and adopted by AUTHORITY, in which event AUTHORITY and OCCOG shall agree to provisions for approval and adoption as established pursuant to the guidelines to be established by SCAG for subregional development of an SCS/APS.~~

(7) The OCCOG Board shall review and approve a final draft subregional SCS before presenting such final draft to the AUTHORITY Board. Thereafter, the OCCOG Board shall review and vote on any changes made to such final draft subregional SCS by the AUTHORITY Board.

(8) Following the process set forth in subsection D(7) above, OCCOG agrees that the AUTHORITY-adopted subregional SCS and, if necessary, the APS shall be submitted to SCAG as the subregional plan. unless it is rejected by a two-thirds vote of its Board of Directors.

### **ARTICLE 3. REGIONAL HOUSING NEEDS ASSESSMENT**

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B. AUTHORITY shall defend, indemnify, and hold harmless the OCCOG, its officers, directors, agents, and employees, from all liability, claims, losses and demands, including defense costs and reasonable attorneys' fees, whether resulting from court action or otherwise, arising out of the acts or omissions of AUTHORITY, its officers, directors, agents, or employees, in the performance of the Agreement.

**ARTICLE 6. ASSIGNMENT**

AUTHORITY shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of OCCOG.

**ARTICLE 7. TERM OF AGREEMENT**

This Agreement shall commence upon execution by both parties and shall continue in full force and effect through June 30, 2011, unless terminated earlier by any party. The term may be extended by mutual consent; for a period of time agreed upon in writing between the parties. AUTHORITY or OCCOG may terminate this Agreement, without cause, by delivering written notice of termination to the other party not less than one hundred twenty (120) calendar days before the date of termination. Upon the date of termination each party shall, at no cost to the other party, make available all equipment, materials, documents or records in their possession to the party that requests the same.

**ARTICLE 8. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**ARTICLE 9. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement warrant and represent that he or she has the authority to execute this Agreement on behalf of their principal and has the authority to bind such party to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year written below.

**ORANGE COUNTY COUNCIL OF  
GOVERNMENTS**

By: \_\_\_\_\_  
Cheryl Brothers  
OCCOG Chair

Date: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Fred Galante  
OCCOG Counsel

**ORANGE COUNTY TRANSPORTATION  
AUTHORITY**

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

Date: \_\_\_\_\_

APPROVED AS TO FORM:

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





BETH KROM, Councilmember

[www.ci.irvine.ca.us](http://www.ci.irvine.ca.us)

City of Irvine, One Civic Center Plaza, P.O. Box 19575, Irvine, California 92623-9575 (949) 724-6233

September 24, 2009

Honorable Cheryl Brothers  
Chair, Orange County Council of Governments  
600 South Main Street  
Orange, CA. 92863

Subject: Amended Cooperative Agreement No. C-9-0497

Dear Chair Brothers and Orange County Council of Governments Board of Directors:

I regret that I am unable to attend today's OCCOG Board of Directors meeting as it conflicts this month with the Orange County Great Park Board of Directors meeting. I do, however, want to register my comments and concerns regarding Discussion Item No. 2 "Amended Cooperative Agreement No. C-9-0497 with the Orange County Transportation Authority for SB 375 Planning Requirements" as it is an issue our City has been focused on. Thank you for allowing Brian Fisk to read this letter to the Board and to enter our comments into the public record.

As you may recall, at the August 27, 2009, OCCOG Board of Directors meeting, I expressed several concerns about the Cooperative Agreement C-9-0497 and the overall issue of SB 375 and the plans for creating Sustainable Communities Strategy (SCS). Specifically, I felt the following issues should be addressed when this item was brought back to the Board at this month's meeting:

- Fully address the pros and cons of Cooperative Agreement C-9-0497 and of Orange County accepting formal delegation of preparing the required SCS.
- Address whether the Cooperative Agreement will include a statement of intent that identifies what OCCOG wants to achieve as a result of this agreement.
- Identify within the Cooperative Agreement and the accompanying staff report what specific accountabilities are expected of each party to this process and provide a clear description of the SCS process.

