

Date: Monday, April 13, 2009

Time: 9:00 a.m.

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



BOARD AGENDA

Orange County Transportation Authority Board Meeting
Orange County Transportation Authority Headquarters
First Floor - Room 154
600 South Main Street, Orange, California
Monday, April 13, 2009, at 9:00 a.m

ACTIONS

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

Agenda Descriptions

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

Public Comments on Agenda Items

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

Public Availability of Agenda Materials

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

Call to Order

Invocation

Director Moorlach

Pledge of Allegiance

Director Brown



BOARD AGENDA

ACTIONS

Special Matters

There are no Special Matters items.

Consent Calendar (Items 1 through 20)

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

Orange County Transportation Authority Consent Calendar Matters

1. Approval of Minutes - Special Meeting

Of the Orange County Transportation Authority and affiliated agencies' special meeting of March 23, 2009.

2. Approval of Minutes - Regular Meeting

Of the Orange County Transportation Authority and affiliated agencies' regular meeting of March 23, 2009.

3. Investment Activities January 1 through June 30, 2008

Kathleen M. O'Connell

Overview

The Internal Audit Department has completed a review of investment activities for the period January 1, 2008 through June 30, 2008. Based on the review, it appears that the Orange County Transportation Authority is in compliance with its debt, investment, and accounting policies and procedures. However, Internal Audit made three recommendations regarding the quarterly debt and investment report and wire transfers.

Recommendation

Direct staff to implement recommendations in the Investment Activities January 1 through June 30, 2008, Internal Audit Report No. 09-019.



BOARD AGENDA

ACTIONS

4. Implementation of an Ethics Hotline
Kathleen M. O'Connell

Overview

The Internal Audit Department has developed a scope of work for the implementation of an outsourced ethics hotline.

Recommendation

Direct the Internal Audit Department to proceed with issuing a Request for Proposal for ethics hotline services.

5. California Emergency Management Agency Grant Authorization for November 2008 Wildfires
Ric Teano/Paul C. Taylor

Overview

In November 2008, the Governor and President Bush declared a state of emergency as a result of the Southern California wildfires, which made financial assistance available for eligible costs and damages. Authorization is requested to file and execute grant-related agreements with the Federal Emergency Management Agency and California Emergency Management Agency for the purpose of recovering costs incurred by Orange County Transportation Authority as a result of the Triangle Complex Wildfire.

Recommendation

Adopt Resolution No. 2009-16 to authorize the Chief Executive Officer and Deputy Chief Executive Officer to file applications and execute agreements with the Federal Emergency Management Agency and California Emergency Management Agency for the purpose of obtaining federal and state financial assistance.



BOARD AGENDA

ACTIONS

6. State Legislative Status Report
Kristin Essner/P. Sue Zuhlke

Overview

A sponsor position is requested on a bill that would facilitate local flexibility and coordination along the Los Angeles-San Diego-San Luis Obispo rail corridor. A support position is requested on two bills, one that would remove the 2011 sunset provision for transit design-build projects, and another that would create a stable formula for distributing Proposition 1B transit capital funds. A support-with-amendments position is requested on a bill that would provide toll operators with the option to implement the "pay-by-plate" toll collection method. An oppose position is requested on two bills that would prohibit the removal or modification of state park land without the consent of the state legislature. On May 19, 2009, California will hold a special election on six ballot measures which were part of the recent fiscal year 2009-2010 state budget deal which requires voter approval. An overview of all six propositions is provided.

Recommendation

Adopt the following recommended positions on legislation:

Sponsor SB 454 (Lowenthal, D-Long Beach), which facilitates local flexibility and coordination in passenger rail service along the Los Angeles San Diego-San Luis Obispo rail corridor.

Support AB 729 (Evans, D-Santa Rosa), which would remove the 2011 sunset provision for transit design-build projects.

Support AB 1072 (Eng, D-Monterey Park), which would extend the current formula and policies for allocating Proposition 1B transit capital funds for the balance of the program.

Support with amendments for AB 628 (Block, D-Chula Vista), which provides toll operators with the option of implementing "pay by plate" as a toll collection method.



BOARD AGENDA

ACTIONS

6. (Continued)

Oppose SB 372 (Kehoe, D-San Diego), which would prohibit the removal or modification of state park land without State Park and Recreation Commission recommendation and state legislative approval.

Oppose SB 679 (Wolk, D-Davis), which would prohibit the disposal or alternative use of state park land without state legislative approval and the identification of substitute land of equal value.

7. **Federal Legislative Status Report**

Richard J. Bacigalupo

Overview

The Federal Legislative Status Report provides information regarding issues to be addressed by Congress as part of the fiscal year 2010 appropriations process and financial issues relating to the upcoming transportation authorization legislation.

Recommendation

Receive and file as an information item.

8. **Drug and Alcohol Policy Manual**

Lisa Arosteguy-Brown/Patrick J. Gough

Overview

The United States Department of Transportation and the Federal Transit Administration require that the Orange County Transportation Authority administers a drug and alcohol compliance program. Due to recent changes in legislation and internal procedural revisions to the Drug and Alcohol Program, the required policy manual was revised to ensure compliance with all applicable changes. The revisions to Orange County Transportation Authority's Drug and Alcohol Policy Manual have been reviewed and approved by legal counsel.



BOARD AGENDA

ACTIONS

8. (Continued)

Recommendations

- A. Approve the Orange County Transportation Authority's Drug and Alcohol Drug Policy Manual.
- B. Authorize the Chief Executive Officer to certify the Orange County Transportation Authority's Drug-Free Workplace Act statement.

9. Fiscal Year 2008-09 Second Budget Amendment #2

Andrew Oftelie/Kenneth Phipps

Overview

The Orange County Transportation Authority continues to be faced with serious financial challenges in the current and upcoming fiscal year. The elimination of funding from the state and steep declines in sales tax receipts have created large funding shortfalls for transit operations and decreased revenues for the Measure M Program.

To address these revenue shortfalls, immediate action needs to be taken to realign expenditure and revenue levels and understand the use of reserves required to manage through this economic crisis. Approval from the Board of Directors is requested to implement several short-term actions to realign the fiscal year 2008-09 budget to help ensure long-term sustainability.

Recommendations

- A. Amend the bus transit fiscal year 2008-09 budget by reducing revenues by \$18.3 million, reducing the expenditure budget by \$6.1 million, and increasing the use of reserves by \$12.2 million.
- B. Amend the Local Transportation Authority fiscal year 2008-09 budget by reducing revenues by \$20.4 million, reducing expenditures by \$111.5 million and reducing the use of reserves by \$91.1 million.



BOARD AGENDA

ACTIONS

Orange County Local Transportation Authority Consent Calendar Matters

10. **Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008**
Kathleen M. O'Connell

Overview

Mayer Hoffman McCann P.C., an independent accounting firm, has completed its annual agreed-upon procedures for ten Orange County cities for the fiscal year ended June 30, 2008. These procedures were developed by the Taxpayers' Oversight Committee of the Orange County Local Transportation Authority to assist them in evaluating the selected cities' level of compliance with provisions of Measure M Local Transportation Ordinance No. 2

Committee Recommendations

- A. Receive and file the Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008.
- B. Direct staff to initiate an amendment to the Orange County Local Transportation Authority Ordinances No. 2 and 3, clarifying whether or not projects must be included in the Seven-Year Capital Improvement Program for every year in which expenditures are made and that turnback funds cannot be used for internal city borrowing or to pay interest or costs of issuance for debt incurred to advance projects.
- C. Direct staff to accept an amended Seven Year Capital Improvement Program from the City of Irvine.



BOARD AGENDA

ACTIONS

11. **Cooperative Agreements with the Cities of Aliso Viejo and Irvine for Go Local Step Two Bus/Shuttle Service Planning**
Kelly Long/Darrell E. Johnson

Overview

The Orange County Transportation Authority Board of Directors has approved 27 bus/shuttle proposals submitted under Go Local Step One to be advanced to Step Two. As part of Step Two, each bus/shuttle proposal will undergo detailed service planning. Cooperative agreements are needed to outline roles and responsibilities for the Step Two service planning effort. Cooperative agreements with the cities of Aliso Viejo and Irvine for service planning of the cities' respective bus/shuttle proposals are presented for review and approval.

Recommendations

- A. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0304 between the Orange County Transportation Authority and the City of Aliso Viejo to define each party's roles and responsibilities for service planning of the Aliso Viejo Town Center Shuttle Bus.
- B. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0303 between the Orange County Transportation Authority and the City of Irvine to define each party's roles and responsibilities for service planning of the Irvine Spectrum Shuttle.

12. **Cooperative Agreement with the California Department of Transportation for the Eastbound Riverside Freeway (State Route 91) Project**
Dipak Roy/Kia Mortazavi

Overview

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to establish the funding responsibilities related to the construction of an eastbound lane on the Riverside Freeway (State Route 91) between the Eastern Transportation Corridor (State Route 241) and the Corona Expressway (State Route 71).



BOARD AGENDA

ACTIONS

12. (Continued)

Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0359 between the California Department of Transportation and the Orange County Transportation Authority, in an amount not to exceed the current estimate of \$67.852 million, for construction of an eastbound lane on the Riverside Freeway (State Route 91).

13. **Cooperative Agreement with the California Department of Transportation for the San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project**
Rose Casey/Kia Mortazavi

Overview

The San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project will extend the high-occupancy vehicle lanes from San Juan Creek Road in the City of San Juan Capistrano to Avenida Pico in the City of San Clemente. A draft cooperative agreement has been prepared that outlines the roles and responsibilities of the Orange County Transportation Authority and the California Department of Transportation for the project approval and environmental document phase of the project.

Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0270 between the Orange County Transportation Authority and the California Department of Transportation for the project approval and environmental document phase of the San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project between San Juan Creek Road and Avenida Pico.



BOARD AGENDA

ACTIONS

14. **Cooperative Agreement with California Department of Transportation for the Construction and Construction Administration of the Garden Grove Freeway (State Route 22) Additional Soundwalls**
George B. Saba/Kia Mortazavi

Overview

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to establish roles and responsibilities for the construction and construction administration for the additional soundwalls along the Garden Grove Freeway (State Route 22).

Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0320 between the Orange County Transportation Authority and the California Department of Transportation for the construction and construction administration for the additional soundwalls along the Garden Grove Freeway (State Route 22), in an amount not to exceed \$2.92 million.

15. **Agreement for Measure M Taxpayers' Oversight Committee Recruitment**
Alice T. Rogan/Ellen S. Burton

Overview

The Measure M Ordinances No. 2 and No. 3 call for the establishment of an oversight committee to ensure fidelity with the expenditure plans outlined in the Traffic Improvement and Growth Management Plan, and the Renewed Measure M Transportation Investment Plan. Eleven members serve staggered three-year terms and each year the Grand Jurors' Association of Orange County, as mandated by the ordinances, conducts a recruitment to replace outgoing members. Board of Directors' approval is requested to execute a new agreement with the Grand Jurors' Association of Orange County.



BOARD AGENDA

ACTIONS

15. (Continued)

Recommendation

Authorize the Chief Executive Officer to execute Agreement No. C-9-0301 between the Orange County Transportation Authority and the Grand Jurors' Association of Orange County, in an amount not to exceed \$50,000, for five years for managing the Taxpayers' Oversight Committee recruitment process.

Orange County Transit District Consent Calendar Matters

16. Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Planning Agency Schedule of Revenues, Expenses, and Change in Net Assets, Year Ended June 30, 2008

Kathleen M. O'Connell

Overview

The Orange County Transportation Authority is required to obtain an independent auditor's opinion on compliance for funding allocations under the Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account. Mayer Hoffman McCann P.C., an independent accounting firm, has completed its audit for the fiscal year ended June 30, 2008.

Recommendation

Receive and file the Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Planning Agency Schedule of Revenues, Expenses, and Changes in Net Assets, Year Ended June 30, 2008.



BOARD AGENDA

ACTIONS

17. Amendment to Agreement for the Provision of Special Agency Transportation Service

Dana Wiemiller/Beth McCormick

Overview

On April 12, 2004, the Board of Directors approved an agreement with American Logistics, Inc., doing business as California Yellow Cab, in the amount of \$450,335, to provide special agency transportation service. An amendment is requested to extend the agreement through June 30, 2011.

Recommendation

Authorize the Chief Executive Officer to execute Amendment No. 4 to Agreement No. C-3-1284 between the Orange County Transportation Authority and American Logistics, Inc., to extend the term of the agreement, in an amount not to exceed \$754,000, for the provision of special agency transportation service through June 30, 2011, bringing the total contract value to \$2,815,142.

18. Amendment to Cooperative Agreements for Provision of Senior Transportation to Congregate Meal Sites

Dana Wiemiller/Beth McCormick

Overview

On April 12, 2008, the Board of Directors approved cooperative agreements with the Orange County Office on Aging and ten cities participating in the Special Agency Transportation program to provide senior transportation to congregate meal sites. Amendments are requested to extend these agreements through June 30, 2010.

Recommendations

- A. Authorize the Chief Executive Officer to execute Amendment No. 1 to Cooperative Agreement No. C-8-0224 between the Orange County Transportation Authority and the Orange County Office on Aging for its share of the program expense for the provision of senior transportation to congregate meal sites, in an amount not to exceed \$330,952, through June 30, 2010.



BOARD AGENDA

ACTIONS

18. **(Continued)**

- B. Authorize the Chief Executive Officer to execute amendments to agreements with ten participating cities for the cities' share of the program expense through June 30, 2010, based on the Orange County Office on Aging allocation, for a total amount not to exceed \$83,000.

19. **Customer Information Center Update**

Marlon Perry/Ellen S. Burton

Overview

The Orange County Transportation Authority Customer Information Center assists customers with trip planning by providing travel itineraries and general information to bus riders seven days a week, 365 days a year. This report provides an update on the Customer Information Center including the tracking of the call volume and the status of the Alta Resources contract.

Recommendation

Receive and file an update on the Customer Information Center.

20. **Amendment to Agreement for Bus Revenue-Generating Advertising Contract**

Stella Lin/Ellen S. Burton

Overview

On May 23, 2005, the Orange County Transportation Authority Board of Directors approved an agreement with Titan Outdoor to sell, place, and maintain advertisements on the interior and exterior of the buses. Due to the current economic downturn and a significant decrease in advertising sales revenue, Titan Outdoor is requesting the elimination of the minimum annual guarantee payment and adoption of a revenue-sharing payment arrangement.

Recommendation

Authorize the Chief Executive Officer to execute Amendment No. 3 to Agreement No. C-5-0127 between the Orange County Transportation Authority and Titan Outdoor, to modify the payment provisions and to exercise the second option term.



BOARD AGENDA

ACTIONS

Regular Calendar

Orange County Transit District Regular Calendar Matters

21. **Fare Evasion Report**
Bruce H. Gadbois/Beth McCormick

Overview

At the Orange County Transportation Authority Board of Directors' meeting on February 23, 2009, staff was requested to prepare a presentation on fare evasion, addressing how much revenue is lost and the practicality of enforcement by coach operators.

Recommendation

Receive and file as an information item.

22. **Bus Stop Maintenance Program**
Ryan Erickson/Beth McCormick

Overview

As part of the Orange County Transportation Authority's Fiscal Year 2008-09 Budget, the Board of Directors approved the continuation of the bus stop maintenance program. This program involves servicing each bus stop location on a pre-determined schedule along assigned routes. Prior to establishing a new bus stop maintenance agreement, the Board of Directors asked staff to conduct a survey of the cities. The objectives of the survey were to determine how each city currently handles bus stop maintenance, the number of bus stop amenities in each city, and the impact if the Orange County Transportation Authority were to reduce or eliminate the bus stop maintenance program.

Committee Recommendations

- A. Approve a revised scope of work for bus stop maintenance.
- B. Direct staff to meet with representatives from each city on the bus stop maintenance program to discuss challenges and possible solutions.



BOARD AGENDA

ACTIONS

Discussion Items

23. Economic Stimulus Update

Kia Mortazavi

24. Public Communications Update

Stella Lin/Ellen S. Burton

25. Public Comments

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

26. Interim Chief Executive Officer's Report

27. Directors' Reports

28. Closed Session

A. Pursuant to Government Code Section 54957.6 to discuss negotiations with Teamsters, Local 952, representing coach operators and maintenance personnel. The designated representative for OCTA is Patrick J. Gough; the designated representative for Teamsters Local 952 is Patrick Kelly.

B. Pursuant to Government Code Section 54957 to consider the appointment of a Chief Executive Officer.

29. Adjournment

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, April 27, 2009**, at the OCTA Headquarters.

Minutes of the Special Meeting of the
Orange County Transportation Authority
Orange County Service Authority for Freeway Emergencies
Orange County Local Transportation Authority
Orange County Transit District
Board of Directors
March 23, 2009

Call to Order

The March 23, 2009, special meeting of the Orange County Transportation Authority and affiliated agencies was called to order by Chairman Buffa at 8:15 a.m. at the Orange County Transportation Authority Headquarters, Orange, California.

Roll Call

Directors Present: Peter Buffa, Chairman
Jerry Amante, Vice Chair
Patricia Bates
Arthur C. Brown
Bill Campbell
Carolyn V. Cavecche
William J. Dalton
Richard Dixon
Paul Glaab
Cathy Green
John Moorlach
Janet Nguyen
Chris Norby
Mark Rosen
Gregory T. Winterbottom

Also Present: Arthur T. Leahy, Chief Executive Officer
Paul C. Taylor, Deputy Chief Executive Officer
Wendy Knowles, Clerk of the Board
Laurena Weinert, Assistant Clerk of the Board
Kennard R. Smart, Jr., General Counsel
Members of the Press and the General Public

Directors Absent: Allan Mansoor
Curt Pringle
Miguel Pulido

Public Comments on Agenda Items

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

No public comments were received.

1. **Closed Session**

A Closed Session was held:

- A. Pursuant to Government Code Section 54957 to consider the appointment of a Chief Executive Officer.
- B. Pursuant to Government Code Section 54957.6 to meet with designated representatives Chairman Buffa, Vice Chairman Amante, and Director Norby to discuss the compensation of the Chief Executive Officer.

2. **Consideration of Appointment of a Chief Executive Officer and the Compensation of the Chief Executive Officer**

Due to Item #1 not being completed in this meeting, the Closed Session will be continued at the end the regular meeting, which immediately follows.

3. **Adjournment**

The meeting adjourned at 8:55 a.m. Chairman Buffa announced that the next regularly scheduled meeting of this Board would follow this meeting at the OCTA Headquarters.

ATTEST

Wendy Knowles
Clerk of the Board

Peter Buffa
OCTA Chairman

Minutes of the Meeting of the
Orange County Transportation Authority
Orange County Service Authority for Freeway Emergencies
Orange County Local Transportation Authority
Orange County Transit District
Board of Directors
March 23, 2009

Call to Order

The March 23, 2009, regular meeting of the Orange County Transportation Authority and affiliated agencies was called to order by Chairman Buffa at 9:11 a.m. at the Orange County Transportation Authority Headquarters, Orange, California.

Roll Call

Directors Present: Peter Buffa, Chairman
Jerry Amante, Vice Chairman
Patricia Bates
Arthur C. Brown
Bill Campbell
Carolyn Cavecche
William J. Dalton
Richard Dixon
Paul Glaab
Cathy Green
John Moorlach
Janet Nguyen
Chris Norby
Miguel Pulido
Gregory T. Winterbottom
James Biel, attending for Cindy Quon,
Governor's Ex-Officio Member

Also Present: Arthur T. Leahy, Chief Executive Officer
Paul C. Taylor, Deputy Chief Executive Officer
Wendy Knowles, Clerk of the Board
Laurena Weinert, Assistant Clerk of the Board
Kennard R. Smart, Jr., General Counsel
Members of the Press and the General Public

Directors Absent: Allan Mansoor
Curt Pringle

Invocation

Vice Chairman Amante gave the invocation.

Pledge of Allegiance

Director Winterbottom led the Board and audience in the Pledge of Allegiance.

Public Comments on Agenda Items

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

Special Matters

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

Chairman Buffa presented Orange County Transportation Authority Resolutions of Appreciation Nos. 2009-012, 2009-013, 2009-014 to Kenny Enwright, Coach Operator; Roger Perez, Maintenance; and Dan Geiser, Administration, as Employees of the Month for March 2009.

2. Presentation of Resolution of Appreciation to Orange County Sheriff's Department Employee of the Quarter

Chairman Buffa presented Orange County Transportation Authority Resolution of Appreciation No. 2009-015 to Orange County Sheriff's Deputy Dave Beeler.

3. Special Recognition for Thirty Years of Safe Driving

Chairman Buffa presented a check to Coach Operator Tony Aidukas in recognition of his achievement of thirty years of safe driving OCTA buses.

4. Resolution of Appreciation for Departing Chief Executive Officer, Arthur T. Leahy

Senator Lou Correa, former OCTA Board Member, offered laudatory comments to Mr. Leahy, and encouraged the Board to carefully weigh their decisions regarding service cuts and potential lay-offs of coach operators.

Orange County Sheriff, Sandra Hutchens, presented a plaque to Mr. Leahy, signifying the Department's appreciation for Mr. Leahy's efforts regarding the safety of the traveling public throughout Orange County.

4. (Continued)

Chairman Buffa presented Orange County Transportation Authority Resolution of Appreciation No. 2009-018 to departing Chief Executive Officer, Arthur T. Leahy. Members of the Board of Directors offered their congratulatory comments and individually expressed their appreciation to Mr. Leahy for his work while at OCTA over the past eight years.

Hamid Bahadori, representing the Southern California Auto Club of California, recognized Mr. Leahy's leadership and contributions in improving safety and mobility in Orange County.

Lacy Kelly, Executive Director of the Orange County Division, League of Cities, provided comments thanking Mr. Leahy for his leadership and cooperation in partnering with the League on various projects and events.

5. Measure M Taxpayers' Oversight Committee Annual Public Hearing Results and Compliance Findings

David Sundstrom, Co-Chairman of the Measure M Taxpayers' Oversight Committee, who provided an update on the Committee's activities, public hearing results and compliance findings.

No action was taken on this receive and file item.

Consent Calendar (Items 6 through 21)

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

Orange County Transportation Authority Consent Calendar Matters

6. Approval of Minutes

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to approve the minutes of the Orange County Transportation Authority and affiliated agencies' regular meeting of March 9, 2009.

7. State Legislative Status Report

This item was not heard at the March 19 Legislative and Communications Committee meeting due to lack of a quorum. Therefore, the item was pulled and will return to the Board after being presented at the next Legislative and Communications Committee meeting.

8. Selection of Consultants for On-Call Transportation Planning Technical Support

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to authorize the Chief Executive Officer to execute agreements between the Orange County Transportation Authority and Fehr & Peers (Agreement No. C-8-1316), IBI Group (Agreement No. C-9-0254), Kimley-Horn and Associates, Inc. (Agreement No. C-9-0255), PB Americas, Inc. (Agreement No. C-9-0256), and Wilbur Smith Associates (Agreement No. C-9-0257), in an aggregate amount not to exceed \$600,000, for a three-year contract term to provide on-call services for transportation planning technical support.

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

9. Amendment to Agreement for Claims Administration for Self-Insured Workers' Compensation Program

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to authorize the Chief Executive Officer to execute Amendment No. 2 to exercise the second and final option year to Agreement C-5-2590 between the Orange County Transportation Authority and TRISTAR Risk Management, in an amount not to exceed \$424,297, to provide workers' compensation claims administration services for the period of November 1, 2009, through October 31, 2010, bringing the total contract value to \$1,990,771.

10. Annual Investment Policy Update

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

- A. Adopt the 2009 Annual Investment Policy.
- B. Authorize the Treasurer to invest, reinvest, purchase, exchange, sell, and manage Orange County Transportation Authority funds during fiscal year 2009-10.

11. Agreement for Oniqua Inventory Analytics Implementation

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to authorize the Chief Executive Officer to execute Agreement No. 8-1335 between the Orange County Transportation Authority and Oniqua Inc., in an amount not to exceed \$100,000, for implementation assistance and expertise with the inventory module of the Oniqua analytic suite. The scope of this effort will include project management, design, configuration, programming, training, testing, and go-live support.

12. Proposed Overall Annual Race-Neutral Disadvantaged Business Enterprise Goal for Federal Fiscal Year 2008-2009

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to adopt the proposed federal fiscal year 2008-09 overall annual race-neutral Disadvantaged Business Enterprise participation goal of 4 percent for contracts assisted by the Federal Transit Administration, in accordance with 49 CFR Part 26.

13. Approval of Local Transportation Fund Fiscal Year 2009-10 Apportionment Estimates

This item was pulled by a member of the public, Jane Reifer, who stated that she wants to insure this item has been looked at thoroughly to potentially backfill problems with transit operations funding.

A motion was made by Director Cavecche, seconded by Vice Chairman Amante, and declared passed, to approve the Local Transportation Fund fiscal year 2009-10 apportionment estimates and authorize the Chief Executive Officer to advise all prospective claimants of the amounts of all area apportionments from the Orange County Local Transportation Fund for the following fiscal year.

Director Cavecche asked that the Finance staff contact Ms. Reifer to clarify what is being done with the apportionment estimates in relation to the transit issues she has addressed.

Director Moorlach was not present to vote on this item.

14. Project Management Requirements to Deliver the Renewed Measure M Early Action Plan

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

- A. Approve the proposed changes to the staffing plan for the Highway Project Delivery Department.
- B. Amend the Orange County Transportation Authority staffing plan by two positions to add a principal right-of-way administrator and a senior right-of-way administrator to support the early development phases of Renewed Measure M projects.
- C. Amend the Orange County Transportation Authority Fiscal Year 2008-09 Salaries and Benefits Budget by \$41,504 to accommodate the addition of two new right-of-way positions.

15. Agreement for Strategic Management Services

This item was pulled by Director Campbell, who expressed his concern that the current scope of work may limit the activities of the contractor (Monte Ward) to strictly work on the close-out of Measure M (1). He further stated that this limitation may prevent necessary work on Mr. Ward's more recent responsibilities, which are still underway, e.g., negotiations with Irvine and the Great Park Corporation regarding acreage which was to be dedicated to OCTA.

A motion was made by Director Campbell, seconded by Director Bates, and declared passed by those present, to authorize the Chief Executive Officer to execute Sole Source Agreement No. C-9-0181 between the Orange County Transportation Authority and Monte Ward, in an amount not to exceed \$174,720 over a two-year period, for Strategic Management Services, and to add a "Miscellaneous" category to the scope of work to authorize Mr. Ward to work on other activities related to his recent past work at OCTA.

Orange County Local Transportation Authority Consent Calendar Matters

16. Approval of Agreements for Renewed Measure M Freeway Mitigation Program

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

- A. Approve the draft Memorandum of Understanding Agreement C-9-0278 among the Orange County Transportation Authority, United States Fish and Wildlife Service, California Department of Fish and Game, and California Department of Transportation to serve as the master agreement and guide for the implementation of the Renewed Measure M Freeway Mitigation Program.
- B. Approve the draft Planning Agreement C-9-0279 among the Orange County Transportation Authority, United States Fish and Wildlife Service, California Department of Fish and Game, and California Department of Transportation to establish the process, roles, responsibilities, and commitments for the preparation of the Orange County Transportation Authority Natural Community Conservation Plan/Habitat Conservation Plan.
- C. Approve the draft Agreement C-9-0169 between the Orange County Transportation Authority and the California Department of Fish and Game, in an amount not to exceed of \$300,000, for staffing services to enable the California Department of Fish and Game to meet its responsibilities for preparation and timely approval of the Orange County Transportation Authority Natural Community Conservation Plan/Habitat Conservation Plan. Direct staff to incorporate adherence to plan schedule and reporting milestones into the scope of work.

16. (Continued)

- D. Authorize up to \$2.5 million from the Early Action Plan commercial paper program to be available in fiscal years 2009-2010 and 2010-2011 for the purposes specified in Memorandum of Understanding Agreement C-9-0278, Planning Agreement C-9-0279, and Agreement C-9-0169.
- E. Direct that a method for criteria prioritization of advance mitigation expenditures be developed and presented to the Transportation 2020 Committee and the Board of Directors, before seeking further authorization of funding for property acquisition, restoration or management.

17. Approval to Release Request for Proposals for Lane Addition on the Westbound Riverside Freeway (State Route 91) Between the Santa Ana Freeway (Interstate 5) and the Orange Freeway (State Route 57)

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

- A. Approve the proposed evaluation criteria and weightings for selection of consultant services for Request for Proposals No. 9-0244.
- B. Approve the release of Request for Proposals No. 9-0244 for the design of the westbound Riverside Freeway (State Route 91) between the Santa Ana Freeway (Interstate 5) and Orange Freeway (State Route 57).

Orange County Transit District Consent Calendar Matters

18. Approval to Release Request for Proposals for Janitorial Services

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

- A. Approve the proposed evaluation criteria and weights for Request for Proposal 9-0259 for janitorial services.
- B. Approve the release of Request for Proposals 9-0259 for janitorial services.

Director Cavecche voted in opposition of this action.

19. Amendment to Cooperative Agreement with South County Senior Services for the Provision of Adult Day Healthcare Transportation

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to authorize the Chief Executive Officer to execute Amendment No. 1 to Cooperative Agreement No. C-7-0689 between the Orange County Transportation Authority and South County Senior Services, to add \$25,000 to the initial term and exercise the first option year, in an amount not to exceed \$286,104, for a total amendment of \$311,104, bringing the total contract value to \$766,104.

20. Amendment to Cooperative Agreement with Orange County ARC for the Provision of Adult Day Healthcare Transportation

A motion was made by Director Winterbottom, seconded by Vice Chairman Amante, and declared passed by those present, to authorize the Chief Executive Officer to execute Amendment No. 1 to Cooperative Agreement No. C-7-0693 between the Orange County Transportation Authority and Orange County ARC, in an amount not to exceed \$396,165, for the provision of transportation services through June 30, 2010, bringing the total contract value to \$1,288,165.

21. Amendment to Agreement for Bus Revenue-Generating Advertising Contract

This item was pulled by General Counsel and will be addressed at a future Board meeting.

Regular Calendar

Orange County Transportation Authority Regular Calendar Matters

22. Central County Corridor Major Investment Study Update

Tami Warren, Corridor Studies, Development Division, provided an update on the Central County Corridor Major Investment Study and the various concepts/strategies proposed.

A brief discussion followed. Director Norby stated that he supports the D1 strategy; Director Winterbottom stated he supports development at-grade or near-grade levels.

Public comments were heard from:

John Collins, Councilmember, City of Fountain Valley, requested that the D6 strategy (freeway elevated over bridges) be removed from consideration. He further stated that the at-grade or above-grade construction should not be recommended.

22. (Continued)

Darrell Nolfa, resident of Westminster, stated that he continues to oppose this item, as he has in the past, and expressed his concern for the costs related to performing the studies.

A motion was made by Director Moorlach and seconded by Director Green to eliminate all the current “D” strategies. A roll call vote was taken by the Clerk of the Board, and the motion failed due to not receiving nine votes.

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

- A. Approve the study of the Refined Set of Conceptual Alternative Strategies A, B, C, D3, D4, D7, and E.
- B. Approve the study of Alternative Strategy D8 to build above the structure to the existing bridges at that grade.
- C. Approve the evaluation criteria.
- D. Authorize staff to present the refined set of strategies for public input.

Directors Green and Moorlach voted in opposition.

Directors Glaab and Pulido were not present for this vote.

23. Renewed Measure M Project T Funding Recommendations

Roger Lopez, Manager of Local Measure M Programs, presented staff's recommendations regarding funding allocations, which resulted from the recent Renewed Measure M Project T Call for Projects, and stated that Project T's intent is the conversion of existing Metrolink stations to regional gateways for high-speed rail.

Director Campbell stated that he supports the Committee's recommendations and that he feels the \$2.66 million for the City of Irvine should be the first entry against what OCTA committed to trade back with the City. He also stated that staff should come back to the Board with a recommendation on how a determination will be made regarding which item will be charged against the transfer of funds.

Chairman Buffa stated that the Board should have assurance regarding OCTA's commitment to building the station at the Anaheim Regional Transportation Intermodal Center. He requested that this issue come to the next Transportation 2020 Committee along with information as to how this will be funded.

23. (Continued)

Public comments were heard from:

Darrell Nolta, resident of Westminster, stated he opposes these recommendations and encouraged Metrolink to insure riders' safety.

Jane Reifer, resident of Fullerton, stated that she favors adequate planning on these projects, although is conflicted on these recommendations due to concern for the costs involved. She indicated she feels that general transit funds should not be used for this purpose.

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

- A. Approve the funding requests included in this report for the cities of Anaheim, Fullerton, Irvine, and Santa Ana.
- B. Direct staff to return to the Transportation 2020 Committee in April 2009 with funding options for the Anaheim Regional Transportation Intermodal Center using Renewed Measure M Project T and other fund sources.
- C. Direct staff to return to the Transportation 2020 Committee in April 2009 with funding options using non-Project T fund sources for Fullerton, Irvine, and Santa Ana requests.

Directors Brown, Glaab, Nguyen, Norby, and Pulido were not present for this vote.

Orange County Transportation District Regular Calendar Matters

24. June 2009 Bus Service Reduction Program

CEO, Arthur T. Leahy, provided background on the proposed service reduction program and emphasized the need for OCTA to take steps to reduce costs, reduce staff, and consider various other efforts to remain solvent. He reminded the Board that there would not be raises or bonuses for Administrative staff in the coming fiscal year; additionally, a hiring freeze for nearly all positions is in place.

Scott Holmes, Service Planning Manager, presented the details of the service reduction program, routes impacted, techniques to reduce service hours, and public outreach performed to prepare the riding public for the upcoming changes.

Public comments were heard from:

Patrick Kelly, representing Teamsters Local 952, indicated he feels the "system is crashing" and expressed his concern for jobs which could be lost.

24. (Continued)

Shirley Smith, OCTA Coach Operator, asked that the Board reconsider all possible options, including part-time schedules, freezing salaries (which she indicated most drivers would agree to), changing labor contracts to a longer term, attrition, etc.

Vanessa Castillo, student, Santa Ana College, expressed concern for service reductions, ability to get to work and school.

Carlos Amados, student and resident of Anaheim, expressed his concern for being late to school and work when service hours are reduced.

Antonia Riviera, resident of Orange County, stated she is a bus rider and has been happy with OCTA's service and past expansion of routes and service. She further expressed her concern for the safety of riders and overcrowding on buses if service and routes are reduced.

Francisco Bravo, student and resident of Tustin, expressed his concern for the impact of service reductions and the safety of bus riders.

Andrew Smith, OCTA Coach Operator, expressed his concern for transit-dependent individuals and asked that the Board take a less aggressive approach on a two-year scale.

Jane Reifer, resident of Fullerton, stressed the importance of pertinent information being made available to the public as soon as possible and widely publicized so those affected know what the changes are.

Darrell Nolta, resident of Westminster, stated that he supports the bus service reductions.

Donna Metcalfe, representing Teamsters Local 952, offered comments relative to concern for the elderly and disadvantaged who depend on OCTA bus service.

Marvin Cotton, OCTA Coach Operator, expressed concern for service cuts and for the impacts to the traveling public.

Linda Hill, OCTA Coach Operator, provided comments of concern for reduction of service for children who need home-to-school transportation in the Fullerton area.

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

Director Bates, Glaab, Nguyen, Norby, and Pulido were not present to vote on this item.

25. Fiscal Year 2009-10 Transit Budget Assumptions

Ken Phipps, Deputy Director of Finance and Administration, provided an update on the Transit Budget Assumptions and the impacts to the OCTA.

Mr. Phipps highlighted:

- Use of federal stimulus monies
- Potential fare increase in 2011
- Operating revenues
- Various scenarios and approaches to deal with extreme shortfalls
- Position reductions
- Service hours reductions

Director Cavecche inquired as to the status of negotiations with the coach operators regarding foregoing upcoming wage increases.

CEO, Mr. Leahy, responded that though an agreement has not been reached, there has been a number of discussions with two objectives: first, to “lay open the books” so that the Union is aware of all the numbers, and secondly, to see what can be done to reduce costs to cushion the impacts. He further added that Union members are just now beginning to grasp the impending impacts given the current serious situation.

Public comments were heard from:

Jane Reifer, resident of Fullerton, requested that the Board not vote on staff recommendations at this meeting and to further gather input from the public.

Linda Hill, OCTA Coach Operator, asked for clarification on the impact of receiving stimulus money and stated she prefers a two-year program of service reduction.

CEO, Mr. Leahy, emphasized the importance of the Board giving staff direction at this time in preparation of the budget. He also stated that a public hearing will take place in May.

Director Cavecche inquired as to when the lay-offs would begin, and Mr. Phipps responded that they would begin almost immediately.

A motion was made by Director Campbell and seconded by Vice Chairman Amante to:

- A. Approve a one-year bus service reduction program and direct staff to implement a service reduction of 400,000 annual revenue vehicle hours as part of the fiscal year 2009-10 budget.

25. (Continued)

- B. Authorize the Chief Executive Officer to lay off employees, including, but not limited to, employees subject to collective bargaining agreements with Teamsters Local 952 or the Transportation Communications International Union, when the Chief Executive Officer decides a reduction in force is necessary.

A roll call vote was conducted by the Clerk of the Board, and the motion was declared passed by a vote of 9-1, with Director Moorlach voting in opposition.

Directors Glaab, Bates, Pulido, Norby, and Nguyen were not present for this vote.

Discussion Items

26. Public Comments

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

Jane Reifer, resident of Fullerton, expressed her concern for how changes and detours are being conveyed accurately to bus riders, citing the Bus Book, in which she found several errors and oversights.

27. Chief Executive Officer's Report

Chief Executive Officer, Arthur T. Leahy, reported:

- The Senate has scheduled a hearing for Lucy Dunn, Executive Director of the Orange County Business Council, to be confirmed as a Member of the California Transportation Commission (CTC) on April 15;
- Dates and locations for upcoming meetings and events.

28. Directors' Reports

Director Brown reported that he attended the American Public Transportation Association Mobility 21 and Rail Corridor Agencies' meeting in Washington, D.C. and last week attended the Rail Corridor Agencies' Legislative Days in Sacramento.

Director Moorlach requested a small version of the map for bikeways in the County.

28. (Continued)

Director Winterbottom commended staff regarding Items 19 and 20 and thanked them for their work on those issues which resulted in a \$1 million savings.

Director Campbell reported that he participated in a trip to San Francisco with Directors Brown and Pringle to view the TransBay Terminal, the plans, the site, and to meet with the Chairman of the California High-Speed Rail for an update on the project.

James Biel, representing Caltrans, reported that the CTC took action to allocate Caltrans \$625 million of stimulus money to get projects moving. He further reported that the Southern California Association of Governments is working cooperatively with the region and taking administrative and technical amendments through the system.

Vice Chairman Amante requested that State Relations provide information on the stabilization of dollars directed to school transportation.

29. Closed Session

A Closed Session was held:

- A. Pursuant to Government Code Section 54957 to consider the appointment of a Chief Executive Officer.
- B. Pursuant to Government Code Section 54957.6 to meet with designated representatives Chairman Buffa, Vice Chairman Amante, and Director Norby to discuss the compensation of the Chief Executive Officer.

Directors Bates, Brown, Glaab, Nguyen, Norby, and Pulido were not present for this Closed Session.

30. Consideration of Appointment of a Chief Executive Officer and the Compensation of the Chief Executive Officer

A motion was made by Vice Chairman Amante, seconded by Director Dixon, and declared passed unanimously by those present, to appoint James S. Kenan, current Executive Director of Finance and Administration, as the Interim Chief Executive Officer.

Directors Bates, Brown, Glaab, Nguyen, Norby, and Pulido were not present for this vote.

31. Adjournment

The meeting adjourned at 1:27 p.m. The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, April 13, 2009**, at the OCTA Headquarters.

ATTEST

Wendy Knowles
Clerk of the Board

Peter Buffa
OCTA Chairman



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors

From: ^{WK} Wendy Knowles, Clerk of the Board

Subject: Investment Activities January 1 through June 30, 2008

Finance and Administration Committee meeting of March 25, 2009

Present: Directors Amante, Bates, Brown, Campbell, Green, and Moorlach

Absent: Director Buffa

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Direct staff to implement recommendations in the Investment Activities January 1 through June 30, 2008, Internal Audit Report No. 09-019.



March 25, 2009

To: Finance and Administration Committee
ATL/pt

From: Arthur T. Leahy, Chief Executive Officer

Subject: Investment Activities January 1 through June 30, 2008

Overview

The Internal Audit Department has completed a review of investment activities for the period January 1, 2008 through June 30, 2008. Based on the review, it appears that the Orange County Transportation Authority is in compliance with its debt, investment and accounting policies and procedures. However, Internal Audit made three recommendations regarding the quarterly debt and investment report and wire transfers.

Recommendation

Direct staff to implement recommendations in the Investment Activities January 1 through June 30, 2008, Internal Audit Report No. 09-019.

Background

The Treasury/Public Finance Department is responsible for management of the Orange County Transportation Authority's (OCTA) investment portfolio. On June 30, 2008, the investment portfolio's book value was approximately \$998 million. The portfolio consists of two managed portfolios: liquid assets for OCTA's daily operations and the short term portfolio for future budgeted expenditures. External investment managers administer the short-term portfolio, and OCTA's treasurer manages the liquid assets portfolio. OCTA also has funds invested in debt service reserve funds for various outstanding debt obligations. OCTA's Accounting Department is responsible for recording all debt and investment transactions and reconciling all bank and custodial accounts monthly.

Discussion

OCTA's investment activities are reviewed on a periodic basis by Internal Audit. The objective of the review is to determine if OCTA is in compliance with

OCTA's debt, investment and accounting policies and procedures for the review period of January 1, 2008 through June 30, 2008.

Internal Audit reviewed the quarterly debt and investment reports provided to the OCTA Board of Directors. OCTA's investment portfolio value in one of the reports was overstated by \$332,109.38 due to the custodial bank's failure to fully clear a security from the account after it had matured. The custodial bank statement reflected a face and market value for the security of \$0.02 and a book value of \$332,109.38. The Treasury/Public Finance Department used the \$332,109.38 book value from the bank statement and assigned a market value using Bloomberg when preparing the quarterly report. While the misstatement of OCTA's investment portfolio value resulted from a custodial bank error, Internal Audit recommended that the Treasury/Public Finance Department investigate anomalies in custodial account statements prior to preparing the quarterly reports to ensure accuracy.

Internal Audit also recommended that the Treasury/Public Finance Department update the Debt and Investment Management Manual with all individuals authorized to initiate and approve wire transfers. Finally, Internal Audit recommended that Accounts Payable require the Community Transportation Services (CTS) Department to submit complete contractor invoice packages for payment and file the complete invoice packages. Currently, the complete invoice packages for that contractor are maintained in the CTS Department files.

Summary

Based on the review, investments were in compliance with OCTA's debt, investment and accounting policies and procedures. Internal Audit offered three recommendations, which management indicated would be implemented or otherwise satisfactorily addressed.

Attachment

- A. Investment Activities January 1 through June 30, 2008, Internal Audit Report No. 09-019

Prepared by:



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



INTEROFFICE MEMO

March 12, 2009

To: Jim Kenan, Executive Director
Finance and Administration

From: Serena Ng, Senior Internal Auditor *K O'Connell*
Internal Audit

Subject: **Investment Activities January 1 through June 30, 2008, Internal
Audit Report No. 09-019**

Attached hereto is Investment Activities January 1 through June 30, 2008, Internal Audit Report No. 09-019. The management responses to the three recommendations made in the review have been incorporated into the attached final audit report. Internal Audit concurs with the responses.

Please note that we anticipate including this on the Finance and Administration Committee agenda in the future, but no earlier than March 25, 2009.

If you have any questions, please feel free to contact me at extension 5938.

Appendix: Investment Activities January 1 through June 30, 2008,
Internal Audit Report No. 09-019

c: Kirk Avila
Tom Wulf
Vicki Austin
Rodney Johnson
Jason Jewell
Patrick Sampson
Kathleen O'Connell

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT**



**Investment Activities
January 1 through June 30, 2008**

INTERNAL AUDIT REPORT NO. 09-019

March 3, 2009



Internal Audit Team:

Kathleen M. O'Connell, CPA, Executive Director
Serena Ng, CPA, Senior Internal Auditor
Charles Patterson, Internal Audit Intern

ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT

Investment Activities January 1 through June 30, 2008
March 3, 2009

Conclusion	1
Background	1
Objectives, Scope and Methodology	1
Audit Comments, Recommendations and Management Responses	3
<i>Misstatement in Second Quarter Debt and Investment Report</i>	3
<i>Debt & Investment Management Manual Update on Wire Transfer Authority</i>	3
<i>Complete Vendor Paid Invoice File</i>	4

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT**

**Investment Activities January 1 through June 30, 2008
March 3, 2009**

Conclusion

The Internal Audit Department has completed a review of investment activities for the period January 1, 2008 through June 30, 2008. Based on the review, it appears that the Orange County Transportation Authority (OCTA) is in compliance with its debt, investment and accounting policies and procedures. However, Internal Audit did make a few recommendations regarding the quarterly debt and investment report and wire transfers.

Background

The Treasury/Public Finance Department is responsible for management of OCTA's investment portfolio. On June 30, 2008, the investment portfolio's book value was approximately \$998 million. The portfolio consists of two managed portfolios: liquid assets for OCTA's daily operations, and the short term portfolio for future budgeted expenditures. External investment managers administer the short-term portfolio, and OCTA's Treasurer manages the liquid assets portfolio. OCTA also has funds invested in debt service reserve funds for various outstanding debt obligations. OCTA's Accounting Department is responsible for recording all debt and investment transactions and reconciling all bank and custodial accounts monthly.

Objectives, Scope and Methodology

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

In conjunction with the audit objective, Internal Audit:

- assessed the adequacy of internal controls over OCTA's investment activities;
- determined if OCTA was in compliance with its investment policy and California Government Code;
- determined if investment transactions were adequately supported; and
- determined compliance with investment requirements of OCTA's debt issuances.

OCTA's independent auditors, Mayer Hoffman McCann P.C. (MHM), performed agreed-upon procedures with respect to the Treasury Department for the year ended June 30, 2008, and issued their report dated November 14, 2008. Internal Audit limited the scope of this review to procedures not performed by MHM during the course of their agreed-upon procedures.

The methodology consisted of reviewing a judgmental sample of daily cash worksheets prepared by the Accounting Department and the Treasury/Public Finance Department, reviewing a judgmental sample of wire transfers, and reviewing two quarterly debt and

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT**

**Investment Activities January 1 through June 30, 2008
March 3, 2009**

investment reports provided to OCTA's Board of Directors. The review period was January 1, 2008 through June 30, 2008.

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

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT**

**Investment Activities January 1 through June 30, 2008
March 3, 2009**

Audit Comments, Recommendations and Management Responses

Misstatement in Second Quarter Debt and Investment Report

OCTA's investment portfolio value included in the second quarter debt and investment report provided to the OCTA Board of Directors was overstated by \$332,109.38. The error resulted when the custodial bank, Bank of New York, failed to fully clear a security from OCTA's account after it had matured. The custodial bank statement reflected a face and market value for the security of \$0.02 and a book value of \$332,109.38. As a result, OCTA used the \$332,109.38 book value from the bank statement and assigned a market value using Bloomberg when preparing its second quarter debt and investment report.

Recommendation 1: While the misstatement of OCTA's total investment portfolio value resulted from a custodial bank error, Internal Audit recommends that the Treasury Department investigate anomalies in the custodial account statements prior to preparing the quarterly debt and investment reports to ensure accuracy.

Management Response (Treasury Department): The Treasury Department notified the bank of the error. Upon investigation by the bank, it was determined that the bank had not cleared the security from the account entirely. A data entry error kept the security in the account even though it had been sold. In the following month, the statement reflected that the security in question was no longer in the account.

Moving forward the Treasury Department shall make every effort to thoroughly investigate anomalies in the bank statements during the report-writing process to ensure an accurate and timely debt and investment report.

Debt & Investment Management Manual Update on Wire Transfer Authority

A Principal Transportation Analyst within the Treasury/Public Finance Department was set up as a user in the Bank of the West's WebDirect system with the ability to initiate or approve wire transfers. However, the Debt & Investment Management Manual was not updated to reflect the addition of this OCTA staff as one of the individuals with the authority to initiate and approve transfers.

Recommendation 2: Internal Audit recommends that the Treasury Department update the Debt & Investment Management Manual with all individuals authorized to initiate and approve wire transfers.

Management Response (Treasury Department): Staff is currently updating the manual to reflect recent changes. The changes will include the addition of the Principal Transportation Analyst within the Treasury/Public Finance Department, updated vendor relationships, as well as any other relevant changes.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
INTERNAL AUDIT DEPARTMENT**

**Investment Activities January 1 through June 30, 2008
March 3, 2009**

Complete Vendor Paid Invoice File

The paid invoice packages for two ACH payments to an OCTA vendor include invoice summaries prepared by the Contracted Transportation Services (CTS) Department that identify billed amounts, adjustments, etc. and reflect approval signatures. However, these paid invoice packages, maintained by Accounts Payable, do not include the original invoices from the vendor nor supporting documentation for adjustments. These vendor invoices and supporting documentation for adjustments are maintained in separate CTS Department invoice files.

Recommendation 3: Internal Audit recommends that Accounts Payable require the CTS Department to submit the complete invoice package for payment and file the complete invoice package.

Management Response (Accounting Department): Management agrees with the recommendation and is working with the CTS Department to ensure that payment packages include original invoices and other relevant documentation prior to disbursement of funds.



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: Implementation of an Ethics Hotline

Finance and Administration Committee meeting of March 25, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Direct the Internal Audit Department to proceed with issuing a Request for Proposal for ethics hotline services.



March 25, 2009

To: Finance and Administration Committee
ATL/pt
From: Arthur T. Leahy, Chief Executive Officer
Subject: Implementation of an Ethics Hotline

Overview

The Internal Audit Department has developed a scope of work for the implementation of an outsourced ethics hotline.

Recommendation

Direct the Internal Audit Department to proceed with issuing a request for proposal for ethics hotline services.

Background

The Orange County Transportation Authority's (OCTA) independent financial statement auditor, Mayer Hoffman McCann P.C. (MHM), in its management letters dated October 31, 2008 and October 24, 2007, cited a significant deficiency in the area of ethics policy and recommended the establishment of a policy on misconduct, including a reporting mechanism.

An ethics policy for OCTA is currently under development by OCTA's legal counsel. Internal Audit's establishment of an ethics hotline and procedures for investigation will enhance the OCTA ethics program and provide a reporting mechanism as recommended by MHM.

At the February 11, 2009 meeting of the Finance and Administration Committee (Committee) of the Board of Directors, the Committee directed the Internal Audit Department (Internal Audit) to investigate the feasibility of coordinating an ethics hotline with the County of Orange (County) Internal Audit Department (IAD).

Discussion

Internal Audit has conducted preliminary survey work related to the establishment of an ethics hotline, including a co-sourcing option with the County's IAD.

Internal Audit staff met with staff from the County IAD and, after discussion regarding the IAD's process and administration of its ethics hotline, both parties agreed that a co-source of this function is not practical. The County's IAD operates its hotline during work hours and contracts with a third-party vendor for after-work hours. Due to the size of the County and the number of programs and departments, screening calls for transfer to the appropriate department is a challenge. The County IAD indicated that adding an additional organization would likely hinder its process.

Having County IAD staff answer hotline calls intended for OCTA may also cause confusion or a lack of confidence in the confidentiality of the call. Studies indicate that employees and others are generally willing to report illegal or unethical behavior if they are assured of confidentiality. Routing calls through the County IAD to OCTA may also prove inconvenient to callers, discouraging use of the hotline.

Calls to a co-sourced hotline could be directly routed to OCTA Internal Audit offices during work hours; however, due to the size of OCTA Internal Audit staff, it would be difficult to provide continuous coverage of the hotline. There are currently five professional staff within the Internal Audit Department and the nature of the audit work requires much of it to be performed in other department locations.

The County IAD contracts with the third party for after-hours service. Because the cost of these services is based on the number of employees in an organization, co-source of this service would likely prove cost neutral to OCTA. Preliminary survey found the cost of 24 hour/7 days per week service to be an annual cost of \$1.40 to \$1.70 per employee. This translates into a cost of between \$2,800 and \$3,400 per year for OCTA's 2,000 employees.

Internal Audit believes that a third-party hotline service is the most effective and efficient means of administering OCTA's hotline program. Third party providers can provide expertise, trained personnel, resources, and technology at a reasonable cost.

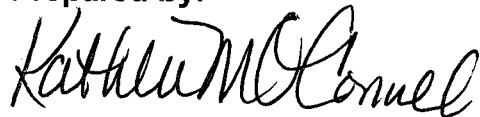
Summary

Upon direction from the Board of Directors, Internal Audit will proceed with issuing a request for proposal for ethics hotline services.

Attachment

- A. Draft Scope of Work: Ethics Hotline

Prepared by:



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

DRAFT SCOPE OF WORK

ETHICS HOTLINE

BACKGROUND

The Orange County Transportation Authority (OCTA) was formed on June 20, 1991 through a consolidation of seven separate transportation agencies to develop and implement unified transportation programs and services for Orange County. OCTA administers Measure M, the half-cent sales tax that provides funding for freeway improvements, regional/local streets and roads projects, and transit improvements. OCTA is also the primary provider of public transportation services in Orange County which includes countywide bus, rail feeder, express bus, and paratransit services. The annual budget for fiscal year 2008-09 is just over \$1 billion. The OCTA employs nearly 2,000 employees, 1,250 of whom are coach operators.

The OCTA's independent financial statement auditor, in its management letters dated October 31, 2008 and October 24, 2007, cited a significant deficiency in the area of ethics policy and recommended the establishment of a policy on misconduct, including a reporting mechanism.

An ethics policy for OCTA is currently under development. Internal Audit's establishment of an ethics hotline and procedures for investigation will enhance the OCTA ethics program and provide a reporting mechanism. On March 25, 2009, the Finance and Administration Committee of the Orange County Transportation Authority authorized Internal Audit to develop a scope of work for the implementation of an ethics hotline.

The Internal Audit Department seeks professional consultant services to provide an anonymous hotline number that will be manned 24 hours per day, 7 days per week.

WORKPLAN

Objective

As part of OCTA's ongoing efforts to identify and discourage fraud, waste and abuse, Internal Audit will establish and administer an ethics hotline. In order to ensure anonymity to callers and to provide 24 hour/7 days per week coverage of the hotline, Internal Audit intends to outsource this function to a third party vendor.