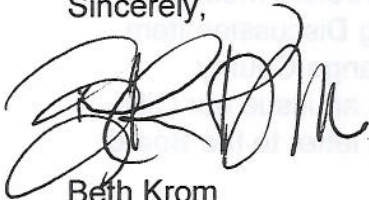
- Specify the minimum number of people required to approve or disapprove the adoption of the final SCS.
- Clarify the potential economic impact to each jurisdiction within the OCCOG to support the SCS process.

Having reviewed the Amended Cooperative Agreement C-9-0497 and the included staff report, it does not appear that these items have been fully addressed. At a minimum, discussion of the pros and cons of Cooperative Agreement C-9-0497 and the overall SCS process particularly in light of the new "Collaborative" SCS process introduced by SCAG staff at the September 3rd Community, Economic, and Human Development policy committee meeting, should be included to ensure we are able to make an informed decision about how best to proceed.

Again, I regret that I am unable to participate personally in the discussion of this matter at today's meeting. I have asked that additional City staff be present and look forward to being fully briefed on the matter.

Thank you for the opportunity to have my comments read into the record and included in the discussion of this important issue.

Sincerely,



Beth Krom  
OCCOG Board Member District 14

cc: OCCOG Board of Directors  
Kristine L. Murray, Executive Director, Government Relations, OCTA



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**

**October 22, 2009**

**STAFF REPORT**

**Subject:** Report from the OCCOG TAC Chair

**Summary:** The OCCOG Technical Advisory Committee (TAC) met on October 6, 2009. A copy of the October 6, 2009 meeting agenda is included as Attachment A.

The OCCOG TAC meeting discussion included an overview of:

- the Southern California Association of Governments (SCAG) Regional Council and Policy Committee meetings of September 3, 2009 and October 1, 2009, the SCAG Plans and Programs TAC Meetings of September 9, 2009 and September 22, 2009, and the SCAG Subregional Coordinators Group Meetings of September 1, 2009 and September 24, 2009;
- SCAG's 2012 Regional Transportation Plan (RTP) and Growth Forecast process and the Center for Demographic Research's Orange County Projections 2010 process;
- SCAG's SCS Process including introduction of the Draft SCS Collaborative Process (September 2009) by SCAG staff and an update from the OCCOG TAC ad-hoc working group on their review of the Draft SCS Collaborative Process, the Draft Framework and Guidelines for the Development of a Subregional SCS/APS (July 2009), and the Questions and Answers from July and September. The OCCOG TAC ad-hoc working group has to date met once and has prepared comments that have been forwarded to SCAG staff;
- Senate Bill 375. The SB 375 discussion included an update on SCAG's SB 375 outreach meetings with Orange County "Developing Options for Orange County's Future", announcement of the SB 375 Regional Workshop that will be held in Ontario on November 18, 2009, and the release of the "Recommendations of the Regional Targets Advisory Committee (RTAC) Pursuant to Senate Bill 375";
- Housing Element Update, which included a presentation on SB 2 – Use Standards for Emergency Shelters by the City of Brea; and
- The OCCOG Board of Directors meeting of September 24, 2009.

The OCCOG TAC agendaized, for discussion at its November 3, 2009 meeting the following:

- SCAG 2012 RTP and Growth Forecast;
- OCP 2010;
- SCAG Framework and Guidelines for the Development of a SCS/APS;

- SB 375 Update; and
- Housing Element Update: SCAG's Draft paper "The Linkage between the Sustainable Communities Strategy and the Regional Housing Needs Assessment (RHNA)".

OCCOG TAC Chair Marika Modugno, City of Irvine, will be available at the OCCOG Board meeting to overview and clarify items discussed at the October 6, 2009 OCCOG TAC meeting. A copy of the adopted September 1, 2009 OCCOG TAC meeting minutes is included as Attachment B.