Scope

The scope should include, but not be limited to, the following:

1. Provide a confidential, anonymous mechanism for employees, vendors, and the public to report suspected fraud, waste or abuse. This mechanism should consist of a toll-free phone number, a designated mailing address and/or a secure email address. This mechanism should also provide a means for callers to remain in contact with OCTA during the investigation while also remaining anonymous.
2. Provide staffing coverage 24 hours per day, 7 days per week that allows callers to communicate in their native language.
3. Provide assistance and expertise to OCTA with regard to marketing the hotline to employees and others. Provide marketing materials.
4. Provide written reports of hotline calls within 24 hours and work with Internal Audit to develop a distribution and communication system for ensuring proper follow-up and investigation of all calls, as appropriate. For example, calls regarding safety concerns will be referred to the safety division and calls related to employment issues will be referred to human resources, etc.
5. Provide a mechanism for providing periodic management analysis reports of hotline activity and results.

PRICING

The vendor will include a specific cost proposal that includes all annual charges, report charges, and set-up fees. This proposal shall include all the services included in this scope of work, including marketing materials.

OCTA PROJECT MANAGER

The consultant shall perform the required tasks and coordinate with the OCTA Project Manager from the Internal Audit Department.



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board ^{WK}
Subject: California Emergency Management Agency Grant Authorization for November 2008 Wildfires

Finance and Administration Committee meeting of March 25, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Adopt Resolution No. 2009-16 to authorize the Chief Executive Officer and Deputy Chief Executive Officer to file applications and execute agreements with the Federal Emergency Management Agency and California Emergency Management Agency for the purpose of obtaining federal and state financial assistance.



March 25, 2009

To: Finance and Administration Committee
ATL/pt

From: Arthur T. Leahy, Chief Executive Officer

Subject: California Emergency Management Agency Grant Authorization for November 2008 Wildfires

Overview

In November 2008, the Governor and President Bush declared a state of emergency as a result of the Southern California wildfires, which made financial assistance available for eligible costs and damages. Authorization is requested to file and execute grant-related agreements with the Federal Emergency Management Agency and California Emergency Management Agency for the purpose of recovering costs incurred by Orange County Transportation Authority as a result of the Triangle Complex Wildfire.

Recommendation

Adopt Resolution No. 2009-16 to authorize the Chief Executive Officer and Deputy Chief Executive Officer to file applications and execute agreements with the Federal Emergency Management Agency and California Emergency Management Agency for the purpose of obtaining federal and state financial assistance.

Background

On November 15, 2008, Governor Arnold Schwarzenegger proclaimed a State of Emergency due to extremely high winds and wildfires in the counties of Los Angeles, Orange, Riverside, and Santa Barbara. The Governor's emergency proclamation allowed the California Emergency Management Agency (CalEMA) to deploy emergency personnel, equipment, and facilities, as well as provide local government assistance under the authority of the California Disaster Assistance Act.

On November 18, 2008, President Bush signed a federal major disaster declaration for the State of California authorizing the Federal Emergency Management Agency (FEMA) to make available federal assistance to affected

areas under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. The presidential declaration made federal assistance available to local governments, including counties, cities, and special districts.

Discussion

On November 15, 2008, the Orange County Transportation Authority (OCTA) Emergency Operations Center was activated to deploy emergency resources if needed to assist with the Triangle Complex Wildfire. As in the past, OCTA was called upon for support and enabled five buses for possible deployment. However, the vehicles were released prior to providing assistance. The Triangle Complex fire burned throughout Orange County, including the Anaheim Hills and Weir Canyon area. At these locations, several OCTA assets were lost or damaged, including a storage shed and equipment used by the 91 Express Lanes facility and a radio antenna and related cabling used by OCTA for transit communications.

On December 18, 2008, OCTA submitted a request for public assistance (RPA) to CalEMA to recover costs and losses due to the wildfire. With the approval of the RPA on January 27, 2009, staff has worked cooperatively with CalEMA and FEMA representatives to review costs that may be considered eligible for reimbursement. Based on these discussions, staff is preparing documents needed to recover approximately \$65,809 in eligible costs, including the cleanup and replacement of the storage shed, equipment, and damaged asphalt (\$52,313), repairs to the communications antenna and cabling (\$11,627), as well as vehicle and overtime labor costs (\$1,870). The cost estimates are presented in more detail in Attachment A.

As part of the request, OCTA is required to certify, by resolution, authorization to file applications and enter grant-related agreements should funds be awarded. Board Resolution 2009-16 is presented for consideration as Attachment B. OCTA has similar authorizing resolutions on file with other grant agencies, including the Federal Transit Administration and Governor's Office of Homeland Security.

Summary

The California Emergency Management Agency, as the state administrative agency for FEMA, has made available financial assistance for eligible costs and losses incurred as a result of the November 2008 wildfires. Staff requests authorization to file applications and enter agreements through the adoption of a Board resolution as required by the grant program.

Attachments

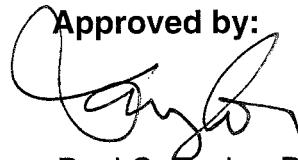
- A. OCTA Cost Recovery Estimate Wildfires 2008 Southern California Wildfires
- B. Orange County Transportation Authority Resolution 2009-16

Prepared by:



Ric Teano
Grant Specialist
(714) 560-5716

Approved by:



Paul C. Taylor, P.E.
Deputy Chief Executive Officer
(714) 560-5431

**OCTA Cost Recovery Estimate
2008 Southern California Wildfires**

91 Express Lanes	Est. Cost
Storage Shed & Equipment Replacement	\$22,310
Asphalt Removal & Replacement	\$17,872
Hazardous Materials Cleanup & Removal	\$11,555
Administrative Costs ¹	\$576
Subtotal	\$52,313
Transit Communications	Est. Cost
Radio Antenna & Cable Replacement	\$11,343
Administrative Costs ¹	\$284
Subtotal	\$11,627
Transit Vehicles	Est. Cost
Overtime Labor Costs ²	\$1,671
Vehicle Costs ¹	\$99
Administrative Costs ¹	\$100
Subtotal	\$1,870
Total Cost Recovery	\$65,809

¹ Administrative and vehicle costs are based on FEMA reimbursement rates.

² Overtime labor rates are based on OCTA fiscal year 2008-09 budgeted costs.

**ORANGE COUNTY TRANSPORTATION AUTHORITY
RESOLUTION 2009-16**

BE IT RESOLVED BY THE BOARD OF DIRECTORS
OF THE
ORANGE COUNTY TRANSPORTATION AUTHORITY
THAT THE

Chief Executive Officer, OR
(Name or Title of Authorized Agent)

Deputy Chief Executive Officer
(Name or Title of Authorized Agent)

is hereby authorized to execute for and in behalf of Orange County Transportation Authority, a public entity established under the laws of the State of California, applications and file it with the California Emergency Management Agency and Federal Emergency Management Agency for the purpose of obtaining financial assistance under Public Law 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the Natural Disaster Assistance Act.

THAT the Orange County Transportation Authority, a public entity established under the laws of the State of California, hereby authorizes its agent(s) to provide to the California Emergency Management Agency and Federal Emergency Management Agency for all matters pertaining to such state and federal disaster assistance the assurances and agreements required.

ADOPTED, SIGNED, AND APPROVED this _____ day of _____, 2009.

AYES:

NOES:

ABSENT:

ATTEST:

Clerk of the Board

Chairman
Orange County Transportation Authority



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: State Legislative Status Report

Legislative and Communications Committee Meeting of April 2, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Adopt the following recommended positions on legislation:

Sponsor SB 454 (Lowenthal, D Long Beach), which facilitates local flexibility and coordination in passenger rail service along the Los Angeles San Diego-San Luis Obispo rail corridor

Support AB 729 (Evans, D-Santa Rosa), which would remove the 2011 sunset provision for transit design-build projects

Support AB 1072 (Eng, D-Monterey Park), which would extend the current formula and policies for allocating Proposition 1B transit capital funds for the balance of the program

Support-with-amendments for AB 628 (Block, D-Chula Vista), which provides toll operators with the option of implementing "pay-by-plate" as a toll collection method

Oppose SB 372 (Kehoe, D-San Diego), which would prohibit the removal or modification of state park land without State Park and Recreation Commission recommendation and state legislative approval



Oppose SB 679 (Wolk, D-Davis), which would prohibit the disposal or alternative use of state park land without state legislative approval and the identification of substitute land of equal value



April 2, 2009

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

Overview

A sponsor position is requested on a bill that would facilitate local flexibility and coordination along the Los Angeles-San Diego-San Luis Obispo rail corridor. A support position is requested on two bills, one that would remove the 2011 sunset provision for transit design-build projects, and another that would create a stable formula for distributing Proposition 1B transit capital funds. A support-with-amendments position is requested on a bill that would provide toll operators with the option to implement the "pay-by-plate" toll collection method. An oppose position is requested on two bills that would prohibit the removal or modification of state park land without the consent of the state legislature. On May 19, 2009, California will hold a special election on six ballot measures which were part of the recent fiscal year 2009-2010 state budget deal which requires voter approval. An overview of all six propositions is provided.

Recommendation

Adopt the following recommended positions on legislation:

Sponsor SB 454 (Lowenthal, D-Long Beach), which facilitates local flexibility and coordination in passenger rail service along the Los Angeles-San Diego-San Luis Obispo rail corridor

Support AB 729 (Evans, D-Santa Rosa), which would remove the 2011 sunset provision for transit design-build projects

Support AB 1072 (Eng, D-Monterey Park), which would extend the current formula and policies for allocating Proposition 1B transit capital funds for the balance of the program

Support with amendments for AB 628 (Block, D-Chula Vista), which provides toll operators with the option of implementing "pay-by-plate" as a toll collection method

Oppose SB 372 (Kehoe, D-San Diego), which would prohibit the removal or modification of state park land without State Park and Recreation Commission recommendation and state legislative approval

Oppose SB 679 (Wolk, D-Davis), which would prohibit the disposal or alternative use of state park land without state legislative approval and the identification of substitute land of equal value

Discussion

February 27, 2009, marked the final day legislative bills could be introduced by both houses of the Legislature. As hundreds of bills have been introduced, several bills have been initially identified as bills which may impact the Orange County Transportation Authority (OCTA). Below is a summary of six bills for which a Board of Directors (Board) position is being sought.

SB 454 (Lowenthal, D-Long Beach)

SB 454 (Lowenthal, D-Long Beach) is a "spot bill" which currently makes nonsubstantial changes to the Division of Rail within the California Department of Transportation (Caltrans). In the "Key Transportation Policy Issues" section of the OCTA 2009 Legislative Platform, it states that OCTA will sponsor legislation which addresses the coordination of passenger rail services along the Los Angeles-San Diego-San Luis Obispo (LOSSAN) corridor. SB 454 is intended to serve as the vehicle for any necessary changes to state statutes as determined by regional transportation agencies along the LOSSAN corridor upon completion of an integration study currently underway.

The integration study, organized by OCTA along with other LOSSAN regional agencies, is currently in the process of studying service alternatives and will provide recommendations on how to enhance and coordinate intercity and commuter rail services on the corridor with the ultimate goal of increasing ridership and improving operational efficiency. This integration study is anticipated to be completed in spring 2009.

Staff Recommendation: SPONSOR

AB 729 (Evans, D-Santa Rosa)

AB 729 (Evans, D-Santa Rosa) proposes to remove the January 1, 2011, sunset provision which authorizes transit operators to use design-build for transit capital projects. Originally enacted in 2000, AB 958 (Chapter 541, Statutes of 2000) authorized transit operators to use design-build for transit-related construction projects until January 1, 2005. Legislation was introduced and enacted twice to move the sunset to 2011. In addition, in 2008, AB 387 (Chapter 185, Statutes of 2008) was enacted to eliminate the cost threshold for design-build use on safety, security, and disaster preparedness projects by transit operators.

The author's office asserts that with the upcoming infusion of federal stimulus dollars coupled with the remaining Proposition 1B funds for transit capital and security projects, removing the sunset provision will allow transit agencies to continue to expedite projects beyond 2011. Moreover, under AB 729, transit agencies will be granted more time to identify the most cost-effective transit capital projects and not have to rush to select projects to meet the 2011 sunset.

Staff Recommendation: SUPPORT

AB 1072 (Eng, D-Monterey Park)

AB 1072 (Eng, D-Monterey Park) would extend the current formula and policies used for allocating Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) funds to apply to allocations of all future state budget appropriations. The current formula is based on an applicant's average proportional percentage share of State Transit Assistance (STA) allocations for fiscal years (FY) 2004-2005, 2005-2006, and 2006-2007. When the formula was first adopted in 2007 budget trailer bill language under SB 88 (Chapter 181, Statutes 2007), a sunset provision was included specifying that the formula would expire the following year. Since then, the legislature has re-adopted the same formula each year, but has again included a sunset provision. Instead of requiring applicants to wait each year for legislation specifying how PTMISEA funds will be disbursed, AB 1072 would simply extend the current formula, thus allowing applicants more certainty in projecting their future shares of PTMISEA funding and allowing for better long-term project planning.

In addition, in FY 2009-2010, AB 1072 would require applicants to provide a list of projects to Caltrans that the entity plans to fund with their future share of PTMISEA funding. This will create an incentive for agencies to plan future

allocations, and will allow the state legislature to better determine statewide needs in future allocations.

Staff Recommendation: SUPPORT

AB 628 (Block, D-Chula Vista)

AB 628 (Block, D-Chula Vista) will allow toll operators with the option of using "pay-by-plate" as an additional toll collection method within California. AB 628 also includes language to consider a vehicle which lacks properly affixed license plates on both the front and rear of the vehicle as a toll violation for toll agencies which implement "pay-by-plate" and makes technical modifications to allow toll agencies to issue a notice of toll evasion to toll violators based on the agency's policies for "pay-by-plate" toll processing and payment.

AB 628 intends to provide toll operators with the option to implement "pay-by-plate," yet current bill language does not explicitly state this is not required. Any mandate to implement "pay-by-plate" technology would require OCTA to incur additional cost and staff time to develop and carry out new procedures in advance of a decision by the Board of Directors about this possible direction. Although the "pay-by-plate" method would be a helpful tool which could be utilized in the future, a mandate to implement "pay-by-plate" would not be consistent with current 91 Express Lanes operation policy.

The sponsor of the bill, the South Bay Expressway (State Route 125), has indicated to staff that a mandate was not the intent of the bill and that they will work with OCTA to clarify the issue.

Staff Recommendation: SUPPORT WITH AMENDMENTS

State Park Legislation

Two bills have been introduced to prevent future development within state park lands, a direct result of longstanding efforts to prevent the proposed 16-mile extension of the Foothill Transportation Corridor (State Route 241). Over the past decade, various legislative attempts have been made to prevent the State Route 241 (SR-241) extension, all of which have failed passage. OCTA has opposed each effort, emphasizing the need for the process outlined under current law, and its associated environmental protections, to be allowed to take place without interference.

The SR-241 continues to be part of the Southern California Association of Government's Regional Transportation Plan as a key component to achieving

federal air quality conformity requirements, as well as various long-term plans, including the general plans of many cities. As local stakeholders continue discussions of how to best proceed after the December 18, 2008, ruling of the United States Department of Commerce, local authorities should be able to determine what actions or projects will best meet regional needs. The state should not add further hurdles to an already extensive process.

Moreover, beyond the SR-241 extension, both bills could prevent or delay plans to expand the Riverside Freeway (State Route 91) due to the project's proximity to the Chino Hills State Park. This could potentially interfere with the authority granted under SB 1316 (Chapter 714, Statutes of 2008), to extend the 91 Express Lanes into Riverside County. In addition, these bills would limit future transportation planning options along the coast of Orange County on the Pacific Coast Highway (State Route 1).

Below is a summary of each bill:

SB 372 (Kehoe, D-San Diego)

SB 372 (Kehoe, D-San Diego) would prohibit the removal or modification of a state park, unless recommended by the State Park and Recreation Commission (Commission), and approved by the state legislature. Under existing law, the Department of Parks and Recreation has the ability to grant permits or easements to public agencies within state parks, and the Commission is responsible for classifying state parks according to purpose and approving state park general plans. The Commission and the state legislature have no existing authority to deny project applicants the use of state park land for a project, unless done through statute. Instead, extensive environmental processes such as the California Environmental Quality Act, and other permit processes, provide protection for state park resources.

SB 372 would essentially take the current planning process away from local authorities and responsible state agencies and place ultimate authority for land use decisions within state parks with the state legislature. This will add delays to an already lengthy process and ignores strong environmental protections included under existing law.

Staff Recommendation: OPPOSE

SB 679 (Wolk, D-Davis)

SB 679 (Wolk, D-Davis) would prohibit any land within the state park system from being disposed of or used for purposes contrary to the intent of the state park unless there is legislative approval and substitute land of equal value. The substitute land must be equal in environmental value and fair market value, plus be of reasonably equivalent usefulness and location to those lands that are to be disposed or modified.

Similar to SB 372, SB 679 also seeks to vest additional authority with the state legislature to make land use decisions with state parks, thereby limiting traditional land use and transportation planning authority. Furthermore, by requiring an applicant to identify substitute land of equal value with each proposed modification of state park land, this can essentially create a moratorium on the building of projects through certain state park land where it is deemed that no substitute land of equal value exists. This would prevent local agencies, such as OCTA, from responding to the needs of the localities they serve.

Staff Recommendation: OPPOSE

Upcoming Special Election

On the May 19, 2009, statewide special election ballot, there will be six initiatives brought before voters, which either play a direct role in the balancing of the FY 2008-2009 and FY 2009-2010 budgets, as adopted in February, or create budget and legislative revisions in later years. The balancing of the FY 2009-2010 budget depends specifically on the voter approval of three measures: Proposition 1C, Proposition 1D, and Proposition 1E. If the state is unable to access the \$6 billion in revenues available through these measures, further budget balancing actions will need to be completed mid-year to re-balance the budget, in addition to any other shortages that exist at that time. Below is a more detailed summary of each initiative.

Proposition 1A: State Finance

Proposition 1A would amend the State Constitution to increase the state budgetary reserve, further restrict transfers and use of revenues, and authorize tax increases included in the FY 2009-2010 budget to be extended for one to two additional years. Current law creates two reserve funds in the state: the Special Fund for Economic Uncertainties (SFEU), where any unexpected funding for the state is deposited to be used for any purpose approved by the Legislature, and the Budget Stabilization Account (BSA), where 3 percent of

the general fund state revenues are deposited and can be transferred to be used for any purpose approved by the Legislature by passing a law, subject to certain restrictions. Under current law, general fund revenues do not have to be deposited in the BSA once it contains either \$8 billion or 5 percent of total revenues (currently about \$5 billion), whichever is higher.

Proposition 1A would create the Budget Stabilization Fund (BSF) that would replace the BSA and increase the goal level of reserves to 12.5 percent of total state revenues (currently about \$12 billion). The use of BSF funding would be limited to increased education spending (through a newly created Supplemental Education Payment Account), and after that be used for infrastructure and to pay down state bond debt if Proposition 1B also passes. If Proposition 1B does not pass, the Controller is to transfer from the BSF an amount equal to 1.5 percent of general fund revenues for the current fiscal year to the Supplemental Budget Stabilization Account to be used for such things as paying down bond debt, infrastructure, and tax rebates. The Governor would only be able to suspend transfers to the BSF when the state does not have enough revenues to pay for state spending needs equal to that spent in the prior year, adjusted for population and inflation. The Legislature would only be able to transfer funds out of the BSF to cover the costs of an emergency situation, like a natural disaster, when revenues were not high enough to cover the spending levels from the prior year adjusted for inflation and population, and for short-term loans to be repaid within the same fiscal year.

Proposition 1A would further define "unanticipated revenues" to mean revenues that exceed projections based on the revenues the state received over the past 10 years. This would exclude any short-term tax increases. In the alternative, "unanticipated revenues" could also mean any revenues beyond that needed to pay for spending equal to the prior year, adjusted for population and inflation. For each fiscal year, whichever formula produces the lesser amount will be used to determine unanticipated revenues for the year, unless the first formula results in an amount less than zero, in which case unanticipated revenues will be zero for the year. Proposition 1A specifies that unanticipated revenues are first to be used to pay any education expenses not met, then to be transferred to BSF to meet its target, and lastly to pay off any budget debt. After those obligations are met, the revenues can be used to pay for infrastructure, provide one-time tax relief, or pay off unfunded health care liabilities for state employees.

Lastly, Proposition 1A would grant the Governor authority to reduce certain spending in a fiscal year without legislative approval pursuant to AB 1389 (Chapter 751, Statutes of 2008). Specifically, the Governor could reduce spending for general state operations or capital outlay by 7 percent, or can

reduce cost-of-living adjustments (COLA) for any programs in the annual budget, except for increases in state employees' salaries.

Proposition 1B: Education Finance

Proposition 1B would amend the State Constitution to require the state to make \$9.3 billion in supplemental payments to K-14 education, but will only take effect if Proposition 1A passes. These payments would be funded through the Supplemental Education Payment Account (Account) established by Proposition 1A, where the state will be required to deposit one and one-half percent of yearly general fund revenues beginning in FY 2011-2012. This funding will be placed into the Account until all \$9.3 billion of the current Proposition 98 "maintenance factor" is paid (see below).

Under Proposition 98, passed in 1988 and modified in 1990, the state is to provide K-14 education with a minimum level of funding each year, commonly referred to as the "minimum guarantee." There are three methods to determine the minimum guarantee, the first being 40 percent of General Fund revenues, the second is adjusted based on changes in school attendance and the state's per capital personal income, and the last is based on changes in attendance and the state's tax revenues. The state can also suspend Proposition 98 funding through a two-thirds vote of each house and with approval by the Governor. If Proposition 98 is suspended or the third funding test is used, a maintenance factor is created which is the difference between what the highest funding level would have given to education and what the state actually paid. The state in turn is required to pay back this maintenance factor in future years, and this funding is used to calculate future Proposition 98 payments. Funding from Proposition 1B will be used in place of any maintenance factor payments that were required for FY 2007-2008 and FY 2008-2009, and will be added onto Proposition 98 payments to determine funding levels in latter years.

Proposition 1C: California State Lottery

Proposition 1C would amend the State Constitution and other related state laws to allow the state to borrow from future lottery profits and create changes to state lottery operations. Specifically, Proposition 1C will allow the state to borrow \$5 billion in future lottery revenues to balance the FY 2009-2010 budget and authorize additional borrowing in the future. Under current law, at least 34 percent of funds from the state lottery are to be used for educational funding and are not authorized for use to balance General Fund expenditures. Proposition 1C will eliminate the allocation of state lottery profits to education and will instead transfer the funds to a new account, the Debt Retirement Fund, to be used to first repay loans from future state lottery profits, and then if

funding remains, to be used for debt repayment on state infrastructure bonds, economic recovery bonds, and other general fund debt. To compensate for the elimination of educational funding from state lottery profits, Proposition 1C would require the state to increase General Fund payments to education equal to what the state lottery profits for that year would have traditionally provided, adjusted for growth in the number of students and cost of living. These payments will become part of Proposition 98 funding. Furthermore, Proposition 1C allows the California State Lottery Commission to set lottery prizes at a level beyond the current limit of 50 percent of revenues to create more demand and gives additional flexibility for the Legislature to amend state law related to lottery operations in the future.

Proposition 1D: California Children and Families Act; Use of Funds

Proposition 1D authorizes the temporary diversion of a portion of the California Children and Families Act Proposition 10 (1998) funding and creates permanent changes to the administration the California Children and Families Program (First 5). Passed by voters in November 1998, Proposition 10 created the First 5 program that expanded development programs for children up to the age of five, funded through a 50 cent state excise tax on cigarettes and other tobacco products. Twenty percent of Proposition 10 funding is used by the California Children and Families Commission, which administers the First 5 program, and the remaining 80 percent of the revenues is allocated to 58 county commissions. Specifically, Proposition 1D will divert \$340 million in unspent reserves controlled by the California Children and Families Commission. In addition, Proposition 1D would divert another \$268 million annually from Proposition 10 funds from FY 2009-2010 through FY 2013-2014 period. Furthermore, Proposition 1D will make permanent administrative changes to the First 5 program, including a requirement that local county commissions submit a copy of the annual audit and reports to the county board of supervisors, amendments to the allocation requirements for the funds that go to the state commission, and authorizes a county controller to borrow local commission funds for the county's general fund, unless it would impact the functions of the local commission.

Proposition 1E: The Mental Health Services Act; Proposition 63 Amendments

Proposition 1E authorizes the temporary diversion of a portion of the Mental Health Services Act Proposition 63 (2004) funding over the next two years. Proposition 63 provides funding for new and expanded mental health programs in the state through a surcharge of 1 percent on taxable income over \$1 million. Traditionally this funding is used for expanding community services, providing workforce education and training, building capital facilities and addressing

technological needs, expanding prevention and early intervention, and establishing innovative programs. Specifically, Proposition 1E will divert \$226.7 million in FY 2009-2010, and between \$226.7 million and \$234 million in FY 2010-2011 from Proposition 63. This funding will instead be used to support the Early and Periodic Screening, Diagnosis, and Treatment Program (EPSDT), which is traditionally funded by the General Fund.

Proposition 1F: State Office Salary Increases

Proposition 1F would amend the Constitution to prevent the California Citizens Compensation Commission (Commission), which establishes the annual salaries for specified state officials each year, from increasing the annual salary of state elected officials in situations where the state general fund is projected to end the year in a deficit. Each year, on or before June 1, the Director of Finance will be required to notify the Commission whether the SFEU, the state's traditional rainy day fund, is going to have a negative balance equal or greater than 1 percent of the annual revenues of the state general fund. Current state elected salaries range from \$116,000 (for legislators) to \$212,000 (for the Governor). This measure will not impact state elected per diem payments, which are not controlled by the Commission.

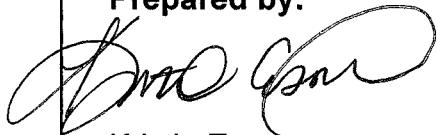
Summary

Positions are recommended on six bills. On May 19, 2009, California will hold a special election for six ballot measures which were part of the recent 2009-2010 state budget deal requiring voter approval. An overview of all six propositions is provided.

Attachments

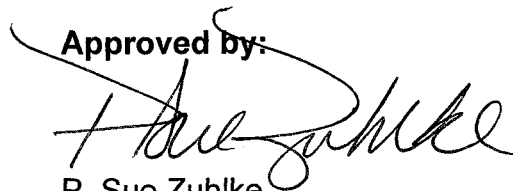
- A. Bill Analysis for SB 454 (Lowenthal, D-Long Beach)
- B. Bill Analysis for AB 729 (Evans, D-Santa Rosa)
- C. Bill Analysis for AB 1072 (Eng, D-Monterey Park)
- D. Bill Analysis for AB 628 (Block, D-Chula Vista)
- E. Bill Analysis for SB 372 (Kehoe, D-San Diego)
- F. Bill Analysis for SB 679 (Wolk, D-Davis)
- G. Orange County Transportation Authority Legislative Matrix

Prepared by:



Kristin Essner
Government Relations
Representative
(714) 560-5754

Approved by:



P. Sue Zuhlke
Chief of Staff
(714) 560-5574

BILL: SB 454 (Lowenthal D-Long Beach)
Introduced February 26, 2009

SUBJECT: Will serve as a vehicle to facilitate local flexibility and coordination along the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor.

STATUS: Pending Committee Assignment

SUMMARY AS OF MARCH 19, 2009:

SB 454, in its current form, makes nonsubstantive changes to Section 14007.1 of the California Government Code (CGC). However, the intention behind SB 454 is to serve as a potential vehicle for any necessary policy modifications resulting from the Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail integration study currently being completed by several Southern California regional transportation agencies including the Orange County Transportation Authority (OCTA). Expected to be completed in late spring 2009, the integration study aims to identify a variety of methods to coordinate and improve rail passenger service along the LOSSAN corridor which includes AMTRAK's Pacific Surfliner, Metrolink, and COASTER services.

In 1996, SB 457 (Chapter 1263, Statutes of 1996), attempted to improve California's intercity rail system by authorizing the state to transfer intercity rail service to regional joint powers agency boards (JPA) if the state determines substantial costs saving can be achieved with the transfer. In exploring the development of JPA, Southern California regional agencies identified several potential issues that would need to be addressed including securing state funding for ongoing operations, expanding and distributing intercity rail service throughout Southern California, and effectively coordinating ticketing, marketing, and services along the LOSSAN corridor. Out of the three intercity rail systems in the state, only Northern California's Capitol Corridor entered into an Interagency Agreement (ITA) authorized under SB 457. The two remaining intercity passenger rail services, the San Joaquin and Pacific Surfliner are operated by AMTRAK via a contract with the state.

As mentioned, currently, three passenger rail services, Amtrak, COASTER, and Metrolink, as well as one freight carrier, BNSF Railway, operate along the LOSSAN corridor. The service in the corridor has evolved such that schedules, station stops, fares, and service levels are not coordinated for convenient passenger connections between the various service providers. Each service runs on independent schedules and administers its own ticketing system. The integration study is aimed at setting the framework for developing a plan to coordinate services on LOSSAN. Depending on the final conclusions of the study, legislation may be required to implement programmatic changes as desired by regional transportation agencies. SB 454 will serve as the legislative vehicle.

EFFECTS ON ORANGE COUNTY:

OCTA, along with other LOSSAN regional agencies, are currently in the process of studying service alternatives in an integration study which will review and provide recommendations on how to enhance and coordinate intercity and commuter rail services on the corridor with the ultimate goal of increasing ridership and improving operational efficiency. This integration study is anticipated to be completed in Spring 2009.

A number of reports have previously been compiled reviewing the operations and effectiveness of passenger rail service on the LOSSAN corridor. These studies have identified a variety of actions which can improve the coordination and effectiveness of passenger rail service and increase ridership on the LOSSAN corridor. However, these studies did not specifically examine in detail the coordination of services on the LOSSAN corridor.

Upon completion and review by LOSSAN regional transportation agencies, OCTA intends to work with regional stakeholders to develop legislation which will set up a framework based on a multi-agency consensus to implement the recommendations of the integration study. The intent is for the legislation to serve as a vehicle for any policies agreed upon by the regional agencies which require statutory modifications. Ultimately, legislation will seek to establish a framework to enhance service options and availability to LOSSAN rail users while simultaneously meeting the needs of LOSSAN regional transportation agencies.

OCTA POSITION:

Staff recommends: SPONSOR

Introduced by Senator Lowenthal

February 26, 2009

An act to amend Section 14007.1 of the Government Code, relating to the Department of Transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 454, as introduced, Lowenthal. Department of Transportation: Division of Rail.

Existing law creates the Division of Rail within the Department of Transportation.

This bill would make a nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 14007.1 of the Government Code is
2 amended to read:
3 14007.1. (a) There is in the Department of Transportation the
4 Division of Rail, which is responsible for the development of a
5 comprehensive rail passenger system and the preparation of the
6 rail passenger development plan ~~required pursuant to~~ *as required*
7 *by* Section 14036.
8 (b) An undersecretary of the agency shall be assigned to give
9 attention to rail matters to ensure that the rail passenger system
10 and plan are carried out.

- 1 (c) It is the intent of the Legislature that the commission give
- 2 high priority to the implementation of the rail passenger system
- 3 and plan.

O

BILL: AB 729 (Evans, D-Santa Rosa)
Introduced February 26, 2009

SUBJECT: Repeals the January 1, 2011, sunset provision to allow transit operators to enter into design-build contracts for transit capital projects.

STATUS: Pending Committee Assignment

SUMMARY AS OF MARCH 19, 2009:

AB 729 would delete the January 1, 2011, sunset provision which allows transit operators to enter into design-build contracts for construction projects. Originally enacted in 2000, AB 958 (Chapter 541, Statutes of 2000) authorized transit operators to use design-build for transit-related construction projects until January 1, 2005. SB 1130 (Chapter 196, Statutes of 2004) extended the sunset provision to January 1, 2007, while AB 372 (Chapter 262, Statutes of 2006) extended the sunset provision to January 1, 2011. In 2008, AB 387 (Chapter 185, Statutes of 2008) was enacted to eliminate the cost threshold for design-build use on safety, security, and disaster preparedness projects by transit operators.

Although design-build has historically been authorized for transportation-related projects on a limited basis, the 2009-2010 enacted state budget authorized expanded use of design-build for transportation-related projects. Design-build proponents point out that the design-build process is a cost-effective, time-saving process which results in a reduction of outstanding contractor claims and litigation. Opponents of design-build argue that the process does not provide adequate oversight and that reported cost savings are overstated and unproven. Thus, opponents assert a lack of evidence exists to prove design-build's effectiveness. As a result, the design-build provisions in the enacted 2009-2010 budget and current transit design-build authority both contain specific reporting requirements to determine design-build effectiveness.

AB 729 retains the design-build reporting requirements while deleting the sunset date. AB 729 would allow transit capital projects to continue being built using design-build after January 1, 2011, and due to the reporting requirements, allow more analysis be conducted on the effectiveness of design-build.

EFFECTS ON ORANGE COUNTY:

The Orange County Transportation Authority (OCTA) has been a strong advocate of design-build. The Garden Grove Freeway (State Route 22) project was carried out under design-build authority provided for transit capital projects. The State Route 22 (SR-22) design-build project consisted of adding twelve miles of high-occupancy vehicle (HOV) lanes in each direction, adding auxiliary and general purpose lanes in specific freeway segments, and improving or adding 34 bridges along the corridor. The project

was completed 139 days earlier than the engineer's original estimate which did not include the time for OCTA's supplemental infrastructure improvements.

The SR-22 design-build project illustrates the benefits associated with the design-build method. As required by state law, OCTA submitted a report to the Legislative Analyst's Office completed by an independent consultant, which concluded the SR-22 design-build project was a "resound success" having achieved substantial time savings over "the more traditional design-bid-build approach."

OCTA also intends to use design-build authority to purchase and install video surveillance equipment at the Santa Ana Metrolink train station. At the writing of this report, OCTA staff has indicated the concept of operations has been completed and the scope of work is in the process of being drafted. The scope of work will then be used for the public bid process. Due to the proprietary nature of the technology, OCTA is able to capitalize on the design-build method to minimize costs associated with change orders and project errors by using the same contractor for the entire project.

By removing the sunset provision, transit agencies such as OCTA can continue to consider design-build for use on future transit capital projects. Removing this provision is particularly important due to the infusion of funds coming from Proposition 1B transit capital and security dollars and American Reinvestment and Recovery Act funds. Moreover, under AB 729, transit agencies will be granted more time to identify the most cost-effective transit capital projects and not have to rush to select projects to meet the 2011 sunset.

OCTA POSITION:

Staff recommends: SUPPORT

ASSEMBLY BILL

No. 729

Introduced by Assembly Member Evans

February 26, 2009

An act to repeal Section 20209.14 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 729, as introduced, Evans. Public contracts: transit design-build contracts.

Existing law authorizes transit operators to enter into a design-build contract, as defined, according to specified procedures. Existing law repeals these provisions on January 1, 2011.

This bill would delete the January 1, 2011, repeal date of these provisions.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 20209.14 of the Public Contract Code is
- 2 repealed.
- 3 ~~20209.14. This article shall remain in effect only until January~~
- 4 ~~1, 2011, and as of that date is repealed.~~

O

BILL: AB 1072 (Eng, D – Monterey Park)
Introduced February 27, 2009

SUBJECT: Extends the current formula and policies for allocating Proposition 1B transit capital funds for the balance of the program

STATUS: Pending Committee Assignment

SUMMARY AS OF APRIL 2, 2009:

AB 1072 (Eng, D – Monterey Park) would amend existing law to provide that the current formula and policies used for allocating Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) funds are to apply to all future fiscal year (FY) state budget appropriations. Proposition 1B provides a total of \$3.6 billion PTMISEA funds to be appropriated by the legislature for use by transit agencies and other specific entities to fund transit capital projects. In the FY 2007-2008 state budget, the first \$600 million of PTMISEA funding was appropriated. Trailer bill language adopted in SB 88 (Chapter 181, Statutes of 2007) provided a formula for allocating these funds based on an eligible applicant's average proportional State Transit Assistance (STA) program allocations for the 2004-2005, 2005-2006, and 2006-2007 fiscal years. SB 88 specified that this formula would sunset the next year, unless extended by statute.

However, in each subsequent fiscal year the statute was amended to provide that the same formula was to be utilized to determine that year's allocations, and again, a sunset provision for the following year was maintained. Thus, the formula was used to allocate the \$350 million in PTMISEA funds appropriated by the legislature in FY 2008-2009, and will again be used to allocate the \$350 million appropriated in FY 2009-2010. However, the formula is set to expire for FY 2010-2011 appropriations, unless extended. In order to provide consistency for future allocations, AB 1072 simply extends the current formula out for all future appropriations by the legislature. Otherwise, each year, transit agencies will have to wait for budget language to be adopted that will provide for either an extension of the current formula, or the development of a new formula. This provides no stability for agencies attempting to plan transit capital projects that will utilize PTMISEA funding.

Prior to receiving allocations in FY 2009-2010, AB 1072 would also require each PTMISEA project sponsor to provide a list of project descriptions to the California Department of Transportation (Caltrans) that the entity plans to fund with their future share of PTMISEA funding. This will create an incentive for agencies to plan out uses for later allocations, and will allow additional clarity in administration of the PTMISEA by allowing the state to be aware of the funding that will be required in a particular year to move designated, eligible transit projects. Each project sponsor will still be required to submit a list to Caltrans each year detailing which projects the entity intends to fund with PTMISEA funds that year, as required under existing law.

EFFECTS ON ORANGE COUNTY:

Using the PTMISEA formula currently in place, the Orange County Transportation Authority (OCTA) received about \$35.2 million in FY 2007-2008, about \$18.6 million in FY 2008-2009 (on hold until state resumes sale of bonds), and is expected to again receive \$18.6 million for FY 2009-2010. This funding has been or will be used on a variety of transit capital projects including the purchase of additional paratransit vehicles, a radio system for the ACCESS buses, work on compressed natural gas (CNG) fueling infrastructure at the Garden Grove, Anaheim, and Irvine/Sand Canyon bases, and for support on the Metrolink Service Expansion Program.

As OCTA staff continues to evaluate future projects to be funded by PTMISEA funds, stability in predicting OCTA's future share of funding would be useful. If the current formula is used to allocate the remaining \$2.3 billion in the PTMISEA program, OCTA can expect to receive about \$134.5 million over the life of the program. On the other hand, if the formula is not set, funding will be dependent on choices by the legislature in any given year. There is potential that if the formula is eventually changed, OCTA may receive less funding than would be allocated using the existing formula. For instance, if the PTMISEA formula is changed to represent a region's average STA share from 2006-2008, Orange County's share of PTMISEA allocations will go down 1.73 percent. If this is used for the remainder of the program then OCTA will receive about \$132.2 million, about \$2.3 million less than under the current formula. In addition, through the adoption of a set formula, long-term project planning will be easier with a secured, set source of funding, rather than being subject to future, unknown variances in formula distribution.

OCTA POSITION:

Staff recommends: SUPPORT

ASSEMBLY BILL

No. 1072

Introduced by Assembly Member Eng

February 27, 2009

An act to amend Section 8879.55 of, and to repeal Section 8879.56 of, the Government Code, relating to transportation, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1072, as introduced, Eng. Public Transportation Modernization, Improvement, and Service Enhancement Account.

Existing law, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, authorizes the issuance of \$19.925 billion of general obligation bonds for transportation purposes, including \$4 billion for allocation to various public transportation purposes. Of this amount, \$3.6 billion is to be deposited in the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) for allocation, upon appropriation, to transit operators and other agencies for transit purposes. Existing law specifies the process for allocating available funds in the PTMISEA for those purposes appropriated in the Budget Act of 2008. Existing law makes these provisions inoperative on July 1, 2009, and repeals them on January 1, 2010.

This bill would apply these provisions to funds appropriated for these purposes from the PTMISEA by the Budget Act of 2009 and subsequent fiscal years and would make other conforming changes. The bill would require eligible project sponsors to provide the Department of Transportation with project descriptions for projects they plan to fund with PTMISEA funds yet to be appropriated for the duration of the

PTMISEA program. The bill would delete the inoperative and repeal dates, thereby extending the operation of these provisions indefinitely.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 8879.55 of the Government Code is
2 amended to read:

3 8879.55. For funds appropriated for fiscal year ~~2008-09~~
4 ~~2009-10~~ or any subsequent fiscal year in the ~~budget act of 2008~~
5 ~~annual Budget Act~~ from the Public Transportation Modernization,
6 Improvement, and Service Enhancement Account (PTMISEA),
7 established pursuant to paragraph (1) of subdivision (f) of Section
8 8879.23, ~~for the purposes of paragraph (3) of that subdivision~~, the
9 following shall apply:

10 (a) (1) Upon appropriation of funds from PTMISEA, the
11 Controller shall identify and develop a list of eligible project
12 sponsors, as defined in paragraph (2) of subdivision (h), and the
13 amount each is eligible to receive pursuant to the formula in
14 paragraph (3) of subdivision (f) of Section 8879.23. ~~It is the intent~~
15 ~~of the Legislature that funds~~ Funds allocated to project sponsors
16 pursuant to this section shall provide each project sponsor with
17 the same proportional share of funds as the proportional share each
18 received from the allocation of State Transit Assistance funds,
19 pursuant to Sections 99313 and 99314 of the Public Utilities Code,
20 over fiscal years 2004-05, 2005-06, and 2006-07. *This formula*
21 *shall apply to the remaining balance of funds in the PTMISEA*
22 *program.*

23 (2) In establishing the amount of funding each project sponsor
24 is eligible to receive from funds to be allocated based on Section
25 99313 of the Public Utilities Code, the Controller shall make the
26 following computations:

27 (A) For each project sponsor, compute the amounts of State
28 Transit Assistance funds allocated to that entity pursuant to Section
29 99313 of the Public Utilities Code during the 2004-05, 2005-06,
30 and 2006-07 fiscal years.

1 (B) Compute the total statewide allocation of State Transit
2 Assistance funds pursuant to Section 99313 of the Public Utilities
3 Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

4 (C) Divide subparagraph (A) by subparagraph (B).

5 (D) For each project sponsor, multiply the allocation factor
6 computed pursuant to subparagraph (C) by 50 percent of the
7 amount appropriated for allocation from PTMISEA.

8 (3) In establishing the amount of funding each project sponsor
9 is eligible to receive from funds to be allocated based on Section
10 99314 of the Public Utilities Code, the Controller shall make the
11 following computations:

12 (A) For each project sponsor, compute the amounts of State
13 Transit Assistance funds allocated to that entity pursuant to Section
14 99314 of the Public Utilities Code during the 2004–05, 2005–06,
15 and 2006–07 fiscal years.

16 (B) Compute the total statewide allocation of State Transit
17 Assistance funds pursuant to Section 99314 of the Public Utilities
18 Code during the 2004–05, 2005–06, and 2006–07 fiscal years.

19 (C) Divide subparagraph (A) by subparagraph (B).

20 (D) For each project sponsor, multiply the allocation factor
21 computed pursuant to subparagraph (C) by 50 percent of the
22 amount appropriated for allocation from PTMISEA.

23 (4) The Controller shall notify project sponsors of the amount
24 of funding each is eligible to receive from *the funds appropriated*
25 *from PTMISEA for the 2008–09 in each* fiscal year based on *actual*
26 *appropriations and* the computations pursuant to subparagraph
27 (D) of paragraph (2) and subparagraph (D) of paragraph (3).

28 (b) Prior to seeking a disbursement of funds for an eligible
29 PTMISEA capital project, a project sponsor on the list developed
30 pursuant to paragraph (1) of subdivision (a) shall submit to the
31 department a description of the proposed capital project or projects
32 it intends to fund with PTMISEA funds ~~for fiscal year 2008–09~~
33 *in the current fiscal year*. The description shall include all of the
34 following:

35 (1) A summary of the proposed project, which shall describe
36 the benefit the project intends to achieve.

37 (2) The useful life of the project, which shall not be less than
38 the required useful life for capital assets pursuant to the State
39 General Obligation Bond Law (Chapter 4 (commencing with

1 Section 16720) of Part 3 of Division 4 of Title 2), specifically
 2 subdivision (a) of Section 16727.

3 (3) The estimated schedule for the completion of the project.

4 (4) The total cost of the proposed project, including the
 5 identification of all funding sources necessary for the project to
 6 be completed.

7 (c) After receiving the information required to be submitted
 8 under subdivision (b), the department shall review the information
 9 solely to determine all of the following:

10 (1) The project is consistent with the requirements for funding
 11 under paragraph (1) of subdivision (f) of Section 8879.23.

12 (2) The project is a capital improvement that meets the
 13 requirements of the state’s general obligation bond law and has a
 14 useful life consistent with paragraph (2) of subdivision (b).

15 (3) The project, or a minimum operable segment of the project,
 16 is, or will become, fully funded with an allocation of funds from
 17 the PTMISEA, and the funds can be encumbered within three years
 18 of the allocation based on the department’s review of the project’s
 19 phase or schedule for completion, as submitted by the project
 20 sponsor.

21 (d) (1) Upon conducting the review required in subdivision (c)
 22 and determining the proposed projects to be in compliance with
 23 the requirements of that subdivision, the department shall
 24 biannually adopt a list of projects eligible for an allocation from
 25 the funds appropriated to the account in *the applicable* fiscal year
 26 ~~2008–09~~.

27 (2) Upon adoption of the list by the department, the department
 28 shall provide the list of projects eligible for funding *in the current*
 29 *fiscal year* to the Controller.

30 (e) Upon receipt of the information required in subdivision (d),
 31 the Controller’s office shall commence any necessary actions to
 32 allocate funds to the project sponsors on the list of projects,
 33 including, but not limited to, seeking the issuance of bonds for that
 34 purpose. The total allocations to any one project sponsor shall not
 35 exceed that project sponsor’s share of funds from the PTMISEA
 36 pursuant to the formula contained in subdivision (a).

37 (f) The audit of public transportation operator finances already
 38 required under the Transportation Development Act pursuant to
 39 Section 99245 of the Public Utilities Code shall be expanded to
 40 include verification of receipt and appropriate expenditure of bond

1 funds pursuant to this section. Each sponsoring entity receiving
2 bond funds from this account in a fiscal year for which an audit is
3 conducted shall transmit a copy of the audit to the department, and
4 the department shall make the audits available to the Legislature
5 and the Controller for review on request.

6 (g) The commission shall include in its annual report to the
7 Legislature, required by Section 14535, a summary of the state
8 agencies' activities related to the administration of funds from the
9 account, including the administration of funds made available to
10 the department for intercity rail improvements pursuant to
11 paragraph (2) of subdivision (f) of Section 8879.23. The summary,
12 at a minimum, shall include a description and the location of the
13 projects funded from the account, the amount of funds allocated
14 to each project, the status of each project, a description of the
15 public benefit expected from each project, and a designation of
16 any projects that have been subject to an audit under subdivision
17 (f). The department and project sponsors shall provide the
18 commission with necessary information for the preparation of the
19 summary required under this subdivision.

20 (h) For purposes of this section, the following terms shall have
21 the following meanings:

22 (1) "Project" means a capital improvement authorized under
23 paragraph (1) of subdivision (f) of Section 8879.23 or a transit
24 capital project, including a bus, rail or waterborne transit capital
25 project, or minimum operable segment thereof, that is consistent
26 with the project sponsor's most recently adopted short-range transit
27 plan, or other publicly-adopted plan that programs or prioritizes
28 the expenditure of funds for transit capital improvements.

29 (2) "Project sponsor" means a transit operator, including a rail
30 transit, commuter rail, bus, or waterborne transit operator, eligible
31 to receive an allocation of funds under the State Transit Assistance
32 program pursuant to Sections 99314 and 99314.3 of the Public
33 Utilities Code, or a local agency, including a transportation
34 planning agency, county transportation commission, or the San
35 Diego Metropolitan Transit Development Board, eligible to receive
36 an allocation of funds under the State Transit Assistance program
37 pursuant to Section 99313 of the Public Utilities Code.

38 (i) A project sponsor that is identified to receive an allocation
39 of funds under this section *in a particular fiscal year*, but that does

1 not submit a project for funding in ~~the 2008–09~~ *that* fiscal year,
2 may utilize its funding share in a subsequent fiscal year.

3 *(j) Prior to seeking a disbursement of funds in the 2009–10*
4 *fiscal year, a project sponsor shall also submit to the department*
5 *a description of the projects it intends to fund with PTMISEA funds*
6 *that have yet to be appropriated.*

7 SEC. 2. Section 8879.56 of the Government Code is repealed.

8 ~~8879.56. This article shall become inoperative on July 1, 2009,~~
9 ~~and, as of January 1, 2010, is repealed, unless a later enacted~~
10 ~~statute, that becomes operative on or before January 1, 2010,~~
11 ~~deletes or extends the dates on which it becomes inoperative and~~
12 ~~is repealed.~~

13 SEC. 3. This act is an urgency statute necessary for the
14 immediate preservation of the public peace, health, or safety within
15 the meaning of Article IV of the Constitution and shall go into
16 immediate effect. The facts constituting the necessity are:

17 In order to make statutory changes relative to provisions
18 governing transportation funds to implement the Budget Act of
19 2009, it is necessary that this act take effect immediately.

BILL: AB 628 (Block, D-Chula Vista)
Introduced February 25, 2009

SUBJECT: Provides toll operators with the option of using the pay-by-plate method to collect tolls from toll road drivers

STATUS: Pending Committee Assignment

SUMMARY AS OF MARCH 19, 2009:

AB 628 would amend existing law to provide toll operators in the state with the option of using the “pay-by-plate” method to collect tolls from toll road drivers. Current statutes in the California Vehicle Code (CVC) allow for toll operators to collect tolls through cash payment or electronic toll collection. Additionally, the CVC allows for the use of license plate capture technology to enforce toll violations. However, the CVC does not specifically allow this technology to be used for the collection of tolls. This bill provides toll operators with the option to use pay-by-plate as another method of toll collections and adds vehicles which lack properly affixed license plates on both the front and rear of the vehicle for toll agencies which implement pay-by-plate as a toll violation.

“Pay-by-plate” is an alternative toll collection method that is practiced in other states throughout the country. The pay-by-plate method uses license plate capture technology which is high-speed, high-resolution photography to identify vehicles on the toll road, capture their license plates, and automatically charge a toll or deduct a toll from an already established account. The pay-by-plate tolling method is currently used on toll roads in Texas and Florida.

AB 628 in its current form provides toll operators with the option of using pay-by-plate as an additional method of toll collection. Generally, additional options to collect tolls benefits both drivers as well as toll operators. Pay-by-plate allows less frequent toll road users the opportunity to use the toll road without having to purchase an electronic transponder. In turn, toll operators could potentially generate additional revenue from non-traditional riders. However, current bill language does not explicitly state that toll operators have the option to implement the pay-by-plate method. The sponsor of the bill has indicated to staff that this was not the intent of the bill and will work with OCTA on clarifying language.

EFFECTS ON ORANGE COUNTY:

The Orange County Transportation Authority (OCTA) currently operates the 91 Express Lanes which provide a critical transportation option for commuters along the Inland Empire-Orange County corridor. For 2008, over estimated 13.4 million drivers used the 91 Express Lanes and generated approximately \$51 million in toll revenue. Current 91 Express Lanes policies as stipulated by State law, requires electronic toll collection as an authorized payment method and requires drivers to place an electronic

toll payment device, otherwise known as a transponder, within the vehicle to record tolls. As a result, any mandate to implement pay-by-plate technology for toll collection would require OCTA to incur additional cost and staff time to develop and carry out alternative procedures and also limits OCTA's flexibility to implement toll collection methods which best fit the 91 Express Lanes business model. OCTA staff has indicated that the pay-by-plate method would be a helpful tool which could be utilized in the future and a support position is recommended with the clarification that it is not mandatory.

OCTA POSITION:

Staff recommends: SUPPORT WITH AMENDMENTS

ASSEMBLY BILL

No. 628

Introduced by Assembly Member Block

February 25, 2009

An act to amend Sections 23302 and 40255 of the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 628, as introduced, Block. Vehicles: toll evasion violations.

(1) Existing law makes it unlawful for any person to refuse to pay tolls or other charges on any vehicular crossing or toll highway and provides that it is prima facie evidence of a violation of this provision for any person to enter upon any vehicular crossing without either lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person or a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls. A violation of these provisions is an infraction.

This bill would additionally provide that, for vehicular crossings and toll highways where the issuing agency permits pay-by-plate toll processing and payment of tolls and other charges in accordance with policies adopted by the issuing agency, it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without at least one of the following: (A) lawful money of the United States in the person's immediate possession in an amount sufficient to pay the prescribed tolls or other charges due from that person, or (B) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with

a balance sufficient to pay those tolls, or (C) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway. Where electronic toll collection is the only other method of paying tolls or other charges, the bill would provide that it is prima facie evidence of a toll evasion violation for a person to enter the vehicular crossing or toll highway without either (i) a transponder or other electronic toll payment device associated with a valid Automatic Vehicle Identification account with a balance sufficient to pay those tolls, or (ii) valid California vehicle license plates properly affixed to both the front and rear of the vehicle in which that person enters onto the vehicular crossing or toll highway.

(2) Existing law provides that the officer or person authorized to issue a notice of toll evasion violation is not required to participate in an administrative review of the toll evasion violation and that the issuing agency is not required to produce any evidence other than the notice of toll evasion violation or a copy thereof, information received from the department identifying the registered owner of the vehicle, and a statement under penalty of perjury from the person reporting the violations. Under existing law perjury is a crime.

This bill would require, for a toll evasion violation that occurs on a vehicular crossing or toll highway where the issuing agency allows pay-by-plate toll processing and payment, the required statement under penalty of perjury from the officer or person reporting the violation to include a statement that the tolls or other charges and any applicable fee were not paid in accordance with the issuing agency's policies for pay-by-plate toll processing and payment.