**Recommendation:** Receive and file.

**Attachments:**

- A. OCCOG TAC Meeting Agenda: Meeting of October 6, 2009
- B. Approved OCCOG TAC Meeting Minutes of September 1, 2009

**Staff Contacts:** Marika Modugno, OCCOG TAC Chair, City of Irvine  
949/724-6456  
[mmodugno@cityofirvine.org](mailto:mmodugno@cityofirvine.org)





**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**  
*Technical Advisory Committee*

**Meeting Date / Location**

**Tuesday, October 6, 2009**  
**9:00 a.m. – 12:00 Noon**  
**City of Orange**  
**Conference Room C**  
**300 Chapman Avenue**  
**Orange, California**

**Agenda Item**

**Staff**

**Page**

**INTRODUCTIONS**

(Chair Marika Modugno)

**PUBLIC COMMENTS**

(Chair Modugno)

At this time members of the public may address the TAC regarding any items within the subject matter jurisdiction, which are not separately listed on this agenda. Members of the public will have an opportunity to speak on agenda items at the time the item is called for discussion. NO action may be taken on items not listed on the agenda unless authorized by law. Comments shall be limited to three minutes per person and an overall time limit of twenty minutes for the Public Comments portion of the agenda.

Any person wishing to address the TAC on any matter, whether or not it appears on this agenda, is requested to complete a "Request to Speak" form available at the door. The completed form is to be submitted to the TAC Chair prior to an individual being heard. Whenever possible, lengthy testimony should be presented to the TAC in writing and only pertinent points presented orally.

**ADMINISTRATION**

- |    |  |                              |   |
|----|--|------------------------------|---|
| 1. | <b>OCCOG TAC Meeting Minutes</b><br><b>♦ Draft OCCOG TAC minutes for</b><br><b>September 1, 2009 meeting</b> | (Secretary Adrienne Gladson) | 1 |
|----|--|------------------------------|---|

Recommended Action: Approve OCCOG TAC minutes of September 1, 2009, as presented or amended

**PRESENTATIONS**

- |    |  |   |    |
|----|--|---|----|
| 2. | <b>Housing Element</b><br><b>♦ SB 2 – Use Standards for Emergency</b><br><b>Shelters</b> | (Adrienne Gladson, City of Brea) – 35 minutes | 11 |
|----|--|---|----|

Recommended Action: Receive and file.

**DISCUSSION AND ACTION ITEMS**

3. **Orange County Projections (OCP 2010)/SCAG 2012 Regional Transportation Plan and Growth Forecast** (Deborah Diep, Center for Demographic Research/Frank Wen, SCAG) – 30 minutes **18**
- ♦ The purpose of this item will be to recap the coordination of efforts on the OCP and SCAG growth forecast processes; share thoughts on the SCAG data provided to jurisdictions; and the experience of meeting with SCAG to discuss the data.
- Recommended Action: Discussion. Receive and file.
4. **SCAG SCS Process** (Chair Modugno/Diep) – 80 minutes **19**
- ♦ Draft Framework and Guidelines for the Development of a Subregional SCS/APS (July 2009)
  - ♦ Draft SCS Collaborative Process (September 2009)
  - ♦ Questions and Answers (July and September)
- Recommended Action: Discussion. Receive and file.
5. **SB 375 Update** (Chair Modugno/Diep) – 10 minutes **70**
- ♦ **SCAG SB 375 Outreach Meetings with Orange County “Developing Options for Orange County’s Future”**
  - ♦ **Regional Targets Advisory Committee**
- Recommended Action: Receive and file.

**REPORTS**

6. **SCAG Meetings** (Chair Modugno/Diep) – 10 minutes **71**
- ♦ **Regional Council and Policy Committee Meetings of September 3, 2009 and October 1, 2009**
  - ♦ **Plans and Programs TAC Meetings of September 9, 2009 and September 22, 2009**
  - ♦ **Subregional Coordinators Group Meetings of September 1, 2009 and September 24, 2009**
- Recommended Action: Receive and file.
7. **OCCOG Board Meeting of September 24, 2009** (David Simpson, OCCOG Staff) – 10 minutes **72**
- Recommended Action: Receive and file.

<b>Agenda Item</b>	<b>Staff</b>	<b>Page</b>
<b>REPORTS FROM THE CHAIR</b>	(Chair Modugno)	
<b>MATTERS FROM OCCOG TAC MEMBERS</b>		
<b>OTHER BUSINESS</b>	(Chair Modugno)	<b>73</b>
♦ 2010 Census New Construction Program		
<b>ITEMS FOR NEXT MEETING</b>		
♦ Housing Element Update: SCAG paper “The Linkage between the Sustainable Communities Strategy and the Regional Housing Needs Assessment (RHNA)”		
<b>ADJOURNMENT</b>		

**Adjourn to: November 3, 2009  
City of Orange Conference Room C  
300 Chapman Avenue  
Orange, California**



**ORANGE COUNTY  
COUNCIL OF GOVERNMENTS**  
*Technical Advisory Committee*

**Summary and Action Minutes**

Meeting of September 1, 2009

The OCCOG Technical Advisory Committee (TAC) meeting of September 1, 2009 was called to order by Chair Marika Modugno, City of Irvine, at the City of Orange, Conference Room C at 9:06 A.M. The list of meeting attendees is attached.

**PUBLIC COMMENTS**

There were no public comments.

**ADMINISTRATION**

**1. OCCOG TAC Meeting Minutes**

A motion by Doug Reilly, of the City of Laguna Woods, was made with a second by Chris Wright, City of San Clemente, followed by the TAC unanimously approving the minutes of the September 1, 2009 meeting.

**DISCUSSION AND ACTION ITEMS**

**2. SCAG 2012 Regional Transportation Plan and Growth Forecast**

Chair Modugno gave an overview of this issue and that this will be a standing item on future agendas. The purpose of this item will be to share preliminary thoughts on the data provided to jurisdictions in Orange County by SCAG and the review process of this data. One of the issues that SCAG has with crafting this forecast is that SCAG land use categories may be broader than what Cities may have.

Members were asked to share their observations with the preliminary look at this data set as SCAG has asked for local input by October 31, 2009.

The advice of one TAC member was to start early on this review. This topic was discussed in general by TAC members as the data has just been released to local jurisdictions.

**3. OCP-2010**

Ms. Diep provided an update on the 2010 Orange County Projections. Draft July 2008 population, housing, and employment numbers were distributed to jurisdictions in early August. The deadline for providing feedback to CDR is September 4, 2009. CDR is working on the comments already provided and Ms. Diep encouraged anyone who has questions, to call CDR. She and her staff were glad to help with this next OCP cycle and input from cities and the county is critical to finalizing the base year data.

- A member asked about how CDR creates their employment numbers. Ms. Diep explained CDR uses the Dun and Bradstreet (D&B) data base for their employment



forecast. The July 2008 database was purchased in Summer 2008. CDR followed up with telephone verification to existing businesses with 100 or more employees on site. In addition, lists of government employment were verified for city government, county, state, and federal. These and school data supplemented the D&B database. Self-employment is also included in the dataset, which is why there is sometimes employment in fully residential areas, these are typically consultants or home-based businesses. CDR uses a variety of additional sources to develop the OCP.

#### **4. SCAG Framework and Guidelines for the Development of Subregional SCS/APS**

Chair Modugno covered this topic as this framework was currently being developed by SCAG staff.

- On 7/2/2009, the SCAG CEHD released the “Framework and Guidelines for Development of Subregional SCS/APS” for review and comment.
- At the 8/4/2009 OCCOG TAC, this was announced and the TAC requested the Framework and the 10 pages of questions and answers be forwarded to them. This was agendaized at the 9/1/2009 OCCOG TAC. It was also announced that SCAG intended to release an overall RTP process and non-delegation framework at the 9/9/2009 Plans & Programs TAC meeting. She asked if anyone had questions on this item. Ms. Diep added that the process SCAG has outlined reinforces the idea that SCAG will have to incorporate local jurisdiction input. In regards to participation in the SCS process, Orange County has the option to accept responsibility for the full development process of the Orange County SCS or it can participate in SCAG’s process and develop the growth forecast and other items contained within the SCS without accepting the full delegation responsibility which would include delegation of the RHNA, which is part of this next RTP. Ms. Diep explained that CDR will also review the SCAG draft data and will work with cities, the county and SCAG to ensure the local data is incorporated into the dataset. Some of this effort and methodologies will still require a great deal of work by SCAG as the State RTAC is working on the ultimate threshold for Green House Gases (GHG).