(3) The bill would make other technical, nonsubstantive and conforming changes to these provisions.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 23302 of the Vehicle Code is amended
2 to read:

3 23302. (a) It is unlawful for ~~any~~ a person to ~~refuse~~ fail to pay
4 tolls or other charges on any vehicular crossing or toll highway.
5 ~~It~~ *Subject to subdivision (b), (c), or (d), it is prima facie evidence*
6 *of a violation of this section for* ~~any~~ a person to enter upon any
7 vehicular crossing without either lawful money of the United States
8 in the person's immediate possession in an amount sufficient to
9 pay the prescribed tolls or other charges due from that person or
10 a transponder or other electronic toll payment device associated
11 with a valid Automatic Vehicle Identification account with a
12 balance sufficient to pay those tolls. *If a transponder or other*
13 *electronic toll payment device is used to pay tolls or other charges*
14 *due, the device shall be located in, or on the vehicle in a location*
15 *so as to be visible for the purpose of enforcement at all times when*
16 *the vehicle is located on the vehicular crossing or toll highway.*
17 *Where required by the operator of a vehicular crossing or toll*
18 *highway, this requirement applies even if the operator offers free*
19 *travel or nontoll accounts to certain classes of users.*

20 (b) For vehicular crossings and toll highways that ~~uses~~ use
21 electronic toll collection as the only method of paying tolls or other
22 charges, it is prima facie evidence of a violation of this section for
23 ~~any~~ a person to enter the vehicular crossing or toll highway without
24 a transponder or other electronic toll payment device associated
25 with a valid Automatic Vehicle Identification account with a
26 balance sufficient to pay those tolls. ~~If a transponder or other~~
27 ~~electronic toll payment device is used to pay tolls or other charges~~
28 ~~due, the device shall be located in, or on the vehicle in a location~~
29 ~~so as to be visible for the purpose of enforcement at all times when~~
30 ~~the vehicle is located on the vehicular crossing or toll highway.~~
31 ~~Where required by the operator of a vehicular crossing or toll~~
32 ~~highway, this requirement applies even if the operator offers free~~
33 ~~travel or nontoll accounts to certain classes of users.~~

34 (c) *Subject to subdivision (d), for vehicular crossings and toll*
35 *highways where the issuing agency, as defined in Section 40250,*
36 *permits pay-by-plate toll processing and payment of tolls and other*
37 *charges in accordance with policies adopted by the issuing agency,*
38 *it is prima facie evidence of a violation of this section for a person*

1 to enter the vehicular crossing or toll highway without at least one
2 of the following:

3 (1) Lawful money of the United States in the person's immediate
4 possession in an amount sufficient to pay the prescribed tolls or
5 other charges due from that person.

6 (2) A transponder or other electronic toll payment device
7 associated with a valid Automatic Vehicle Identification account
8 with a balance sufficient to pay those tolls.

9 (3) Valid California vehicle license plates properly affixed to
10 both the front and rear of the vehicle in which that person enters
11 onto the vehicular crossing or toll highway.

12 (d) For vehicular crossings and toll highways where the issuing
13 agency, as defined in Section 40250, permits pay-by-plate toll
14 processing and payment of tolls and other charges in accordance
15 with policies adopted by the issuing agency, and where electronic
16 toll collection is the only other method of paying tolls or other
17 charges, it is prima facie evidence of a violation of this section for
18 a person to enter the vehicular crossing or toll highway without
19 either a transponder or other electronic toll payment device
20 associated with a valid Automatic Vehicle Identification account
21 with a balance sufficient to pay those tolls or valid California
22 vehicle license plates properly affixed to both the front and rear
23 of the vehicle in which that person enters onto the vehicular
24 crossing or toll highway.

25 (e) As used in this section, "Pay-by-plate toll processing and
26 payment" means an issuing agency's use of on-road vehicle license
27 plate identification recognition technology to accept payment of
28 tolls within a specified period of time following the use of the
29 vehicular crossing or toll highway by persons entering upon the
30 vehicular crossing or toll highway without the payment of tolls or
31 other charges by either cash payment in lawful money of the United
32 States or use of an electronic toll payment device associated with
33 a valid Automatic Vehicle Identification account with a balance
34 sufficient to pay the tolls or other charges, in accordance with
35 policies adopted by the issuing agency.

36 SEC. 2. Section 40255 of the Vehicle Code is amended to read:
37 40255. (a) Within 21 days from the issuance of the notice of
38 toll evasion violation, or within 15 days from the mailing of the
39 notice of delinquent toll evasion, whichever occurs later, a person
40 may contest a notice of toll evasion violation or a notice of

1 delinquent toll evasion. In that case, the processing agency shall
2 do the following:

3 (1) The processing agency shall either investigate with its own
4 records and staff or request that the issuing agency investigate the
5 circumstances of the notice with respect to the contestant's written
6 explanation of reasons for contesting the toll evasion violation. If,
7 based upon the results of that investigation, the processing agency
8 is satisfied that the violation did not occur or that the registered
9 owner was not responsible for the violation, the processing agency
10 shall cancel the notice of toll evasion violation and make an
11 adequate record of the reasons for canceling the notice. The
12 processing agency shall mail the results of the investigation to the
13 person who contested the notice of toll evasion violation or the
14 notice of delinquent toll evasion violation.

15 (2) If the person contesting a notice of toll evasion violation or
16 notice of delinquent toll evasion violation is not satisfied with the
17 results of the investigation provided for in paragraph (1), the person
18 may, within 15 days of the mailing of the results of the
19 investigation, deposit the amount of the toll evasion penalty and
20 request an administrative review. After January 1, 1996, an
21 administrative hearing shall be held within 90 calendar days
22 following the receipt of a request for an administrative hearing,
23 excluding any time tolled pursuant to this article. The person
24 requesting the hearing may request one continuance, not to exceed
25 21 calendar days.

26 (b) The administrative review procedure shall consist of the
27 following:

28 (1) The person requesting an administrative review shall indicate
29 to the processing agency his or her election for a review by mail
30 or personal conference.

31 (2) If the person requesting an administrative review is a minor,
32 that person shall be permitted to appear at an administrative review
33 or admit responsibility for a toll evasion violation without the
34 necessity of the appointment of a guardian. The processing agency
35 may proceed against that person in the same manner as if that
36 person were an adult.

37 (3) (A) The administrative review shall be conducted before a
38 reviewer designated to conduct the review by the issuing agency's
39 governing body or chief executive officer. In the case of violations
40 on facilities developed pursuant to Section 143 of the Streets and

1 Highways Code, the processing agency shall contract with a public
2 agency or a private entity that has no financial interest in the facility
3 for the provision of administrative review services pursuant to this
4 subdivision. The costs of those administrative review services shall
5 be included in the administrative fees authorized by this article.

6 ~~In~~

7 (B) In addition to any other requirements of employment, a
8 reviewer shall demonstrate those qualifications, training, and
9 objectivity prescribed by the issuing agency's governing body or
10 chief executive as are necessary and which are consistent with the
11 duties and responsibilities set forth in this article.

12 ~~The~~

13 (C) The examiner's continued employment, performance
14 evaluation, compensation, and benefits shall not be directly or
15 indirectly linked to the amount of fines collected by the examiner.

16 (4) The officer or person authorized to issue a notice of toll
17 evasion violation shall not be required to participate in an
18 administrative review. The issuing agency shall not be required to
19 produce any evidence other than the notice of toll evasion violation
20 or copy thereof, information received from the department
21 identifying the registered owner of the vehicle, and a statement
22 under penalty of perjury from the person reporting the ~~violations~~
23 *violation. For a toll evasion violation that occurs on a vehicular*
24 *crossing or toll highway where the issuing agency allows*
25 *pay-by-plate toll processing and payment, as defined in Section*
26 *23302, the required statement under penalty of perjury from the*
27 *person reporting the violation shall include a statement that the*
28 *tolls or other charges and any applicable fee was not paid in*
29 *accordance with the issuing agency's policies for pay-by-plate toll*
30 *processing and payment. The documentation in proper form shall*
31 *be considered prima facie evidence of the violation.*

32 (5) The review shall be conducted in accordance with the written
33 procedure established by the processing agency which shall ensure
34 fair and impartial review of contested toll evasion violations. The
35 agency's final decision may be delivered personally or by first-class
36 mail.

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or

1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

O

BILL: SB 372 (Kehoe, D – San Diego)
Introduced February 26, 2009

SUBJECT: Would prohibit the modification or removal of a state park, unless recommended by the State Park and Recreation Commission and approved by the Legislature

STATUS: Senate Natural Resources and Water Committee

SUMMARY AS OF APRIL 2, 2009:

SB 372 (Kehoe, D – San Diego) would prohibit the removal or modification of a state park within the state park system, unless the State Park and Recreation Commission (Commission) recommends the removal or modification and the state legislature enacts legislation which approves the recommendation. Under existing law, the State Department of Parks and Recreation (Department) administers the state park system and may grant permits or easements to public agencies to allow for projects, such as roads or utilities, to go through a state park. The Commission, which is appointed by the Governor and confirmed by the State Senate, has the duty of classifying state parks, and approving the general plans of each state park. There are various existing state laws which set forth specific requirements for any project to fulfill before being allowed to build in a state park, including extensive environmental review processes and the obtaining of applicable permits. Moreover, under federal law, before the United States Department of Transportation can approve a project that goes through state park land, it must be proven that there is no prudent and feasible alternative, and that the project includes all possible planning to minimize impacts to the land and resources.

This bill represents another attempt to prevent development within state park lands and is a direct result of longstanding efforts to prevent and derail the proposed 16-mile extension of the Foothill Transportation Corridor (State Route 241), similar to the intent of another bill this session, SB 679 (Wolk, D-Davis). Over the past decade there have been numerous legislative attempts to stop the State Route 241 (SR-241) extension, such as SB 1277 (Hayden, D–Santa Monica) introduced in the 1999–2000 legislative session, SB 116 (Kuehl, D–Santa Monica) introduced in the 2001-2002 session, SB 1327 (Kuehl, D–Santa Monica) introduced in the 2003-2004 session, and AB 1457 (Huffman, D-San Rafael) in the 2007-2008 session. In addition, in the 2005-2006 legislative session, an attempt was made to subvert the SR-241 process through a budget amendment in Assembly Budget Subcommittee #5. All of these attempts have failed passage. The Orange County Transportation Authority (OCTA) opposed each effort, emphasizing the need for the process outlined under current law, and its associated protections, to be allowed to take place without interference.

SB 372 will effectively take the current planning process away from local authorities and responsible state agencies, and place ultimate authority for making land use decisions in state parks in the hands of the state legislature, which will further lengthen and delay

the currently extensive process associated with project development. In addition, this bill grants new authority for the Commission as a liaison to the legislature to advocate for state park projects of its choosing.

EFFECTS ON ORANGE COUNTY:

SB 372 could impact projects OCTA currently plans on implementing and will limit options for project planning that OCTA would be able to exercise in the future. Most immediately, SB 372 will create an additional hurdle for the SR-241 extension to move forward because it goes through a portion of San Onofre State Beach. This marks the sixth legislative session in which action has been taken to attempt to subvert the final road segment of Orange County's planned 67-miled toll road system. The SR-241 extension has been part of a three decade long planning process, which has included extensive efforts to preserve and balance environmental, economic, and transportation interests. Nearly 40 alternative routes were considered in this process over a six year period, which included input from the United States Environmental Protection Agency, the United States Army Corps of Engineers, the California Department of Transportation, and other stakeholders. The process proposed by SB 372 ignores the federal prerogative over this project, with the United States Navy leasing the land to the State, with express provisions stating the right of the federal government to approve easements through the park.

Although the December 18, 2008, decision by the United States Department of Commerce sustained the California Coastal Commission's denial of the chosen route for the SR-241 extension, local agencies continue to work together to determine how to best proceed. Because the SR-241 extension continues to be a part of the Southern California Association of Government's Regional Transportation Plan as a key component to achieving federal air quality conformity requirements, as well as various other long term plans, including the general plans of many cities, it is key to allow local authorities, in conjunction with applicable state agencies to work through this issue, rather than adding another step to the process.

Beyond the extension of the SR-241, SB 372's requirements could prevent or delay plans to expand the Riverside Freeway (State Route 91) due to its proximity to the Chino Hills State Park. This could potentially interfere with authority granted under SB 1316 (Chapter 714, Statutes of 2008), to extend the 91 Express Lanes into Riverside County. Moreover, SB 372 will limit future transportation planning options along the coast of Orange County on the Pacific Coast Highway (State Route 1).

OCTA POSITION:

Staff recommends: OPPOSE

Introduced by Senator Kehoe

February 26, 2009

An act to amend Section 5019.50 of the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 372, as introduced, Kehoe. State parks system: unit modification, adjustment, or removal.

Existing law requires that all units of the state park system be classified by the State Park and Recreation Commission into one of several categories.

This bill would prohibit the modification or adjustment of state park units, or the removal of state park units from within the state park system, without the commission making that recommendation to the Legislature and the Legislature enacting legislation approving the recommendation.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 5019.50 of the Public Resources Code
- 2 is amended to read:
- 3 5019.50. (a) All units that are or shall become a part of the
- 4 state park system, except those units or parts of units designated
- 5 by the Legislature as wilderness areas pursuant to Chapter 1.3
- 6 (commencing with Section 5093.30), or where subject to any other
- 7 provision of law, including Section 5019.80 and Article 1
- 8 (commencing with Section 36600) of Chapter 7 of Division 27,

1 shall be classified by the State Park and Recreation Commission
2 into one of the categories specified in this article. Classification
3 of state marine reserves, state marine parks, and state marine
4 conservation areas, requires the concurrence of the Fish and Game
5 Commission for restrictions to be placed upon the use of living
6 marine resources.

7 *(b) The modification or adjustment of state park units, or the*
8 *removal of state park units from within the state park system, shall*
9 *require a recommendation for that modification, adjustment, or*
10 *removal by the State Park and Recreation Commission to the*
11 *Legislature and that the Legislature enact legislation approving*
12 *the recommendation.*

BILL: SB 679 (Wolk, D – Davis)
Introduced February 27, 2009

SUBJECT: Would prohibit any land within the state park system from being disposed of or used for purposes contrary to the intent of the state park unless there is legislative approval and identification of substitute land of equal value

STATUS: Pending Committee Assignment

SUMMARY AS OF APRIL 2, 2009:

SB 679 (Wolk, D – Davis) would prohibit any land acquired for the state park system with either public funds or by gift used to grow or maintain the state park system from being disposed of or used for purposes contrary to the intent of the state park unless express authority is granted by the legislature and substitute land of equal value is identified. The substitute land must be equal in environmental value and fair market value, plus be of reasonably equivalent usefulness and location to those lands that are to be disposed or modified. Under current law, the Department of Parks and Recreation (Department) is granted with the ability to grant permits or easements to public agencies for projects within state parks, and the State Park and Recreation Commission (Commission) is responsible for classifying state park units according to purpose and approves state park general plans. There is no existing requirement for providing substitute land, and instead, mitigation strategies for project development are created through the environmental review process, as well as when applying for applicable permits. Furthermore, under federal law, before the United States Department of Transportation can approve a project that goes through state park land, it must be proven that there is no prudent and feasible alternative, and that the project includes all possible planning to minimize impacts to the land and resources.

This bill is duplicative of the efforts under SB 372 (Kehoe, D-San Diego), from the current legislative session, to prevent development within state park lands, again as a direct result of longstanding efforts to prevent and derail the proposed 16-mile extension of the Foothill Transportation Corridor (State Route 241). Both bills are part of a pattern that has emerged over the last several legislative sessions to introduce legislation to stop the State Route 241 (SR-241) extension. Each of the five previous attempts has failed passage, with the Orange County Transportation Authority (OCTA) opposing each effort, emphasizing the need to follow the process outlined under current law, with its associated environmental and economic protections.

SB 679, similar to many of the past legislative proposals, seeks to vest additional authority with the legislature to make land use decisions associated with state parks, thereby limiting traditional local land use and transportation planning authority. Furthermore, SB 679 adds an additional requirement of providing substitute land of equal value when a project is authorized. As seen with past proposals within state park land, stakeholders can be limited in their review of what is deemed an adequate substitution, often, like in the case of the SR-241, arguing that there is no possibility of

substitution. This requirement can thereby essentially create a moratorium on the building of projects through certain state park land where it is deemed that no substitute land of equal value exists. Instead, the current law which provides for extensive environmental review precautions, including the need to mitigate environmental harm, should be followed. Requiring the substitution of land could potentially prohibit local agencies from responding to the needs of the localities they serve.

EFFECTS ON ORANGE COUNTY:

SB 679 could impact both projects OCTA currently plans on implementing, and will limit options for future project planning. Like with past legislation, SB 679 will most immediately impact the proposed SR-241 extension by creating an additional hurdle the project must meet prior to moving forward due to its crossing of the San Onofre State Beach. The United States Navy leased the land that makes up the San Onofre State Beach to the state of California in 1971 for \$1, with the lease set to expire in 2021. This small exchange of funds will qualify the park for inclusion within SB 679's requirements at least until the lease expires. However, this process ignores express provisions contained within the current lease granting authority to the federal government to approve easements through the park.

The SR-241 is the final road segment of Orange County's planned 67-miled toll road system, chosen after nearly 40 different alternatives were considered over a 6 year process, with input from a variety of stakeholders including the United States Environmental Protection Agency, the United States Army Corps of Engineers, the California Department of Transportation. Although the December 18, 2008, decision by the United States of Commerce sustained the California Coastal Commission's denial of the chosen route of extension, local agencies continue to work together to determine how to best proceed. Because the SR-241 extension continues to be a part of the Southern California Association of Government's Regional Transportation Plan as a key component to achieving federal air quality conformity requirements, as well as various other long term plans, including the general plans of many cities, it is key to allow local authorities, in conjunction with applicable state agencies, to work through this issue.

Beyond the extension of the SR-241, SB 679's requirements could prevent or delay plans to expand the Riverside Freeway (State Route 91) due to its proximity to the Chino Hills State Park, thereby potentially interfering with the authority granted under SB 1316 (Chapter 714, Statutes of 2008), to extend the 91 Express Lanes into Riverside County. In addition, SB 679 will limit future transportation planning options along the coast of Orange County on the Pacific Coast Highway (State Route 1). Overall, because of the difficulties associated with finding land the state will approve as an adequate substitution for existing state park land, it will be extremely difficult for OCTA to plan projects near such state parks as San Onofre State Beach and Chino Hills State Park, thereby creating difficulties in providing needed infrastructure.

OCTA POSITION:

Staff recommends: OPPOSE

Introduced by Senator Wolk

February 27, 2009

An act to add Section 5013.2 to the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 679, as introduced, Wolk. State parks: acquired land: limits on disposition or use.

The Department of Parks and Recreation, with the consent of the Department of Finance, is authorized to acquire title to or any interest in real property that the department deems necessary or proper for the extension, improvement, or development of the state park system. The department is also authorized to accept monetary and real property gifts to be used in any connection with the state park system.

This bill would prohibit land acquired for the state park system, through public funds or gifts, from being disposed of or used for other than park purposes without the express authority of an act of the Legislature. A request for that authority would be required to provide for the substitution of other lands of equal environmental value and fair market value and reasonably equivalent usefulness and location to those to be disposed of or used for other than park purposes.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5013.2 is added to the Public Resources
2 Code, to read:

1 5013.2. (a) Land acquired for the state park system with public
2 funds or through receipt of gifts or bequests from individuals or
3 private entities with the express purpose of growing or maintaining
4 the state park system shall not be disposed of or used for other
5 than park purposes without the express authority of an act of the
6 Legislature.

7 (b) A request for authority to dispose of or use for other than
8 park purposes land described in subdivision (a) shall provide for
9 the substitution of other lands of equal environmental value and
10 fair market value and reasonably equivalent usefulness and location
11 to those to be disposed of or used for other than park purposes.

12 (c) Gifts or bequests received on and after January 1, 2010, for
13 the purposes described in subdivision (a) are subject to disposal
14 or use for other than park purposes if the substitution requirements
15 in subdivision (b) are met.



Orange County Transportation Authority Legislative Matrix

**2009 State Legislation Session
April 2, 2009**

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
BILLS BEING MONITORED			
<p>▶ AB 26 (Hernandez – D)</p> <p>Public Contracts: Bid Preferences: Employee Health Care</p>	<p>Requires a state agency awarding a public works contract to provide a bid preference to a bidder whose employee health care expenditures, and those of its subcontractors, are a percentage of the aggregate Social Security Wages paid to its employees in the state. Requires a bidder and its subcontractors to submit statements certifying that they qualify for the bid preference. Requires the bidder and contractors to continue to make employee health care expenditures.</p>	<p>INTRODUCED: 12/01/2008 LOCATION: Assembly Appropriations Committee</p> <p>STATUS: 03/17/2009 From ASSEMBLY Committee on BUSINESS AND PROFESSIONS: Do pass to Committee on APPROPRIATIONS.</p>	None Listed
<p>▶ AB 31 (Price – D)</p> <p>Public Contracts: Small Business Procurement Act</p>	<p>Relates to existing law which permits a state agency to award a contract to a certified small business without complying with competitive bidding requirements. Increases the maximum amount of the contracts from \$100,000 to \$250,000. Requires the contractor upon completion of a public contract for which a commitment to achieve small business or disabled veteran business enterprise participation goals was made, to report the actual percentage of participation that was achieved.</p>	<p>INTRODUCED: 12/01/2008 LOCATION: Assembly Jobs, Economic Development and The Economy Committee</p> <p>STATUS: 02/05/2009 To ASSEMBLY Committee on JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY HEARING: 04/21/09 9:00 am</p>	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 109 (Feuer – D) Outdoor Advertising</p>	<p>Amends the Outdoor Advertising Act; prohibits an advertising display that is visible from a state, county or city highway from being constructed as, or converted, enhanced, improved, modified, modernized or altered into a digital advertising display; prohibits an official highway changeable message sign from being constructed as or converted, enhanced, improved modified, modernized or altered into a digital advertising display for the purpose of displaying commercial messages.</p>	<p>INTRODUCED: 1/13/2009 LOCATION: <i>Assembly Second Reading File</i></p> <p>STATUS: 03/17/2009 From ASSEMBLY Committee on JUDICIARY: Do pass as amended to Committee on GOVERNMENTAL ORGANIZATION.</p>	<p>None Listed</p>
<p>► AB 118 (Logue – R) California Global Warming Solutions Act of 2006</p>	<p>Repeals the California Global Warming Solutions Act of 2006, which requires the State Air Resources Board to adopt regulations to require the reporting of greenhouse gases and to adopt a statewide greenhouse gas emissions limit.</p>	<p>INTRODUCED: 01/15/2009 LOCATION: <i>Assembly Natural Resources Committee</i></p> <p>STATUS: 02/26/2009 To ASSEMBLY Committee on NATURAL RESOURCES</p>	<p>None Listed</p>
<p>► AB 216 (Beall – D) Public Contracts: Claims</p>	<p>Provides for a mediation process and binding arbitration process for 3rd party claim disputes between a contractor and a local agency, charter city, or charter county that does not have an alternative dispute process, if those claims remain unresolved after a 105 day time period for review of the claim, 10 day period for a meet and confer conference to occur, and 30 day time period for mediation.</p>	<p>INTRODUCED: 02/03/2009 LOCATION: <i>Assembly Judiciary Committee</i></p> <p>STATUS: 03/12/2009 Withdrawn from ASSEMBLY Committee on BUSINESS AND PROFESSIONS</p> <p>03/12/2009 Re-referred to ASSEMBLY Committee on JUDICIARY HEARING: 03/31/2009 9:00 am</p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 231 (Huffman – D)</p> <p>Global Warming Solutions Act of 2006: Trust Fund</p>	<p>Requires the State Air Resources Board to adopt a schedule of fees to be paid by the sources of greenhouse emissions which would be deposited in the Climate Protection Trust Fund for purposes of carrying out the Global Warming Solutions Act of 2006.</p>	<p>INTRODUCED: 02/05/2009 LOCATION: <i>Assembly Natural Resources Committee</i></p> <p>STATUS: 03/04/2009 To ASSEMBLY Committee on NATURAL RESOURCES HEARING: 04/13/2009 1:30 pm</p>	<p>None Listed</p>
<p>► AB 251 (Knight – R)</p> <p>L.A. County Metropolitan Transportation Authority</p>	<p>Provides for the appointment of one member of the Los Angeles County Metropolitan Transportation Authority by the city councils of the Cities of Palmdale, Lancaster, and Santa Clarita, and deletes one of the public members appointed by the Mayor of Los Angeles. Excludes the Cities of Palmdale, Lancaster, and Santa Clarita from the selection of the 4 members appointed from other cities in the county.</p>	<p>INTRODUCED: 02/10/2009 LOCATION: <i>Assembly Local Government Committee</i></p> <p>STATUS: 03/09/2009 To ASSEMBLY Committee on LOCAL GOVERNMENT</p>	<p>None Listed</p>
<p>► AB 254 (Jeffries – R)</p> <p>Emergency Vehicles: Payment of Tolls</p>	<p>Exempts emergency vehicles from the payment of a toll or charge on a bridge or toll road while engaged in rescue operations.</p>	<p>INTRODUCED: 02/11/2009 LOCATION: <i>Assembly Transportation Committee</i></p> <p>STATUS: 03/04/2009 To ASSEMBLY Committee on TRANSPORTATION</p>	<p>None Listed</p>
<p>► AB 263 (Miller – R)</p> <p>Riverside County Transportation Commission</p>	<p>Authorizes the Riverside County Transportation Commission (RCTC) to approve and award one best-value design-build contract for transportation improvements on the State Highway Route 91 corridor based on criteria established by RCTC.</p>	<p>INTRODUCED: 02/11/2009 LOCATION: <i>Assembly Transportation Committee</i></p> <p>STATUS: 03/04/2009 To ASSEMBLY Committee on TRANSPORTATION</p>	<p>None Listed</p>
<p>► AB 266 (Carter – D)</p> <p>Transportation Needs Assessment</p>	<p>Requires the California Transportation Commission to develop an assessment of the unfunded costs of programmed state projects and federally earmarked projects in the state, as well as an assessment of available funding for transportation purposes and unmet transportation needs on a statewide basis.</p>	<p>INTRODUCED: 02/11/2009 LOCATION: <i>Assembly Transportation Committee</i></p> <p>STATUS: 03/04/2009 To ASSEMBLY Committee on TRANSPORTATION</p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 282 (Assembly Transportation Committee)</p> <p>Transportation</p>	<p>Requires any interest or other return earned by a city or county from investment of bond funds from Proposition 1B - the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 to be expended or reimbursed under the same conditions as are applicable to the bond funds themselves. Extends the time period with which transit operators must file an annual report of their operation with transportation planning agencies having jurisdiction over them and the state Controller from 90 to 110 days after the close of the operator's fiscal year, if the report is filed electronically.</p>	<p>INTRODUCED: 02/12/2009 LOCATION: <i>Assembly Transportation Committee</i></p> <p>STATUS: 03/04/2009 To ASSEMBLY Committee on TRANSPORTATION</p>	<p>None Listed</p>
<p>► AB 309 (Price – D)</p> <p>Public Contracts: Small Business Participation</p>	<p>Requires state agencies, departments, boards, and commissions to establish and achieve a goal of small business participation in state procurements and contracts and to work with the Department of General Services to help small businesses market their products, goods and services to the state by providing access to information about current bid opportunities on their web sites. Requires the Office of Small Business Advocate to collaborate with the Department of General Services to enhance the states small business program.</p>	<p>INTRODUCED: 02/17/2009 LOCATION: <i>Assembly Jobs, Economic Development, and The Economy</i></p> <p>STATUS: 03/09/2009 To ASSEMBLY Committees on JOBS, ECONOMIC DEVELOPMENT AND THE ECONOMY and BUSINESS AND PROFESSIONS. HEARING: 04/21/2009 9:00 am</p>	<p>None Listed</p>
<p>► AB 319 (Niello – R)</p> <p>Elections: Ballot Titles</p>	<p>Requires the Legislative Analyst, instead of the Attorney General, to prepare the ballot title and summary for all measures submitted to the voters of the state. Requires the Legislative Analyst, instead of the Department of Finance and the Joint Legislative Budget Committee, to prepare any fiscal estimate or opinion required by a proposed initiative measure.</p>	<p>INTRODUCED: 02/18/2009 LOCATION: <i>Assembly Elections and Redistricting Committee</i></p> <p>STATUS: 03/04/2009 To ASSEMBLY Committee on ELECTIONS AND REDISTRICTING</p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► AB 338 (Ma – D)</p> <p>Transit Village Developments: Infrastructure Financing</p>	<p>Recasts the area included in a transit village plan to include all land within at least a half mile of the main entrance to a transit station. Provides that voter approval for the formation of an infrastructure financing district, adoption of a financing plan, and an issuance of bonds for developing and financing a transit facility would be eliminated. A transit village plan financed by these bonds would have to show affordable housing benefits, and include provisions dedicating at least 20 percent of revenues derived from the property tax increment to affordable housing in the transit village.</p>	<p>INTRODUCED: 02/18/2009 LOCATION: <i>Assembly Local Government Committee</i></p> <p>STATUS: 03/09/2009 To ASSEMBLY Committee on LOCAL GOVERNMENT. HEARING: 04/01/2009 1:30 pm</p>	<p>None Listed</p>
<p>AB 628 (Block - D)</p> <p>Vehicles: Toll Evasion Violations</p>	<p>Permits agencies to use pay-by-plate processing for toll roads and bridges. Provides that where the issuing agency permits pay-by-plate toll processing and payment of tolls and other charges, it is prima facie evidence of toll evasion violation for a person to enter the toll road or bridge without lawful money of the United States in the person's immediate possession, a transponder or other electronic payment device, or valid California vehicle plates properly affixed to the vehicle.</p>	<p>INTRODUCED: 02/25/2009 LOCATION: Assembly</p> <p>STATUS: 02/25/2009 INTRODUCED</p>	<p>Staff Recommends: SUPPORT WITH AMENDMENTS Sponsor: South Bay Expressway (State Route 125)</p>
<p>AB 729 (Evans - D)</p> <p>Public Contracts: Transit Design-Build Contracts</p>	<p>Repeals the January 1, 2011 sunset provision to allow transit operators to enter into design-build contracts for transit capital projects.</p>	<p>INTRODUCED: 02/26/2009 LOCATION: Assembly</p> <p>STATUS: 02/26/2009 INTRODUCED</p>	<p>Staff Recommends: SUPPORT</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 782 (Jeffries - R) Regional Transportation Plans: Sustainable Communities	Provides that upon the California Air Resources Board's (CARB) acceptance that the sustainable communities strategy or an alternative planning strategy, if implemented, will achieve the greenhouse gas emissions reduction targets established by CARB, that acceptance shall be final, and no person or entity may initiate or maintain any judicial proceeding to review the propriety of the CARB's acceptance. Expands the Regional Targets Advisory Committee membership to include commercial builders, the business community, and those involved in transportation funding. Exempts transportation projects funded by Proposition 1B, the American Recovery and Reinvestment Act of 2009, and expands the exemption related to sales tax projects to include measures passed until 2010. Expands California Environmental Quality Act (CEQA) streamlining provisions to additional projects consistent with a sustainable communities strategy or alternative planning scenario.	INTRODUCED: 02/26/2009 LOCATION: Assembly STATUS: 02/26/2009 INTRODUCED	None Listed
AB 1018 (Hill - D) State Finance	Requires the Governor's proposed budget to include estimates of revenues and expenditures for the three subsequent fiscal years. Requires the Director of Finance to submit revised estimates of revenue and expenditures for the current fiscal year and three subsequent fiscal years on or before May 14, July 15, and September 15 of each year. Requires the state Controller and Treasurer to review revised estimates and submit assessment to the fiscal committees of each house and the Director of Finance on or before May 31 of each year.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1062 (Garrick - R) Design-build contracts	Revises the definition of skilled labor force availability for purposes of public works design-build contracting to mean a commitment to training the future construction workforce through apprenticeship and requires the design-build entity to provide specified information from which it intends to request the dispatch of apprentices for use on the design-build contract.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1072 (Eng - D) Public Transportation Modernization, Improvement, and Service Enhancement Account	Clarifies that the formula used to calculate an agency's share of Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) is to be the same in future fiscal years (FY) as was used to appropriate funding in the FY 2009-2010 budget. Requires eligible project sponsors to provide the California Department of Transportation a list of projects that they plan to fund with PTMISEA funds that have not yet been appropriated.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	Staff Recommends: SUPPORT Sponsor: California Transit Association
AB 1085 (Mendoza - D) State Air Resources Board: Regulations	Requires CARB to make available to the public all methodologies, inputs, assumptions, and any other information used in the development of a proposed regulation.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1086 (Miller - R) Public Contracts and Bids	Relates to public works contracts and bid specifications. Makes findings and declarations regarding the intent to encourage contractors and manufacturers to develop and implement new and ingenious materials, products, and services that provide the same functionality as those required by contract, but at a lower cost to tax payers. An agency when drafting a contract is not to limit materials to a specific type without also specifying that material "equal" to that specified may also be used. A period of time is to be specified within the contract related to requests to substitute materials with equivalent items.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1091 (Ruskin - D) Natural Resources: Climate Change	Requires the Natural Resources Agency to incorporate climate change predictions into all relevant planning processes. Specifies key tools for adaptation planning, including requiring a plan for how proposed investments in infrastructure, such as highways, are to incorporate climate change impact on reducing or increasing protection of natural resources from climate change.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1135 (Skinner - D) Vehicles: Registration Renewal	Requires the owner of a vehicle, upon application for renewal of a vehicle registration, to report the current odometer reading of the vehicle. Requires the information, except for the name of the vehicle owner, to be public information. States intent that data can be used to better transportation and land use planning, and would be key to CARB and local agencies in reducing greenhouse gas emissions related to tailpipe controls, and in agency monitoring of vehicle miles traveled.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1204 (Huber - D) Environment: CEQA: Sustainable Communities Strategy	Expands CEQA streamlining provisions related to greenhouse gas emissions and growth inducing impacts to any project consistent with a sustainable communities strategy or alternative planning strategy that meets the regional greenhouse gas targets set by CARB.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1212 (Ruskin - D) Air Resources: Clean Vehicle Incentive Program	Authorizes CARB to adopt and implement a clean vehicle incentive, or feebate, program consisting of one-time rebates and one-time surcharges on the sale of new passenger motor vehicles. CARB is only to establish this program if it funds that the implementation of the program would be beneficial to achieving AB 32 greenhouse gas emission reduction goals. This is to be implemented in such a way that does not result in a levying of a tax, and all revenues are to be deposited into the Air Pollution Control Fund.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1229 (Evans - D) Public Contracts: Local Public Agencies	Requires the Contractors State License Board, rather than the Department of Industrial relations, in collaboration with impacted agencies and parties, to develop guidelines and a standardized questionnaire related to qualifying bidders and regulating local public works projects. Factors to be considered in qualifying bidders are to include the size and contract volume of a perspective bidder. Factors are to be used to determine qualifications of a bidder on a weighted basis. Specifies that a prequalifying questionnaire, if used by a public entity, shall remain valid for three years, rather than a year, as long as the public entity determines the information has not substantially changed for that three year period.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1277 (Harkey - R) State Bonds: Sale	Authorizes the Treasurer to delay the sale of state bonds that are subject to the approval under Article 16 of the state constitution if the Treasurer, in consultation with the state Controller and Director of Finance determine that making the principal and interest payments would result in payments from the general fund for total debt service on the bonds would exceed six percent of total general fund revenues for the fiscal year, or if the cost of commercial paper needed to find a start-up loan would be more than three times the normal costs of commercial paper experienced by the Treasurer over the last two fiscal years, or if the Treasurer determines the Pooled Money Investment Account does not have sufficient funds to loan an amount equal to the bond proceeds.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1278 (Harkey - R) Elections: Initiatives	Requires the Legislative Analyst to include additional information in the ballot pamphlet for each state initiative measure that proposes the issuance of a state bond. This information is to include the total amount of proposed bond indebtedness, the total amount of interest that would be paid over the term of the proposed bond, state that by approving this measure it is authorizing the state to incur debt, state whether tax revenue will be used to repay the bond, and state that repayment of the proposed bond may take priority over funding provided to local government or provided for public services.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1299 (Coto - D) State Taxes: Vote Requirement	Clarifies the meaning of state taxes for purposes of the constitutional vote requirement to mean taxes that are imposed by state law, levied and collected by the state, and required by state law to be deposited in the state treasury.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1321 (Eng - D) Environment: Strategic Growth Council	Requires the Strategic Growth Council to develop strategies that would allow for streamlined and effective mitigation of infrastructure projects.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1323 (Lowenthal – D) Business, Transportation and Housing Agency	States the intent of the Legislature to enact legislation to require the Secretary of Business, Transportation and Housing to consider job creation when prioritizing infrastructure projects.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1364 (Evans – D) Public Contracts	Provides that any state agency that has entered into a contract where the agency has or may be unable to comply with the terms of that contract because of the suspension of programs by the Pooled Money Investment Board shall have authority to amend the terms of the contract to address contract deadlines and deliverables that may not be met because of the suspension.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1375 (Galgiani – D) High-speed Rail	Revises and recasts provisions by repealing and reenacting the California High-Speed Train Act. Continues the High-Speed Rail Authority. Would also create the Department of High-Speed Trains within the Business, Transportation and Housing Agency to implement policies related to Proposition 1A (2008) and specifies its duties in relation to the High-Speed Rail Authority. Requires the newly formed department to have control over the annual submission of a 6-year high-speed train capital improvement program and progress report to the Legislature.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
AB 1381 (Perez – D) High-occupancy Toll Lanes	Requires the Los Angeles County Metropolitan Transportation Authority high-occupancy toll lanes program to be implemented with the active participation of the Department of the California Highway patrol. Requires the Los Angeles County Metropolitan Transportation Authority to establish appropriate performance measures for the purpose of ensuring optimal use of the high-occupancy toll lanes without adversely affecting other traffic on the state highway system.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
AB 1382 (Niello – R) State Budget	Requires that the state budget submitted by the Governor to the Legislature for the 2011-2012 fiscal year and each following year be developed pursuant to performance-based budgeting methods, for each state agency. Requires the Department of Finance to utilize the annual report on the measurements of performance-based budgeting methods prepared by the Joint Legislative Budget Committee.	INTRODUCED: 02/27/2009 LOCATION: Assembly STATUS: 02/27/2009 INTRODUCED	None Listed
ACA 1 (Silva – R) Legislature	Proposes an amendment to the Constitution to provide that no bill that would result in more than \$150,000 of annual expenditure by the state may be passed unless, by roll call vote entered in the journal, two thirds of the membership of each house concurs.	INTRODUCED: 12/01/2008 LOCATION: Assembly STATUS: 12/01/2008 INTRODUCED	None Listed
ACA 3 (Blakeslee – R) Initiatives: Bond Funding Source	Requires an initiative measure that would authorize the issuance of state general obligation bonds in a total amount exceeding \$1 billion to either provide additional tax or fee revenues, the elimination of existing programs, or both, as necessary to fully fund the bonds, as determined by the Legislative Analyst, in order to be submitted to the voters or take effect.	INTRODUCED: 12/01/2008 LOCATION: Assembly STATUS: 12/01/2008 INTRODUCED	None Listed
ACA 5 (Calderon – D) Initiatives: State General Obligation Bonds	Proposes an amendment to the State Constitution to require an initiative measure that would authorize the issuance of state general obligation bonds to either provide additional tax or fee revenues, the elimination of existing programs, or both, as necessary to fully fund the bonds, as determined by the Legislative Analyst, in order to be submitted to the voters or to take effect. Requires the Attorney General to identify the new revenue source. Requires at least 55 percent of voters approve an initiative authorizing the issuance of state general obligation bonds.	INTRODUCED: 12/15/2008 LOCATION: Assembly STATUS: 12/15/2008 INTRODUCED	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
ACA 9 (Huffman – D) Local Government Bonds: Special Taxes: Voter Approval	Changes the two-thirds voter-approval requirement for special taxes to, instead, authorize a city, county, or special district to impose a special tax with the approval of 55 percent of its voters voting on the tax. Lowers the voter-approval threshold for a city, county, or city and county to incur general obligation bonded indebtedness for amounts exceeding in one year the income and revenue provided in that year to 55 percent.	INTRODUCED: 02/06/2009 LOCATION: Assembly STATUS: 02/06/2009 INTRODUCED	None Listed
► ACR 14 (Niello – R) Global Warming Solutions Act of 2006	Calls upon the State Air Resources Board, prior to any regulatory action being taken consistent with the scoping plan for the implementation of the Global Warming Solutions act of 2006, to perform an economic analysis that will give the State a more complete picture of costs and benefits of the implementation. Calls upon the Governor to use the authority granted by the act to adjust any applicable deadlines.	INTRODUCED: 01/27/2009 LOCATION: Assembly Natural Resources Committee STATUS: 02/05/2009 To ASSEMBLY Committee on NATURAL RESOURCES HEARING: 04/13/2009 1:30 pm	None Listed
ACR 16 (Silva – R) Joint Rules: Fiscal Committee	Provides that whenever a bill that would result in net costs for a program is referred or re-referred to the fiscal committee of either house, the bill shall not be heard or acted upon by the committee or either house until the bill either provides for an appropriation or other funding source in an amount that meets or exceeds the net costs.	INTRODUCED: 02/02/2009 LOCATION: Assembly STATUS: 02/02/2009 INTRODUCED	None Listed
► SB 27 (Hancock – D) Local Agencies: Sales and Use Tax: Reallocation	Prohibits a local agency from entering into any agreement with a retailer, or any other person that would involve the payment, transfer, diversion or rebate of any amount of local tax proceeds if the agreement results in a reduction in the amount of revenue received by another agency from a retailer located within the jurisdiction of that other agency, and the retailer continues to maintain a physical presence within the territorial jurisdiction of the other local agency. Provides exceptions.	INTRODUCED: 12/02/2008 AMENDED: 02/23/2009 LOCATION: Assembly STATUS: 03/12/2009 In SENATE. Read third time, urgency clause adopted. Passed SENATE. To ASSEMBLY	SUPPORT (partial list): City of Livermore (sponsor), American Federation of State, County, and Municipal Employees; California State Association of Counties; City of Industry; League of Cities; California Peace Officers Association; California Professional Firefighters

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SB 31 (Pavley – D) Global Warming Solutions Act	Relates to the Global Warming Solutions Act of 2006. Requires that revenues collected pursuant to compliance mechanisms adopted by the State Air Resources Board be deposited in the Air Pollution Control Fund. Specifies that uses of the revenues collected pursuant to the fee and the compliance mechanisms are to include such things as renewable energy and energy efficiency programs, investments in technologies to reduce greenhouse gas emissions, green jobs development and training, and for administrative costs related to implementing the Act.	INTRODUCED: 12/02/2008 LOCATION: Senate Environmental Quality Committee STATUS: 01/29/2009 To SENATE Committee on ENVIRONMENTAL QUALITY and ENERGY, UTILITIES AND COMMUNICATIONS	None Listed
SB 104 (Oropeza – D) Global Warming Solutions Act of 2006: Greenhouse Gases	Amends the Global Warming Solutions Act of 2006 to include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. Includes nitrogen trifluoride and any other anthropogenic gas, one metric ton of which makes the same or greater contribution to global warming as one metric ton of carbon dioxide. Includes a procedure by which any person could petition for a designation. Requires the State Air Resources Board to adopt appropriate regulations.	INTRODUCED: 01/27/2009 LOCATION: Senate Environmental Quality Committee STATUS: 02/05/2009 To SENATE Committee on ENVIRONMENTAL QUALITY	None Listed
SB 136 (Huff - R) Surplus State Real Property: Exemption from CEQA	Exempts the sale of surplus state real property made on an "as is" basis from designated provisions of the California Environmental Quality Act (CEQA). Exempts from those provisions of CEQA the execution of the disposition agreement for surplus state real property when the disposition is not made on an "as is" basis and the close of escrow is contingent on specified conditions.	INTRODUCED: 02/10/2009 LOCATION: Senate Environmental Quality Committee STATUS: 02/23/2009 To SENATE Committee on ENVIRONMENTAL QUALITY	None Listed
SB 165 (Lowenthal – D) Federal Transportation Funds	Makes legislative findings and declarations relative to additional federal funds to be made available to the state pursuant to federal economic stimulus legislation, the American Recovery and Reinvestment Act of 2009. States that the investment of federal transportation funds should be guided by the principles that investments should stimulate job creation in the near term and support economic activity in the long term, and contribute to a transportation system that is environmentally sustainable.	INTRODUCED: 02/14/2009 LOCATION: Senate Rules Committee STATUS: 03/05/2009 To SENATE Committee on RULES	None Listed

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>SB 295 (Dutton - R)</p> <p>California Global Warming Solutions Act of 2006</p>	<p>Prohibits CARB from implementing regulations under AB 32 until June 1, 2009 and until CARB conducts a peer-review economic analysis, including impacts on small business. Also prohibits CARB from implementing AB 32 regulations until the unemployment rate in the state is below 5.8 percent for 3 consecutive months.</p>	<p>INTRODUCED: 02/25/2009 LOCATION: Senate Environmental Quality Committee</p> <p>STATUS: 03/05/2009 To SENATE Committee on ENVIRONMENTAL QUALITY</p>	<p>None Listed</p>
<p>► SB 372 (Kehoe – D)</p> <p>State Parks System</p>	<p>Prohibits the modification or adjustment of state park units, or the removal of state park units from within the state park system, without the State Park and Recreation Commission making that recommendation to the Legislature and the Legislature enacting legislation approving the recommendation.</p>	<p>INTRODUCED: 02/26/2009 LOCATION: Senate Natural Resources and Water</p> <p>STATUS: 03/12/2009 To SENATE Committee on NATURAL RESOURCES AND WATER</p>	<p>Staff Recommends: OPPOSE</p>
<p>► SB 454 (Lowenthal -D)</p> <p>Department of Transportation: Division of Rail</p>	<p>Makes non-substantive changes to the preparation of the rail passenger development plan as prepared by the Division of Rail within the State Department of Transportation.</p>	<p>INTRODUCED: 02/26/2009 LOCATION: Senate Rules Committee</p> <p>STATUS: 03/12/2009 To SENATE Committee on RULES</p>	<p>Staff Recommends: SPONSOR</p>
<p>► SB 560 (Ashburn - R)</p> <p>Regional Transportation Plans: Sustainable Communities</p>	<p>Relates to transportation planning. Provides that greenhouse gas emission credits for counties and cities that permit commercial wind, solar, and biomass projects may be used as credit in the formulation of the sustainable communities strategy or an alternative planning strategy. Excludes transportation trips related to a military installation.</p>	<p>INTRODUCED: 02/27/2009 LOCATION: Senate Environmental Quality Committee</p> <p>STATUS: 03/12/2009 To SENATE Committees on ENVIRONMENTAL QUALITY and TRANSPORTATION AND HOUSING</p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
<p>► SB 575 (Steinberg - D)</p> <p>Local Planning: Housing Element</p>	<p>Requires that all local governments within the regional jurisdiction of the San Diego Association of Governments adopt their 5th revision of the housing element of its general plan no later than an unspecified period of time. Relates to the implementation of SB 375 (Chapter 728, Statutes of 2008).</p>	<p>INTRODUCED: 02/27/2009 LOCATION: <i>Senate Transportation and Housing Committee</i></p> <p>STATUS: 03/19/2009 To <i>SENATE Committees on TRANSPORTATION AND HOUSING and APPROPRIATIONS</i></p>	<p>None Listed</p>
<p>► SB 679 (Wolk - D)</p> <p>State Parks and Acquired Land</p>	<p>Prohibits land acquired for the state park system, through public funds or gifts, from being disbursed of or used for other than park purposes without the express authority of an act of the Legislature. Any request for such authority would be required to provide for the substitution of other lands of equal environmental value and fair market value and reasonably equivalent usefulness and location to those to be disposed of or used for other than park purposes.</p>	<p>INTRODUCED: 02/27/2009 LOCATION: <i>Senate Natural Resources and Water Committee</i></p> <p>STATUS: 03/19/2009 To <i>SENATE Committee on NATURAL RESOURCES AND WATER</i></p>	<p>Staff Recommends: OPPOSE</p>
<p>► SB 711 (Leno - D)</p> <p>Public Meetings: Sessions: Labor Negotiations</p>	<p>Amends the Ralph M. Brown Act. Requires a local agency, before holding a closed session regarding employee compensation to identify the employee(s) subject to the negotiations, the representatives of the employees, all known negotiation matters, and to make public written proposals. In addition, before an agency commences negotiations for a new collective bargaining agreement or initial proposal for an unrepresented employee, to present, in an open and public session, a new collective bargaining agreement or initial proposal. Requires any vote on the collective bargaining agreement or initial proposal to be taken at an open and public session.</p>	<p>INTRODUCED: 02/27/2009 LOCATION: <i>Senate Local Government Committee</i></p> <p>STATUS: 03/19/2009 To <i>SENATE Committee on LOCAL GOVERNMENT</i></p>	<p>None Listed</p>

BILL NO. / AUTHOR	COMMENTARY	STATUS	OCTA POSITION / OTHER AGENCY POSITIONS
SCA 1 (Walters – R) State Budget	Proposes an amendment to the State Constitution. Provides, that if the total amount of General Fund appropriations in a Budget Bill for the ensuing fiscal year combined with all other General Fund appropriations for that fiscal year on the date of passage does not exceed by 5 percent or more the amount of the General Fund appropriations for the immediately preceding fiscal year, the budget bill may be passed by a simple majority.	INTRODUCED: 12/01/2008 LOCATION: Senate Rules Committee STATUS: 01/29/2009 To SENATE Committees on RULES and ELECTIONS, REAPPORTIONMENT AND CONSTITUTIONAL AMENDMENTS	None Listed
SCA 3 (Wyland – R) Transportation Investment Fund	Proposes an amendment to the State Constitution. Deletes current provisions authorizing the transfer of revenues to the Transportation Investment Fund to be suspended during a fiscal emergency. Prohibits a loan of fund revenues under any circumstances. Prohibits any statute that would reduce the extent to which these tax revenues are deposited into the General Fund for transfer to the fund for transportation purposes.	INTRODUCED: 12/01/2008 LOCATION: Senate Revenue and Taxation Committee STATUS: 01/29/2009 To SENATE Committees on REVENUE AND TAXATION; ELECTIONS, REAPPORTIONMENT AND COSTITUTIONAL AMENDMENTS; and APPROPRIATIONS	None Listed
SCA 5 (Hancock – D) State Budget	Exempts General Fund appropriations in the Budget Bill from the two-thirds vote requirement.	INTRODUCED: 12/02/2008 LOCATION: Senate Rules Committee STATUS: 01/29/2009 To SENATE Committees on RULES; and ELECTIONS, REAPPORTIONMENT AND CONSTITUTIONAL AMENDMENTS	None Listed

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



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: Federal Legislative Status Report

Legislative and Communications Committee Meeting of April 2, 2009

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

Committee Vote

No action was taken on this receive and file item.

Staff Recommendation

Receive and file as an information item.



April 2, 2009

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

Overview

The Federal Legislative Status Report provides information regarding issues to be addressed by Congress as part of the fiscal year 2010 appropriations process and financial issues relating to the upcoming transportation authorization legislation.

Recommendation

Receive and file as an information item.

Discussion

With the fiscal year (FY) 2009 appropriations completed, Congress is now preparing to address the FY 2010 budget and appropriations. The President's budget proposal issued in February only provided an outline for transportation funding with the promise of further details to be provided this month.

Nevertheless, the Obama Administration's February outline is being regarded as controversial in that it would eliminate binding contract authority for highway and transit programs funded from the Highway Trust Fund (HTF). Binding contract authority permits the expenditure of HTF on a multi-year basis without the need for individual annual appropriations. In an effort to improve budget transparency, the Administration proposes to score future HTF transportation programs as discretionary funding, making them subject to annual appropriations and severely undermining the existing firewalls between HTF expenditures and the overall federal budget. The result could be greater uncertainty about the funding made available in each multi-year authorization program, thereby slowing down the progress of major transportation construction projects.

In addition to the upcoming FY 2010 budget concerns, there is growing concern about the need to address the solvency of the HTF. Last September, Congress made a one-time transfer of \$8 billion of general funds to the HTF in order to avert insolvency of the fund. The HTF potential insolvency is the combined result of planned surplus draw downs under Safe Accountable Flexible Efficient Transportation Equity Act a Legacy for Users (SAFETEA-LU) and lower than anticipated excise tax revenues. The funds contributed last September are being used for this year's expenditures. However, recent revenue projections indicate that the HTF is once again facing a severe revenue shortfall beginning with the new fiscal year on October 1, 2009.

On March 18, 2009, the Chair of the House Transportation and Infrastructure (T & I) Committee, James Oberstar (D-MN), and the Chair of the T & I Subcommittee on Highways and Transit, Peter DeFazio (D-OR), sent a joint letter to all members of the House calling attention to the HTF issue and reminding them that the current transportation authorization, SAFETEA-LU, expires on September 30, 2009. A copy of the letter is provided as Attachment A.

The letter warns that without further action, the HTF will only support a highway investment level of approximately \$20.5 billion in FY 2010, or about half of the current annual investment nationwide. Transit programs would also face significant reductions. According to a chart provided with the letter, this would mean a \$1.57 billion reduction in federal highway funding to California, from \$3 billion this year to \$1.43 in FY 2010. The letter explains that, unlike prior authorizations, the HTF solvency issue dictates that Congress "can't afford any extensions while we negotiate the new bill." The letter concludes by stating that the committee and subcommittee chairs "fully intend to have legislation considered by the House in June, and to have a bill on President Obama's desk before the September 30 deadline."

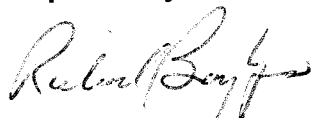
Summary

After completing the current year appropriation process, Congress will now begin its consideration of the President's FY 2010 budget, and the House T & I Committee will begin developing new surface transportation authorization legislation for passage by September 30. The February reports from Potomac Partners and Smith Dawson Andrews are included as Attachments B and C.

Attachments

- A. United States House of Representatives Committee on Transportation and Infrastructure Room 2165 Rayburn House Office Building Washington, D.C. 20515
- B. Report to the Orange County Transportation Authority from Potomac Partners DC February 2009
- C. Report to the Orange County Transportation Authority from Smith Dawson & Andrews February 2009

Prepared by:



Richard J. Bacigalupo
Federal Relations Manager
(714) 560-5901

**United States House of Representatives
Committee on Transportation and Infrastructure
Room 2165 Rayburn House Office Building
Washington, D.C. 20515**

March 18, 2009

Dear Colleague:

We would like to bring your attention to a potential crisis that could undermine Congress' ability to address the significant needs of our nation's surface transportation system.

Recent revenue projections by the Congressional Budget Office show that the primary source of funding for highway and transit investment — the Highway Trust Fund ("Trust Fund") — is facing a severe shortfall. *Without taking steps to address this situation, the Highway Trust Fund will only support a highway investment level of approximately \$20.5 billion in FY 2010, one-half of the amount that we are investing this year. The Federal transit programs would also face a significant cut in FY 2010.*

Last year, the National Surface Transportation Policy and Revenue Study Commission identified a significant surface transportation investment gap, and called for an annual investment level of between \$225 billion and \$340 billion (by all levels of government and the private sector) over the next 50 years to upgrade all modes of surface transportation to a state of good repair. The current annual capital investment from all sources in all modes of transportation is \$85 billion. This significant investment gap was confirmed by the National Surface Transportation Infrastructure Financing Commission in February. The Financing Commission found that revenues raised by all levels of government for capital investment will total only one-third of the amount necessary each year to maintain and improve the nation's highways and transit systems. At the current investment rate, the Finance Commission found that the Federal highway and transit investment gap will total approximately \$400 billion over the period of the next reauthorization.