#### **5. SB 375 Update**

Ms. Modugno and Ms. Diep shared information on this state statute. Ms. Modugno provided a copy of a PowerPoint presentation from the stakeholders group that is overseeing this issue for the Orange County region. She introduced Melinda Andrade, Curt Pringle and Associates, who is handling outreach for SCAG on SB-375. Ms. Andrade further covered this topic sharing that the next stakeholder meeting is going to be September 17 with the location yet to be determined. If you would like to be included in these meetings contact Ms. Andrade. These meetings are intended to include city staff, as well as elected members at the City and County level to consider if Orange County should prepare its own Strategic Community Strategy (SCS) to be included in SCAG’s SCS for the whole region.

- ◆ Regional Targets Advisory Committee Meeting – August 5, 2009

**FINAL - OCCOG TAC Minutes**  
**Meeting of September 1, 2009**  
**Page 3**

The draft greenhouse gas emissions target is expected in June 2010. This target will likely be pretty close to what will be the final number in September 2010.

♦ Regional Targets Advisory Committee Meeting – August 18, 2009

This meeting is available to see via the RTAC website (California Air Board) through a webcast. The next RTAC meeting is today (9/1/09). This group is quite diverse and meetings are long with each member having their specific specialty. The RTAC is busy working on this topic and will release its final report in 2010. The base year 2005 is a possible start year for GHG.

**6. Housing Element Update**

This will be a new item on this and future agendas. We would like to provide for the opportunity to discuss this topic at our monthly meetings so TAC members can be more aware of this issue. This will be the placeholder of the agenda to do it.

Ms. Modugno passed out the list of cities in compliance that completed the HCD review process of the local Housing Elements. Compliance with Housing Element requirements for your jurisdiction is critical if your agency is seeking state funding for housing projects.

**REPORTS**

**7. SCAG Meetings**

♦ Regional Council and Policy Committee Meetings of September 3, 2009

Regional Council:

Ms. Modugno announced that a White Paper discussion on RHNA reform has now been released by SCAG. Councilman Dixon's spearheading this effort (one of his five goals during his term as SCAG Board President) which started last year and was supported by other elected officials in the SCAG region interested in pushing for RHNA reform. The White Paper report is available on the SCAG website. This a policy-level view of this subject that seeks to revamp the RNHA law and process. This is worth a read.

Energy Committee:

Will receive a presentation on Draft Rule 2301 from the SCAQMD.

Transportation Committee:

ARTIC update will be given to this committee, as well as a discussion on goods

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movement.

CEHD:

SB 375 – Framework for this effort and other issues on their agenda.

Census issues were also on their agenda. A newspaper editorial was included on the topic of counting all residents, whether legal or not, in the Decennial Census. The Hispanic and Latino group is asking for these communities to boycott the 2010 Census.

- ◆ Plans and Programs TAC/Subregional Coordinators Group Meeting of August 12, 2009
  - Plans and Programs

Release of a SCAG report on the Preliminary SB 375 Subregional GHG Reduction Target Methodologies, the Growth Forecast Outreach, and the draft Public Participation Plan.
  - Subregional Coordinators Group Meeting of September 1, 2009 (Preview Agenda)

The Housing Element report/handout (see item 5 above, cities in or out of compliance) came from this meeting. This committee discussed the issue of delegation when it comes to SCS creation for SCAG and the sub-regions. Nancy Pfeffer of the Gateway Cities Subregion asked at this meeting what is the benefit of doing a sub-regional SCS. Jacob Lieb of SCAG responded that the sub-regions will be able to spend more time working on the SCS. Initial comments from some of the 14 SCAG subregions are the potential costs seem large (staff time and liability) and the benefits appear to very small for any subregion to accept delegation of the SCS & RHNA processes.

Doug Reilly, City of Laguna Woods, asked if Orange County does its own SCS, would it have a more favorable view toward OC's issues. Ms. Diep agreed that participating in the SCS development process would result in a growth forecast and list of transportation projects that reflect Orange County planning. She stressed that Orange County could still pursue development of a SCS, through the existing processes in Orange County, namely the Orange County Projections process and OCTA's LRTP transportation project list, without having to accept official delegation and the associated liability and costs. TAC members also raised issues such as how much would it cost and how could the process be implemented in Orange County. The TAC recognized the Board was not yet aware of the release of the new documents and that there was a diminishing timeframe to provide SCAG with technical comments.