Congress must act to authorize the nation's surface transportation programs by September 30, 2009, when the current authorization — the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU") — expires. If we do not address the long-term solvency of the Trust Fund by passing the next surface transportation authorization by the September 30th deadline, the result will be drastic for every state. As the attached state-by-state breakdown clearly illustrates, this reduction in Federal highway investment would seriously damage the ability of States and Metropolitan Planning Organizations to plan and carry out infrastructure projects.

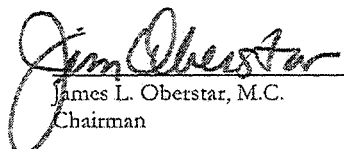
These cuts would unquestionably cause construction to halt on many critical projects throughout the nation and would negate the stimulative effect of the American Recovery and Reinvestment Act of 2009.

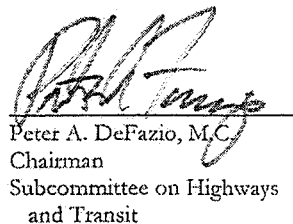
The unreliable outlook for future Federal funding complicates Congress' efforts to enact a multi-year authorization of these vital programs. This authorization bill is Congress' opportunity to address the long-term issues impacting our surface transportation programs, including how we will finance future infrastructure investments. The September 30, 2009 expiration date for SAFETEA-LU is fast approaching and we can't afford any temporary extensions while we negotiate the new bill. States need a reliable financing mechanism to plan new projects. If we do not complete an authorization bill on time, States will be left without that reliable funding source. During the 12 extensions of the Transportation Equity Act for the 21st Century before SAFETEA-LU was signed into law, States significantly pulled back on investments in highway construction projects because of uncertainty regarding how much Federal funding the State would receive.

Since the beginning of the 110th Congress, the Committee on Transportation and Infrastructure has been working to develop the transformational surface transportation legislation necessary to meet the needs of our transportation network. We fully intend to have legislation considered by the House in June and to have a bill on President Obama's desk before the September 30th deadline.

We look forward to working with each of you to complete the next surface transportation authorization bill.

Sincerely,


James L. Oberstar, M.C.
Chairman


Peter A. DeFazio, M.C.
Chairman
Subcommittee on Highways
and Transit

Federal-aid Highway Formula Funding
Comparison of FY 2009 Highway Formula Funding
and FY 2010 Estimated Highway Formula Funding

State	FY 2009	FY 2010	Difference
Alabama	\$664,181,764	\$323,042,100	-\$341,133,274
Alaska	\$290,717,063	\$154,217,993	-\$136,439,656
Arizona	\$672,374,585	\$334,869,664	-\$337,358,012
Arkansas	\$410,847,021	\$199,994,669	-\$210,760,572
California	\$3,002,777,749	\$1,432,345,932	-\$1,569,748,241
Colorado	\$451,065,359	\$214,783,221	-\$236,179,288
Connecticut	\$422,828,746	\$206,115,961	-\$216,618,453
Delaware	\$129,898,054	\$61,742,815	-\$68,125,573
Dist. of Col.	\$126,772,019	\$57,706,434	-\$69,035,523
Florida	\$1,690,108,775	\$856,100,538	-\$833,645,210
Georgia	\$1,119,611,475	\$563,579,972	-\$555,803,804
Hawaii	\$136,011,037	\$62,764,714	-\$73,214,439
Idaho	\$244,839,686	\$121,609,146	-\$123,176,900
Illinois	\$1,121,712,771	\$545,780,494	-\$575,681,587
Indiana	\$852,499,523	\$429,189,026	-\$423,126,239
Iowa	\$384,432,661	\$180,874,932	-\$203,469,124
Kansas	\$327,579,516	\$150,648,053	-\$176,854,449
Kentucky	\$568,095,523	\$278,019,163	-\$289,997,358
Louisiana	\$555,573,744	\$265,997,058	-\$289,452,639
Maine	\$139,283,908	\$62,993,021	-\$76,257,679
Maryland	\$518,543,985	\$244,756,979	-\$273,684,396
Massachusetts	\$531,894,794	\$245,434,685	-\$286,335,419
Michigan	\$926,977,662	\$445,455,717	-\$481,312,349
Minnesota	\$523,448,534	\$253,625,570	-\$269,705,516
Mississippi	\$389,213,117	\$185,568,894	-\$203,561,651
Missouri	\$762,024,021	\$372,601,804	-\$389,252,711
Montana	\$315,817,904	\$158,032,540	-\$157,716,683
Nebraska	\$244,575,447	\$114,536,553	-\$129,982,291
Nevada	\$256,097,971	\$125,229,109	-\$130,811,898
New Hampshire	\$146,151,589	\$69,434,591	-\$76,683,405
New Jersey	\$859,742,154	\$418,355,207	-\$441,194,820
New Mexico	\$310,184,441	\$150,601,494	-\$159,513,483
New York	\$1,450,156,103	\$683,146,648	-\$766,686,958
North Carolina	\$930,622,868	\$458,051,687	-\$472,405,295
North Dakota	\$207,347,401	\$97,167,806	-\$110,131,637
Ohio	\$1,147,361,001	\$560,436,769	-\$586,696,214
Oklahoma	\$504,786,983	\$241,591,918	-\$263,080,502
Oregon	\$372,563,076	\$174,888,152	-\$197,588,901
Pennsylvania	\$1,443,922,086	\$687,506,437	-\$756,221,567
Rhode Island	\$163,809,919	\$74,085,239	-\$89,685,625
South Carolina	\$548,969,028	\$271,636,079	-\$277,220,908
South Dakota	\$217,374,734	\$104,962,264	-\$112,363,539
Tennessee	\$704,208,483	\$346,845,935	-\$357,236,815
Texas	\$2,868,608,137	\$1,434,840,702	-\$1,433,143,347
Utah	\$259,427,213	\$125,124,130	-\$134,244,624
Vermont	\$134,115,890	\$60,864,397	-\$73,219,607
Virginia	\$859,531,139	\$421,978,151	-\$437,408,596
Washington	\$556,453,022	\$257,327,936	-\$298,994,883
West Virginia	\$350,067,330	\$175,610,671	-\$174,424,426
Wisconsin	\$642,654,090	\$322,546,216	-\$319,968,538
Wyoming	\$215,495,030	\$102,709,807	-\$112,736,130
SUBTOTAL	\$32,673,357,931	\$15,887,328,973	-\$16,779,290,754

*This table is based on Federal Highway Administration technical assistance comparing FY 2009 highway formula funding, pursuant to H.R. 1165, as passed by the House on February 25, 2009, and the Congressional Budget Office's estimated sustainable FY 2010 funding for the Federal-aid Highway Program.

**Report to the Orange County Transportation Authority from
Potomac Partners DC
February 2009**

1. American Recovery and Reinvestment Act of 2009 (ARRA)

The American Recovery and Reinvestment Act of 2009 ("Stimulus Bill", H.R. 1, S. 1) was enacted by Congress and signed into law by President Barack Obama on February 17, 2009. This massive spending package appropriates to the Department of Transportation (DOT) \$48.12B to invest in transportation infrastructure around the Country. DOT and key administrators are in process of dissecting and directing the new spending included in this bill. The Department has still not been fully staffed up with key political appointees, which has slowed the progress of preparing grant criteria for the discretionary funding. Despite the shortage of senior leadership, the DOT is moving forward with the release of the formula funding and its preliminary reports on the use of funds to the stimulus oversight entities. A tentative timetable for the implementation of the spending in the Stimulus bill is as follows:

- **February 19, 2009:** DOT to begin reporting their formula block grant awards.
- **March 3, 2009:** DOT to begin reporting use of funds.
- **May 3, 2009:** DOT and TIGER Team to make "Performance Plans" publicly available.
- **May 20, 2009:** DOT to begin reporting their competitive grants and contracts.
- **June 17, 2009:** DOT must release guidance on grant applications for High Speed Rail projects.
- **July 15, 2009:** Recipients of Federal funding to begin reporting on the use of funds.

It was our goal during the process to advocate for increasing the size of the transportation portion of the bill and increasing the sub-allocation portion of the highway formula funding. While not a perfect bill, the result is significant increase in transportation funding that will help address the financial distress that many transportation entities are experiencing as result of the ailing economy. The transportation appropriations section of the bill included the following provisions:

HIGHWAY INFRASTRUCTURE (FHWA) - \$27.5 billion will be distributed by formula to states with a portion sub-allocated to metropolitan areas. After set-asides for federal lands, territories, oversight and other items, \$27.66 billion

should be apportioned to states via formula. Half of the \$27.66 billion is apportioned to states through Surface Transportation Program formula and the other half is apportioned through the FY 2008 obligation limitation ratio distribution. States have 120 days after apportionment (apportionment must be made within 21 days of the law's enactment) to obligate the first 50 percent of their highway apportionments and until one year after apportionment to obligate the remainder. The 50 percent of the funds not obligated within that time will be redistributed to other states that have met their obligation requirement. Sub-allocated funds are not subject to the 120 day redistribution requirement. The Secretary can exempt states from the redistribution requirement only with extreme circumstances and after giving notice to Congress. Funds will be apportioned within 21 days after enactment of the legislation to the state. The State in considering implementing legislation that would alter the allocation method provided by the federal legislation therefore the allocation of funds between the State, regions, and cities and counties is yet to be finalized. Regional agencies along with cities and counties have been compiling lists of eligible projects. OCTA should immediately contact their regional agency to determine if their projects are eligible and work with regional agencies to secure necessary funding.

COMPETITIVE SURFACE TRANSPORTATION PROGRAM (FTA/FHWA) - \$1.5B is available for discretionary grants for surface transportation projects of national, regional, metropolitan area impact. Highway and transit projects are eligible as are passenger rail and freight rail transportation projects, and port infrastructure investments including multimodal port facilities. Maximum grant is \$300 million and minimum grant is \$20 million (but the Secretary can waive the minimum size threshold). No more than 20% can be allocated to a particular state. \$200 million is available to pay for subsidy and administrative cost of projects eligible for TIFIA financing. Key members of the DOT TIGER Team to include Jacob Faulk, DOT Senior Policy Advisor, are in the process of developing the specifics of the discretionary grant criteria. The Secretary of the Federal Highway Administration will release these criteria for the funding no later than May 18, 2009. Applications will be available within 180 days after release of the criteria, and projects will be selected no later than February 17, 2010.

TRANSIT CAPITAL ASSISTANCE (FTA) - \$6.9B is available for formula grants. \$100 million is taken off the top for discretionary grants to make transit systems more energy efficient. Remainder is distributed as follows: 80% by urbanized area formula, 10% by the non urbanized area formula, and 10% by the high growth and high density formula. The allocated funds will be distributed to existing transit recipients 21 days after enactment of the legislation. Fifty percent of funding must be obligated with 180 after apportionment, and all other funds must be obligated within one (1) year of apportionment. Any funds not obligated within these time periods will be withdrawn and redistributed under the Competitive Surface Transportation Program (discussed above).

RAIL MODERNIZATION (FTA/FRA) - \$750 million will be available for fixed guide-way modernization formula. No matching funds will be required. 50% of funds must be obligated within 180 after apportionment, and all other funds must be obligated within a year of apportionment. Funds are allocated by a statutory formula to urbanized areas with rail systems that have been in operation for at least seven years.

NEW STARTS (DOT Secretary) - \$750 million in grants will be made at the Secretary's discretion. Application guidelines will be available on the New Starts website.

HIGH SPEED RAIL/INTERCITY PASSENGER RAIL (FRA) - \$8B is available for discretionary grants for intercity passenger rail and high speed rail. This late addition to the stimulus was at the request of the White House working in conjunction with the Senate Majority Leader. The Secretary of the Federal Railroad Administration will release a strategic plan for use of the funds no later than April 18, 2009. The priority will be given to projects that have near term possibility of beginning construction. Potomac Partners DC also discussed the process with the staff director of the Surface Transportation sub-committee of the Senate Commerce, Science, and Transportation Committee. He mentioned that the Congress will be working with the FRA to develop the guidance to applicants and their focus will be on identifying successful projects that will have a near term impact on creating jobs. The Department of Transportation will release this guidance to applicants on grant terms, conditions, and procedures no later than June 17, 2009.

Included in the Act are general provisions that would 1) restrict the use of funds for zoos, aquariums, golf courses, swimming pools, or casinos; 2) include a Federal prevailing wage requirement; 3) require that buy American provisions are upheld; and 4) require compliance with the National Environmental Policy Act (NEPA). Additionally, the following measures have been taken by the Administration to ensure accountability:

- A Governor, Mayor or other chief executive must certify that infrastructure investments have been fully vetted as required by law and are an appropriate use of taxpayer dollars. Certification shall include a description of investments and estimated total funds to be used. Certification will be posted on the government website, www.recovery.gov, and is required before funds will be made available.
- Recipients must submit a report to the federal agency from which it receives funds stating 1) total funds received; 2) amount expended or obligated; 3) list of projects or activities with details on jobs created and retained and, for state and local governments, a description of purpose, total cost and rationale for funding the investment with Act funds and a point of contact; and 4) detailed

information on subcontracts or sub-grants awarded. Funding recipients must also register with the Central Contractor Registration Database.

2. FY 09 Omnibus Appropriations Bill

On February 25th the House approved the \$410 billion FY 09 Omnibus spending bill that will fund government operations through fiscal 2009, which ends in October. The Senate has tried to move the legislation before the first "Continuing Resolution" (CR) expired on March 6th, but failed due to some opposition to a Cuban trade and travel provision in the legislation. A second short term CR is in place till March 11th. Already a number of amendments to the bill have been considered by the Senate and have been rejected. President Obama has indicated he will sign the bill. If the Senate cannot pass the bill, Congress will likely resort to a "long term CR" that will fund the Federal Government at the FY08 levels through the end of the fiscal year.

If enacted, the omnibus legislation would increase spending by nearly 9% over the previous fiscal year. Included in this spending bill are earmarks that direct federal spending to specific projects. Key earmarks for the OCTA and the requesting members include the following:

Account	Project	Amount	Members
Interstate Maint'/ Discretionary & Surface Transportation Priorities	State Route 91 in Orange County	\$237,500, \$475,00	Miller (\$237,500) Calvert (\$475,00)
Interstate Maint'/ Discretionary	San Diego Freeway (Interstate 405) Widening	\$380,000	Rohrabacher
Interstate Maint'/ Discretionary	San Diego Freeway (Interstate 5) Segment Improvements	\$237,500	Calvert
Bus, Bus Facility	Anaheim Regional Transportation Intermodal Center (ARTIC)	\$2,612,500	Royce, Sanchez, Feinstein

3. FY 10 Appropriations and the Presidents Budget "Framework"

The FY10 appropriations cycle is under way and we have helped facilitate the submission of OCTA requests to the Orange County congressional delegation. With the release of the President's FY10 budget this month we are expecting another increase in the total amount of federal spending, and we believe that this increase will enhance federal funding opportunities for transportation infrastructure development. Specifically, for transportation the President's budget proposes a total amount of discretionary budgetary resources at USDOT of \$72.5 billion in FY 2010. This is about \$1.8 billion more than the

\$70.7 billion appropriated in the omnibus FY 2009 appropriations bill or an increase of 2.5 percent.

As stated in the President's budget framework, "The Administration intends to work with the Congress to reform surface transportation programs both to put the system on a sustainable financing path and to make investments in a more sustainable future, enhancing transit options and making our economy more productive and our communities more livable." The report goes on to specify efforts to reduce congestion and improve safety. We believe that this focus on making our economy more productive will help advance the concept of a dedicated funding stream for goods movement in the next Re-authorization bill.

We expect that Congress will return to regular order and move these appropriations bills through the committee process and enact each spending bill individually before the end of this fiscal year.

4. High Speed Rail (HSR)

High Speed Rail (HSR) has become an important priority for Congress and the Administration. Since the inclusion of the HSR title in the Amtrak Re-authorization and Rail Safety bill signed by President Bush last session of Congress, key Congressional leaders like Rep. John Mica, Rep. Corrine Brown, Sen. John Rockefeller, Sen. Patty Murray and Majority Leader Harry Reid have been working to identify HSR projects that have the best chance of success. During the Stimulus legislative process, the Senate was able to include \$2B for HSR. After the House and Senate conference committee negotiations, the final bill included a staggering \$8B for HSR and intercity passenger rail. The President's draft FY 10 budget also proposes an additional \$1 billion per year appropriation over the next five years for high-speed rail development, to complement that \$8 billion "jump start" in HSR funding.

We believe that California and particularly Southern California has a strong chance of securing a large percentage of this HSR funding. We would recommend a bifurcated strategy that includes (1) making the case that California's HSR segments are the most "ready-to-go" in comparison to other parts of the Country and (2) demonstrating that the alignments which will service the Anaheim segments (i.e. Anaheim to Los Angeles and Anaheim to Las Vegas) have a strong advantage in long term commercial viability. We are following up with the key Congressional leaders that are advancing HSR and making our case that will help them move the administration (specifically the FRA) to act quickly and direct funds in way that will lead to construction rather than more studies.

5. Transportation Reauthorization & Good Movement Coalition

With the Stimulus bill enacted, the next major opportunity for surface transportation spending will come with the next highway bill. As with the Stimulus bill, this legislation will likely prioritize projects that have strong near term effect of creating jobs and making our economy more efficient in order to help abate this recession. The concept of a “goods movement” funding mechanism is extremely timely and will benefit the OCTA in the effort to secure more federal dollars to address the impact of goods movement from the ports of LA/Long Beach to the rest of the Country.

Another important topic for transportation reauthorization is the funding mechanism for the dwindling Highway Trust Fund (HTF). The bipartisan National Surface Transportation Infrastructure Financing Commission (STIFC) issued its final report at the end of February, which unanimously and strongly recommends the gradual phase-out of federal motor fuel taxes to be replaced by an electronically metered and collected mileage-based user fee or vehicle miles traveled (VMT) system. This idea was preemptively rejected by the White House press secretary at news conference, who said it “is not and will not be” the policy of the Obama Administration. However, DOT Secretary LaHood had addressed the idea of incorporating the VMT system when feasible to enhance the revenue stream for transportation projects. Other key short term recommendations of the STIFC that will also likely be policy topics for the Transportation reauthorization include the following:

- **Increasing federal motor fuels taxes** by 10 cents per gallon for gasoline and 15 cents per gallon for diesel, immediately, and index those tax rates for annual inflation after 2009.
- **Doubling the Heavy Vehicle Use Tax (HVUT)** on heavy trucks immediately, from \$100 per truck and \$22 per 1000 pounds over 55,000 pounds to \$200 per truck and \$44 per 1000 pounds, and index rates for inflation.
- **Maintaining and strengthen the Highway Trust Fund** to keep highway user taxes and user fees linked to surface transportation spending.
- **Allowing for additional tolling of federal roads** by allowing tolling of net new Interstate capacity, allowing metropolitan areas of over 1 million people to levy tolls on existing Interstates for congestion relief, and expanding the existing Interstate toll pilot program from three slots to five.
- **Increasing the TIFIA innovative finance program** by spending up to \$1 billion per year and giving TIFIA greater scope and flexibility.
- **Re-capitalizing State Infrastructure Banks** at \$500 million per year.
- **Encouraging public-private partnerships** with appropriate safeguards.

- **Increasing private activity bonding** from \$15 billion total to \$30 billion.

6. Other Activities on Behalf of OCTA

- Potomac Partners DC is in process of scheduling visits to Orange County for Congressman Bill Shuster and Congressman Jim Oberstar. We have also received a recent commitment from Congressman Jimmy Duncan to also come to Orange County to learn about OCTA's priority projects for the next Highway Re-authorization that will likely be drafted and moved through the House by the end of the summer.
- On February 25th Potomac Partners DC facilitated a meeting with Director Buffa and Chairman of the Natural Gas Vehicle Coalition, Andrew J. Littlefair who is also the President and CEO of Clean Energy. The purpose of the meeting was to discuss the advocacy effort to extend the "LNG/CNG Alternative Fuel Tax Credit." We are now working closely with the NGVC and its advocate to include in Sen. Bingaman's energy bill a multi-year extension of this credit. Another option that will pursue concurrently is the inclusion of extension in the Transportation Re-authorization bill.

**Report to the Orange County Transportation Authority from
Smith, Dawson & Andrews
February 2009**

Focus: Presidential, Congressional & DOT Action regarding Stimulus and Appropriations - March 2009

Highlights

When President Barack Obama signed the \$789 billion American Recovery and Reinvestment Act into law on February 17, the process for distributing the funds within the stringent requirements began unfolding. Myriad summaries and directives emerged over the last few weeks to confirm and outline the programs and dollar values contained in the 1200-page document. With \$8.4 billion upheld for public transportation and \$8.4 billion for high speed and intercity rail, the process for distributing the funds is being queried and reviewed by several layers of interaction at the federal, state and local levels.

On March 5th, FTA released the state apportionment levels for transit funding, which can be found at <http://www.recovery.gov/?q=node/202>. On March 3rd, President Obama and Vice President Biden held a press conference at the Department of Transportation where they announced the release of the state apportionment levels for highway and bridge funding. The highway and bridge distribution information can be found at <http://www.recovery.gov/?q=content/rebuilding-infrastructure>.

The Web site www.recovery.gov was set up to meet the law's information and transparency requirements for residents of every corner of the country to track how and where the money is being spent. The process of how each department and its specific agencies will meet the deadlines for making sure the funds reach their intended targets is in play amidst myriad inquiries about the same to the Congress, Administration officials, and mostly career staff.

All information that outlines and details the structure and the principals involved in ensuring the recovery funds move out of the departments and into the coffers of the intended recipients are and will continue to be sent as soon as they are gathered.

In addition, the 2009 Omnibus Appropriations began its journey to enactment with House passage on February 25. The House version did not alter any earmarks that were approved through last year's process. The current fiscal 2009 Continuing resolution is set to expire on March 6 and neither Congress nor the President seeks to extend it. The Senate began its fiscal 2009 Omnibus deliberations on March 4.

The Senate was unable to complete the Omnibus on Friday and both Houses passed another short term extension of the CR through Weds, March 11th, 2009. The Senate will take another crack Tuesday at passing the \$410 billion FY09 omnibus spending package after voting on 12 more amendments Republicans hope to attach to the bill.

Senate Democratic leaders had initially scheduled a vote on Thursday to cut off debate on the omnibus, which includes nine of the FY09 annual appropriations bills Congress has not yet approved.

But leaders postponed the vote after realizing they did not have the 60 votes needed to invoke cloture.

In an effort to secure the needed votes, Majority Leader Reid decided to allow Republicans to offer 12 amendments, in addition to the 12 that have been defeated.

To give the Senate the time needed to consider the amendments, both chambers Friday passed a continuing resolution that expires Wednesday. The previous CR -- which funds at FY08 levels the programs covered by the nine FY09 spending bills in the omnibus -- expired Friday.

The 12 amendments will be voted on Monday and Tuesday, when the Senate is expected to vote to cut off debate, and then proceed to a vote on final passage.

In an indication Democrats expect the cloture vote to be tight, Reid said Sen. Edward Kennedy, D-Mass., who is spending most of his time in Florida as he fights brain cancer, will be on hand for the vote.

An amendment by Sen. John McCain, R-Ariz., and on tap for a vote Monday, would prohibit omnibus funds from being spent on congressionally directed earmarks that are not listed and specifically provided for in the text of the bill.

Republicans have been trying to hit hard earmarks in the bill, which total \$7.7 billion. But according to an analysis by Taxpayers for Common Sense, Republicans have generally just as many earmarks in the bill as Democrats and in some cases more. Senate Minority Leader McConnell has \$51 million in earmarks in the bill, while Reid has \$27 million, according to the group's analysis.

The bill totals \$410 billion, which includes \$10.3 billion in new contract authority or a 7% increase for public transportation over 2008 funding. The Senate is attempting to amend the bill with several provisions that reduce the total by focusing on earmarks, such as providing authority for a line by line review. The President has indicated he does not agree with the earmarks, but seeks to address that topic in his budget resolution for 2010, instead of tackling last Congress' funding bill.

And finally, the President's budget for 2010 was also released the last week of February with a mix of reordered spending goals and tax cuts that promoted great controversy, as financial markets continued in turmoil. A day later he announced his troop withdrawal plan for American soldiers in Iraq. Budget hearings began the first week of March. The Wall Street Journal created a graphic about the process that may be useful in understanding the time frame ahead for finalizing 2010 Appropriations. This graphic can be found at <http://online.wsj.com/article/SB123559630127675581.html#articleTabs%3Dinteractive>

To maneuver through the multiple layers of funding discussions and the crafting of the next transportation law, OCTA leadership continued key meetings through the end of February with majority and minority Washington leaders to characterize the mobility challenges and solutions for the third largest California county. Both transportation Congressional decision makers and White House staff encouraged an ongoing dialogue; and requested a sketch of OCTA's perspective on more efficient future federal transportation funding streams.

Ongoing contact and follow up will assist in keeping OCTA solutions in the mix over the coming months for recovery project funding, especially high speed rail; budget and appropriations processes; and reauthorization proposals.

And, as a back drop, U.S. DOT appointments are slow, and the department is moving forward without a confirmed deputy or any modal administrators.

SDA Outreach

Contact on Capitol Hill on behalf of OCTA

-Smith, Andrews, Gaines, Garson and Burrell with *Sen. Barbara Boxer, Sen. Dianne Feinstein, Sen. Chris Dodd, Rep. Peter DeFazio, Rep Loretta Sanchez, Rep. Barbara Lee* and appropriations and authorizing committee staff on recovery funding, 2009 and 2010 appropriations as well as schedule for reauthorization

-Gaines with Chairman Peter Buffa, Anaheim Mayor Curt Pringle and Greg Garcia in February 26 and 27 meetings with Congressional representatives, DOT officials and White House Assistant Intergovernmental Affairs Michael Blake, Greg Rasnake from DOT Secretary's office and Susan Borinsky from FTA.

-Andrews with *Rep. John Olver* staff on status on fiscal 2009 omnibus and fiscal 2010 and appropriations process

Contact with relevant organizations on behalf of OCTA

-Burrell—March 8 APTA Legislative Committee meeting

-Gaines, Garson and Lopez--US Conference of Mayors February 20
Mayors briefing for meeting with the President

-SDA group--outreach to Republican and Democratic leadership regarding activities related to Presidential transition, stimulus funds distribution, appropriations preparations and reauthorization discussions

-SDA group--review of important Congressional hearings and press conferences related to OCTA goals

For more information contact:

Bob Gaines – (202) 835-0740

Judith Burrell – (202) 299-7576 - mobile



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board ^{WK}
Subject: Drug and Alcohol Policy Manual

Finance and Administration Committee meeting of March 25, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendations

- A. Approve the Orange County Transportation Authority's Drug and Alcohol Drug Policy Manual.
- B. Authorize the Chief Executive Officer to certify the Orange County Transportation Authority's Drug-Free Workplace Act statement.



March 25, 2009

To: Finance and Administration Committee
From: Arthur T. Leahy, Chief Executive Officer
Subject: Drug and Alcohol Policy Manual

Overview

The United States Department of Transportation and the Federal Transit Administration require that the Orange County Transportation Authority administers a drug and alcohol compliance program. Due to recent changes in legislation and internal procedural revisions to the Drug and Alcohol Program, the required policy manual was revised to ensure compliance with all applicable changes. The revisions to Orange County Transportation Authority's Drug and Alcohol Policy Manual have been reviewed and approved by legal counsel.