Based upon this discussion, the TAC voted to form an ad-hoc subcommittee to review the Subregional Framework and Guidelines document for delegation and SCAG's non-delegation process (expected to be released on 9/9/2009) to collect additional technical questions regarding the two processes that could be submitted to the P&P TAC subcommittee and the Subregional Coordinators. The working group may also look at other technical aspects of the SCS process and implementation. The subcommittee would report back to the TAC and provide an update on efforts to the OCCOG Board which could be in the form of a memo. The following persons volunteered for the ad-hoc committee:

Dave Simpson, OCCOG staff  
Greg Nord, OCTA  
Deborah Diep, CDR  
Marika Modugno, City of Irvine  
Melanie McCann, City of Santa Ana  
Susan Kim/Tracy Sato, City of Anaheim  
Doug Reilly, City of Laguna Woods  
Grant Raupp, City of Garden Grove  
Art Bashmakian, City of Westminster

#### **8. OCCOG Board Meeting of August 27, 2009**

- Report was given by David Simpson, OCCOG staff. Kristine Murray was appointed as OCCOG Executive Director by the Board. The transition to OCTA overseeing the administrative functions of the COG were now in place as the agreement to allow this function to transfer to OCTA has been approved by local agencies. David was frank in sharing that his role as staff to the OCCOG Board and TAC were separate from his duties for OCTA and, during this time of transition, he and Executive Director Murray would need time to get up to speed.
- The SCS agreement was hotly discussed by the Board. The proposed agreement between OCTA and OCCOG covered the basic items of how work and approval authority would be divided up between OCTA and OCCOG should both agencies agree to pursue the development of an Orange County SCS. OCTA's Board took action on the administrative agreement and the agreement regarding distribution of work should an SCS be pursued, that linked the two efforts; this meant that should the OCCOG not approve the SCS agreement, the staffing of OCCOG by OCTA would be in jeopardy. Board member, Peter Herzog, who talked at length about the agreement (assumptions on OCTA assuming staff responsibilities to the COG were a part of this discussion) and then related issues were discussed by the Board. This issue was tabled to be reviewed again at the September Board meeting.

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**REPORT FROM THE CHAIR**

None

**MATTERS FROM OCCOG TAC MEMBERS**

None

**OTHER BUSINESS**

Invite Executive Director-Murray meeting to future TAC meetings and subcommittees

**ITEMS FOR NEXT MEETING**

- SB-2 Presentation – Emergency Shelter standards (City of Brea)
- RHNA
- PR 2301 Update

**ADJOURNMENT**

The meeting was adjourned by Chair Modugno at 11:05 am. to Tuesday, October 6, 2009 at 9:00 a.m. at the City of Orange, Conference Room C.

Submitted by:

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Marika A. Modugno, City of Irvine  
OCCOG-TAC Chair

Attachment: Attendance sign-in sheet for September 1, 2009 TAC meeting

List of attendees

Ron Santos, City of Lake Forest  
Melanie McCann, City of Santa Ana  
Jerry Olivera, City of Seal Beach  
Dave Simpson, OCCOG  
Minoo Ashabi, City of Costa Mesa  
Kori Nevarez, City of Cypress  
Jay Saltzberg, City of Buena Park  
Scott Martin, CDR  
Amy Mullay, City of Irvine

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Bruce Cook, City of Yorba Linda  
Greg Nord, OCTA  
Grant Raupp, City of Garden Grove  
Art Bashmakian, City of Westminster  
Douglas Reilly, City of Laguna Woods  
Deborah Diep, CDR/CSUF  
Linda Smith, County of Orange  
Pat Dapkus, City of Huntington Beach  
Marika Modugno, City of Irvine  
Susan Kim, City of Anaheim  
Chris Wright, City of San Clemente  
Roy Ramsland, City of La Habra  
Anna Pehoushek, City of Orange  
Dani Wray, City of Los Alamitos  
Nate Farnsworth, City of Rancho Santa Margarita  
Adrienne Gladson, City of Brea  
Scott Reekstin, City of Tustin  
Heather Allen, City of Fullerton  
Melinda Andrade, Curt Pringle and Associates