Recommendations

- A. Approve the Orange County Transportation Authority's Drug and Alcohol Drug Policy Manual.
- B. Authorize the Chief Executive Officer to certify the Orange County Transportation Authority's Drug-Free Workplace Act statement.

Background

The Orange County Transportation Authority's (OCTA) Drug and Alcohol Program incorporates required regulations under the Drug-Free Workplace Act (DFWA), the California Department of Motor Vehicles (DMV), the United States Department of Transportation (DOT), and the Federal Transit Administration (FTA) for compliance purposes.

The Drug and Alcohol Policy Manual was revised in 1995, 1998, and 2001, following changes in federal regulations. The last revision to the document occurred in August 2003 after an audit conducted by the FTA. The policy was updated according to FTA recommendations and was approved by the Board of Directors on February 23, 2004.

Discussion

The Human Resources Department completed a comprehensive review of OCTA's Drug and Alcohol Policy Manual which incorporated changes and revisions based on audit recommendations from the American Public Transportation Association (APTA), state rulings, and changes in federal regulations in addition to changes in OCTA procedure. The policy manual is included in this report as Attachment A.

As a recipient of federal funds, OCTA is required, via the Drug-Free Workplace Act of 1988, to certify that a drug-free workplace will be provided for all employees. OCTA's Drug and Alcohol Policy Manual includes the required policy statement to ensure compliance with this Act. The Chief Executive Officer may certify OCTA's Drug-Free Workplace Act statement which is included in this report as Attachment B.

Fiscal Impact

There is no fiscal impact associated with the approval of the revised Drug and Alcohol Policy Manual or the certification of OCTA's Drug-Free Workplace Act statement.

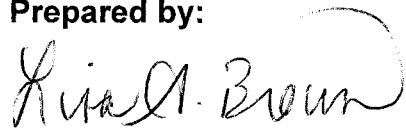
Summary

Staff recommends the approval of the Orange County Transportation Authority's Drug and Alcohol Policy Manual outlined in this report and included as Attachment A and request the Board of Directors to authorize the Chief Executive Officer to certify the Orange County Transportation Authority's Drug-Free Workplace Act statement.

Attachments

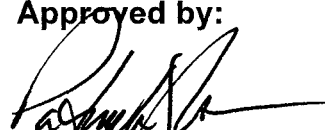
- A. Orange County Transportation Authority's Drug and Alcohol Policy Manual
- B. Drug-Free Workplace Act Certification For A Public Or Private Entity
- C. Summary of Proposed Changes Drug and Alcohol Policy Manual 2009 Revision

Prepared by:



Lisa Arosteguy-Brown
Human Resources Manager
(714) 560-5801

Approved by:



Patrick J. Gough
Executive Director, Human Resources
and Organizational Development
(714) 560-5824



DRUG AND ALCOHOL POLICY MANUAL

2009
Revision

**2009
Revision**

The Orange County Transportation Authority (OCTA or Authority) Drug and Alcohol Policy Manual complies with the Federal Transit Administration (FTA) and U.S. Department of Transportation (DOT) regulations, 49 CFR Part 40 and Part 655, as amended, which regulates standards for the collection and mandated testing of breath and urine specimens. The purpose of this manual is to outline the most common processes in relationship to the DOT/ FTA regulations. Nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 and Part 655 or DOT agency regulations.

Additionally, the DOT enacted The Drug-Free Workplace Act of 1988 (DFWA) which required the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. The Authority's Drug-Free Workplace Act Certification is included in this Policy as Attachment D and additional information about the Drug-Free Awareness Program is provided in Section 7.

This Drug and Alcohol Policy Manual incorporates federal requirements in addition to OCTA requirements. To distinguish DOT and/or FTA requirements from OCTA-specific requirements, portions of the Policy text have been **bolded** when references are made to the inclusion of non-safety-sensitive position employees or other OCTA-specific policy. The organization takes pride in achieving and maintaining high results with regulatory compliance and employee compliance with OCTA mandated policies. OCTA mandated policies are in addition to the required processes and are chosen to enhance the overall performance results of the Authority.

The Authority acknowledges a strong commitment to the health and well being of employees. Any OCTA employee or employee's family members who may be experiencing the pressures and/or problems of substance abuse, and/or related problems, is urged to seek help through Resources For Living the Authority's Employee Assistance Program (EAP). The EAP provides strictly confidential services and counseling. To contact the EAP directly, call 866/370-4838, 24 hours a day - 7 days a week.

Each OCTA employee is provided a copy of this Policy and acknowledges receipt of the Policy by signing an Acknowledgement of Receipt and Consent to Drug and Alcohol Testing form Attachment H. It is the responsibility of all OCTA employees to read, understand and comply with the Drug and Alcohol Policy Manual.

TABLE OF CONTENTS

PAGE NUMBERS

SECTION 1 – GENERAL OVERVIEW

1.1 POLICY STATEMENT	3
1.2 APPLICABILITY	3
1.3 RESERVATION OF RIGHTS	4
1.4 CONDITION OF EMPLOYMENT	4
1.5 INSPECTIONS	4
1.6 CONVICTION OF A DRUG RELATED OFFENSE	4

SECTION 2 - RESPONSIBILITIES

2.1 EMPLOYEES	7
2.2 MANAGERS AND SUPERVISORS	7
2.3 RESPONSIBLE DEPARTMENT	7

SECTION 3 – ALCOHOL GUIDELINES

3.1 ALCOHOL CONSUMPTION	11
3.1A OFF-THE-JOB ALCOHOL CONSUMPTION	11

SECTION 4 – DRUG GUIDELINES

4.1 ILLEGAL DRUG USE	15
4.2 LEGAL DRUG USE	15
4.2A ATTACHMENT B FOR PRESCRIPTION DRUGS	15
4.2B ATTACHMENT B FOR OTC DRUGS	16
4.2C AFTER COMPLETING THE ATTACHMENT B FORM	17

SECTION 5 - TESTING

5.1 DRUG AND ALCOHOL TESTING	21
5.2 PRIVACY STATEMENT	21
5.3 ALCOHOL TESTING	21
5.4 DRUG TESTING	22
5.5 TYPES OF TEST	23
5.5A PRE-EMPLOYMENT (POST-OFFER) OR TRANSFER TO SAFETY-SENSITIVE POSITION	23
5.5B DMV RECERTIFICATION OR ANNUAL OR BIANNUAL PHYSICAL EXAMINATION	23
5.5C REASONABLE SUSPICION/PROBABLE CAUSE	23
5.5D POST-ACCIDENT	24
5.5E RETURN-TO-DUTY/FOLLOW-UP	25
5.5F FIT FOR DUTY	26

TABLE OF CONTENTS

SECTION 5 – TESTING (CONTINUED)

5.5G RANDOM 26

5.6 EMPLOYEE REQUESTED TESTING 26

5.7 DILUTE TESTS 26

SECTION 6 - VIOLATION OF POLICY

6.1 DISCIPLINARY ACTIONS FOR VIOLATION OF POLICY 31

6.1A ALCOHOL POSITIVE TEST 31

6.1B ILLEGAL DRUG POSITIVE TEST 31

6.1C LEGAL DRUG POSITIVE TEST 31

6.2 FAILURE TO PASS 31

6.2A PRE-EMPLOYMENT (POST-OFFER) DRUG AND/OR ALCOHOL
TEST 31

6.2B PRE-TRANSFER, REASONABLE SUSPICION,
PROBABLE CAUSE, POST-ACCIDENT, FOLLOW UP,
FIT FOR DUTY, RETURN TO DUTY, OR
RANDOM DRUG AND/OR ALCOHOL TEST 32

6.2C DRUG OR ALCOHOL TEST AT TIME OF
DMV RECERTIFICATION OR
ANNUAL OR BIENNIAL PHYSICAL EXAMINATIONS 32

6.3 FAILURE OR REFUSAL TO TEST 33

6.3A SHY LUNG/SHY BLADDER 34

SECTION 7 - PROGRAMS

7.1 EMPLOYEE ASSISTANCE PROGRAM 37

7.2 DRUG-FREE AWARENESS PROGRAM 38

SECTION 8 – GLOSSARY OF TERMS 41

SECTION 9 - ATTACHMENTS

ATTACHMENT A – SAFETY-SENSITIVE POSITIONS 47

ATTACHMENT B – MEDICAL AUTHORIZATION REGARDING
PRESCRIPTION DRUGS AND OVER-THE-COUNTER
MEDICATION FORM 49

ATTACHMENT C – DRUG AND ALCOHOL BEHAVIORAL
CONTRACT SAMPLE 59

ATTACHMENT D – DRUG FREE WORKPLACE ACT CERTIFICATION
FOR A PUBLIC OF PRIVATE ENTITY
(JUNE 2001 UPDATE) 61

ATTACHMENT E – TEST REASON AND REQUIREMENTS TABLE 63

ATTACHMENT F – TESTING PROCESS 65

ATTACHMENT G – CONTACT PERSON 73

ATTACHMENT H – ACKNOWLEDGEMENT OF RECEIPT OF OCTA
DRUG AND ALCOHOL POLICY MANUAL AND
CONSENT TO DRUG AND ALCOHOL TESTING 75

ATTACHMENT I – APPROVAL OF POLICY BY BOARD OF DIRECTORS 77

GENERAL OVERVIEW

SECTION 1

GENERAL OVERVIEW

1.1

POLICY STATEMENT

Orange County Transportation Authority (OCTA) has a vital interest in providing its employees with safe and healthful working conditions and providing its riders and the public with high quality public transportation that is effective, safe and efficient. The Authority will not tolerate any drug or alcohol use which may affect job performance or pose a hazard to the safety and welfare of the employee, the public, other employees or the Authority.

In addition, OCTA encourages employees to become knowledgeable on potential impairment when using over-the-counter (OTC) or prescription (Rx) medication. The intention is to reduce potential safety risks by removing impairment in the workplace, regardless of the source.

The Authority is committed to establishing and maintaining a safe and healthy work environment free from the influence of drugs and alcohol. With this objective in mind, the Authority has established the following Policy with regard to the use, possession, sale, manufacture, distribution or dispensation of drugs and alcohol.

This Policy complies with the Federal Transit Administration (FTA) regulations, U.S. Department of Transportation (DOT) standards and The Drug-Free Workplace Act of 1988 (DFWA). **The OCTA Drug and Alcohol Policy Manual has in some areas broadened the FTA and DOT requirements by including Non-safety sensitive positions, as well as safety-sensitive positions, in some areas of testing.**

1.2

APPLICABILITY

The Drug and Alcohol Policy Manual applies to all introductory, regular full-time and part-time safety-sensitive positions and some portions also apply to **non-safety sensitive positions, including temporary, extra help, interns, or as-needed employees, volunteers, and contractors when they are on OCTA property or when performing any OCTA business.** OCTA's Policy standards for employees in safety-sensitive positions include the requirements of the DOT, as discussed in Policy Statement Section 1.1.

Visitors, vendors, and contractors are governed by this Policy while on OCTA premises and will not be permitted to conduct business or remain on OCTA grounds if found to be in violation of this Policy.

GENERAL OVERVIEW

1.3

RESERVATION OF RIGHTS

The Authority reserves the right to interpret, change or rescind this Policy in whole or in part without notice.

Nothing contained in this Policy alters an employee's status which, for any employee not covered by a collective bargaining agreement or other written employment contract, is at-will. At-will employment means that the employee remains free to resign his/her employment at any time and for any or no reason with or without notice and the Authority retains the right to terminate the employee at any time, for any or no reason, with or without notice.

1.4

CONDITION OF EMPLOYMENT

Compliance with the Authority's Drug and Alcohol Policy Manual is a condition of employment for **all employees**. Failure or refusal of **an employee** to cooperate fully, sign any required document, submit to any inspection or test, or follow any prescribed course of substance abuse treatment is grounds for employment termination.

1.5

INSPECTIONS

When there is reason to believe that an employee or group of employees may be in possession of alcohol or illegal drugs on Authority property, the employee(s) is (are) required, as a condition of employment, to submit to reasonable inspections included but not limited to clothing, personal containers, lockers, company vehicles, purses, lunch boxes, briefcases or other containers, desks or personal vehicles (while on Authority property). An inspection must be authorized by the Department Manager or higher-level management personnel. Whenever possible, the searches also should be approved by the Department Management of Labor and Employee Relations Department. If the Department Manager of Labor and Employee Relations cannot be reached, the Department Manager of Human Resources may approve a search.

1.6

CONVICTION OF A DRUG RELATED OFFENSE

Please see Conviction Of A Drug Related Offense Policy.

RESPONSIBILITIES

SECTION 2

RESPONSIBILITIES

2.1

EMPLOYEES

Employees at all levels are responsible for reading, understanding and adhering to this Policy. Each employee shall receive and sign an Acknowledgement of Receipt of OCTA Drug and Alcohol Policy Manual Attachment H. Any employee who violates this policy is subject to disciplinary action up to and including employment termination.

2.2

MANAGERS AND SUPERVISORS

Managers and Supervisors will be held strictly accountable for the consistent application, enforcement and adherence of the Policy. Any Manager/Supervisor who knowingly disregards the requirements of this Policy, or who is found to deliberately misuse the Policy in regard to any employee, or personally fails to adhere to the Policy, shall be subject to discipline up to and including employment termination.

2.3

RESPONSIBLE DEPARTMENT

The Human Resources Department is responsible for the administration of this Policy, including the retention of Acknowledgement of Receipt forms Attachment H. The Senior Benefits Analyst maintains all Attachment B forms and is the liaison between the Authority and the Medical Review Officer (MRO). Employees who have questions regarding this Policy may direct their questions to Human Resources staff Attachment G.

ALCOHOL GUIDELINES

SECTION 3

ALCOHOL GUIDELINES

3.1

ALCOHOL CONSUMPTION

The **possession, consumption or sale of any amount of alcoholic beverage while at work, on Authority property, doing business on behalf of the Authority, in an Authority vehicle, or in an Authority uniform (including breaks, lunch and non-work hours)** is prohibited for all employees. Additionally, alcohol use by an employee in a safety-sensitive position is prohibited at any time while he/she is on duty or subject to be on duty. **Employees** must refrain from alcohol consumption within a minimum of four (4) hours of reporting to work or during the hours that he/she is subject to duty. Employees must also refrain from alcohol use for at least eight (8) hours following an accident.

Alcohol use by an employee in a non-safety sensitive position while performing Authority business, while on Authority property, in an Authority vehicle or in Authority uniform (including breaks, lunch and non-work hours) is prohibited to the extent that such alcohol may have a material, adverse effect on the safety of that employee, co-workers, riders, or members of the general public, the employee's job performance, or the safe, efficient operation of the Authority's facilities or the Authority's image.

Alcohol use by any employee (whether or not in a safety-sensitive position) is prohibited at any time he/she is driving an Authority vehicle (including revenue service and non-revenue service vehicles).

3.1A

OFF-THE-JOB ALCOHOL CONSUMPTION

Off-the-job alcohol use and/or activity which could reasonably have an adverse effect on an employee's job performance or which could jeopardize the safety of the employee, other employees, riders, the general public, or Authority equipment, or which could reflect unfavorably on the Authority's relationship with the public, is proper cause for disciplinary action up to and including termination of employment. Of course, off-the-job use of drugs or alcohol which results in an employee being under the influence of drugs or alcohol while on duty is considered "on-the-job" use of drugs or alcohol and will be treated accordingly.

DRUG GUIDELINES

SECTION 4

DRUG GUIDELINES

4.1

ILLEGAL DRUG USE

The consumption, sale, purchase, offer to sell or purchase, transfer, possession, manufacture, distribution or dispensation of an illegal drug by any employee while in an Authority facility, in an Authority vehicle, on Authority property, while in Authority uniform (including breaks, lunch, and non-work hours) or while performing Authority business is strictly prohibited. The presence of any amount of an illegal drug or its metabolites in any employee while performing Authority business, in an Authority facility, in an Authority vehicle, in Authority uniform or on Authority property is prohibited.

No employee shall bring drug paraphernalia, which is used in the storage, concealment, injection, ingestion or consumption of illegal drugs, onto Authority premises or property or into Authority vehicles.

4.2

LEGAL DRUG USE

The use or being under the influence of a legal drug by any employee, while performing Authority business or while on Authority property, is prohibited to the extent that such use or influence may have a material, adverse effect on the safety of the employee, co-workers, riders, or members of the public, the employee's job performance, the safe and efficient operation of the Authority's facilities, or the Authority's image.

Employees in safety-sensitive positions are required to report the use of any legal prescription drug, as defined below, and any over-the-counter drug that contains a warning label on the packaging which indicates that the drug may cause drowsiness or otherwise impair the employee's ability to safely perform job duties.

4.2A

ATTACHMENT B FOR PRESCRIPTION DRUGS

An employee in a safety-sensitive position must properly complete an Attachment B form for any legal drug taken which may cause drowsiness or which may otherwise impair, to any extent, the employee's ability to safely and efficiently perform his/her job; and for any controlled substance taken which is identified in Schedule I (21 CFR 1308.11), an amphetamine, a narcotic, or any other habit forming drug, unless the legal drug(s) is prescribed by a licensed medical practitioner familiar with the employee's medical history and assigned duties and who completes the

DRUG GUIDELINES

4.2A

ATTACHMENT B FOR PRESCRIPTION DRUGS (CONTINUED)

physician's portion of the Attachment B indicating that the drug will not adversely affect the employee's ability to safely operate a commercial motor vehicle. Attached to Attachment B is a copy of the OCTA job description summaries for safety-sensitive positions.

It is each employee's responsibility to know and to not engage in any safety-sensitive duties without express written consent from a physician, if any legal drug prescribed by his/her doctor:

- May cause drowsiness or otherwise impair your ability to safely and efficiently perform your job duties;
- Is a drug listed on Schedule I, attached for your reference to the Attachment B form;
- Is an amphetamine;
- Is a narcotic; or
- Is a habit forming drug.

It is recommended that you bring a copy of the Attachment B form, with its Exhibits, to your doctor and ask your doctor if the drug(s) you are being prescribed falls into one or more of the above categories.

To properly complete the Attachment B form, an employee in a safety-sensitive position is required to (1) have his/her doctor complete and sign side 1 of the Attachment B form and attach a copy of the prescription or bottle label with the employee's name on it; (2) sign at the bottom of side 1 of the form in the Employee section; and (3) submit the completed form to the Human Resources Department in a confidential envelope within one working day of taking the prescription drug.

4.2B

ATTACHMENT B FOR OVER-THE- COUNTER DRUGS

An employee in a safety-sensitive position must properly complete an Attachment B form for any legal OTC drug taken that contains a warning label on the packaging which indicates that the drug may cause drowsiness or otherwise impair the employee's ability to safely perform job duties. An employee in a safety-sensitive position may not engage in any safety-sensitive functions while taking any legal OTC drug that contains a warning label on the packaging which indicates that the drug may cause drowsiness or otherwise impair the employee's ability to safely perform job duties.

DRUG GUIDELINES

4.2B

**ATTACHMENT B
FOR
OVER-THE-
COUNTER
DRUGS
(CONTINUED)**

To adhere to the Drug And Alcohol Policy for legal OTC drugs, an employee in a safety-sensitive position is required to (1) complete and sign side 2 of the Attachment B form, (2) sign at the bottom of side 2 of the form in the Employee section; and (3) submit the completed form to the Human Resources Department in a confidential envelope within one working day of taking the legal OTC drugs.

4.2C

**AFTER
COMPLETING
THE
ATTACHMENT
B FORM**

After completion of an employee's Attachment B form and review of the form by the Human Resources Department, the Human Resources Department will review the form for completeness and file. Questions about a legal Rx/OTC drug may be discussed with OCTA's Medical Review Officer (MRO). The Authority retains the right to place an employee on a medical hold while the MRO is reviewing the employee's Attachment B. The Authority, in its discretion, may request the MRO to issue an independent decision as to whether an employee in a safety-sensitive position may work while taking a legal Rx/OTC drug. The Authority may request at any time such an independent decision, which will be binding on the employee, for any employee in a safety-sensitive position who is working or intends to work while taking a legal Rx/OTC drug.

If the MRO determines that an employee in a safety-sensitive position should not work while taking the legal Rx/OTC drug, the employee may be required to take a leave of absence or comply with other appropriate action/direction. An employee may obtain an independent opinion from his/her physician regarding the use of a legal Rx/OTC drug. In order to continue working in this situation, an employee must have his/her doctor complete side 1 of the Attachment B form and submit a completed Attachment B form to the Human Resources Department, in a confidential envelope, for authorization prior to returning to work.

If an employee fails to adhere to the Drug And Alcohol Policy regarding the taking of a legal Rx/OTC drug in accordance with these provisions or fails to complete an Attachment B form for each legal Rx/OTC drug taken by the employee or obtain the physician's signature for prescription drugs, the employee will be subject to discipline, including termination.

**TESTING
SECTION 5**

TESTING

5.1

DRUG AND ALCOHOL TESTING

Under this Policy, drug and alcohol testing shall be conducted when circumstances warrant or may be required by applicable law or regulations **or as required by OCTA policy**. The Authority's drug and alcohol testing will be performed in compliance with DOT regulations 49 CFR 40 and Part 655, as amended. Accordingly, a positive drug or alcohol test administered under this Policy is a violation of this Policy and will result in disciplinary action, up to and including termination.

Any employee who refuses to comply with a request for testing, who refuses to sign any DOT **or OCTA required testing form**, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution will be considered to have a positive test and shall be subject to discharge proceedings.

The purpose of this section is to outline the most common processes in relationship to 49 CFR Part 40 or DOT agency regulations. It does not serve as a document to outline or define all the requirements with 49 CFR Part 40 or DOT agency regulations.

5.2

PRIVACY STATEMENT

The privacy of the employee will be protected. The integrity and validity of the test process will be maintained and the laboratories are required to maintain employee test records in confidence. Laboratories shall disclose information to the MRO, the MRO in turn notifies the Designated Employer Representative (DER), a positive drug test of an individual to the individual and the decision maker in a lawsuit, grievance, or other proceeding initiated on behalf of the employee. OCTA will adhere to all standards of confidentiality regarding employee testing. Test records and results may be released by the DER to those authorized to receive such information by the FTA rules and/or federal, state or local agency requirements. Testing records and results may be released by the Authority to: the employee, if requested by the employee in writing; the National Transportation Safety Board when investigating an accident; the decision-maker in a lawsuit, grievance, or other proceeding initiated on behalf of the employee; representatives of OCTA in a lawsuit, grievance, or other proceedings; subsequent employers of a safety-sensitive position employee, if requested in writing by the employers.

5.3

ALCOHOL TESTING

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing (EBT) device

TESTING

5.3

ALCOHOL TESTING (CONTINUED)

operated by a qualified Breath Alcohol Technician (BAT). Under DOT regulations, an employee in a safety-sensitive position with an alcohol concentration of 0.02 or greater but less than 0.04, shall not be permitted to perform or continue to perform safety-sensitive functions, until (1) the employee's alcohol concentration measures less than 0.02; or (2) the start of the employee's next regularly scheduled duty period, but not less than eight (8) hours following administration of the test. **Under OCTA Policy, if the initial test indicates an alcohol concentration greater than 0.000, a second test will be performed to confirm the results of the initial test. A confirmed alcohol concentration greater than 0.000 will be considered a positive test and a violation of this Policy.**

Any employee who is unable to provide the required volume of breath without a valid, verified medical reason will be considered to have refused the test and will be in violation of this Policy.

5.4

DRUG TESTING

Drug testing consists of a two-stage process utilizing a urine sample collected under the split specimen method. First, a screening test using an immunoassay technique is performed. If the screening test is positive for one or more drugs, a confirmation test is performed for each identified drug using state-of-the-art gas chromatography/mass spectrometry (GC/MS) analysis. The appropriate Custody and Control forms (CCF) will be used throughout the process according to the type of test identified in Attachment E.

Pursuant to the DOT and FTA regulations and **OCTA standards**, the drugs or classes of drugs to be tested and the applicable threshold levels for positive findings are as follows:

	Initial Test Cut-Off Level	Confirmatory Test Cut-Off Level
Marijuana Metabolites	50 ng/ml	15 ng/ml
Cocaine Metabolites (Benzoylecgonine)	300 ng/ml	150 ng/ml
Opiates (morphine, codeine, heroin)	2000 ng/ml	2000 ng/ml
Amphetamines/ Methamphetamines	1000 ng/ml	500 ng/ml
Phencyclidine (PCP)	25 ng/ml	25 ng/ml

TESTING

5.5

TYPES OF TESTING

(49 CFR SUBPART E 655)

5.5A

PRE EMPLOYMENT (POST OFFER)- OR TRANSFER TO SAFETY- SENSITIVE POSITION

The Authority will conduct pre-employment (post offer) **physical examinations** and testing designed to prevent hiring persons for safety-sensitive positions who use illegal drugs and/or persons whose use of **alcohol or** legal drugs indicates a potential for impaired or unsafe job performance. An individual will not be hired for a safety-sensitive position unless the individual passes a drug and alcohol test administered in accordance with this Policy.

An employee who will be transferred or promoted to a safety-sensitive position must first pass a drug and alcohol test administered in accordance with this Policy. Employees who are interested in such transfer or promotion will be required to provide a written consent to participate in the Transfer to a Safety-Sensitive Position Testing. Employees who do not provide this written consent, will not be allowed to perform safety-sensitive functions.

An employee who has not performed a safety-sensitive duty for 90 consecutive days or more and has not been in the Authority's random selection pool shall take a Pre-Employment drug **and alcohol** test with a verified negative result before returning to safety-sensitive duties.

5.5B

DMV RE- CERTIFICATION OR ANNUAL OR BI-ANNUAL PHYSICAL EXAMINATION

The Authority requires a drug and alcohol test be taken at a authorized clinic as part of a safety-sensitive employee's DMV re-certification examination or, for any safety-sensitive employee who is not required to be DMV certified, at his/her annual or bi-annual physical examination.

5.5C

REASONABLE SUSPICION / PROBABLE CAUSE

The Authority will require a drug and/or an alcohol test of **any employee** who is reasonably suspected of violating this Policy, including but not limited to, **any employee** suspected of **possessing**, using or being under the influence of alcohol or an illegal drug, a legal drug if such use would violate this Policy, while on duty **or in Authority vehicles or on Authority property or in Authority uniform.**

TESTING

5.5c REASONABLE SUSPICION / PROBABLE CAUSE (CONTINUED)

The request to undergo a reasonable suspicion test will be based on specific contemporaneous, articulable observations by **two (2)** Supervisors trained in detecting signs and symptoms, or patterns of performance, and/ or behavior associated with drug use and alcohol misuse. Reasonable suspicion/**probable cause** alcohol testing is only permissible just before an employee performs duties, during that performance, and just after an employee has performed safety-sensitive duties. Employees will be required to proceed immediately with a supervisor to a collection site following a reasonable suspicion/**probable cause** determination. If an alcohol test is delayed beyond two (2) hours, reason(s) for the delay must be documented. After eight (8) hours, cease all attempts and document reason(s) for inability to test.

Examples of reasonable suspicion/**probable cause** include, but are not limited to the following:

- Physical signs and symptoms consistent with prohibited substance use (illegally used controlled substance or drugs under the Drug-Free Workplace Act), or misuse of alcohol (e.g., odor of alcohol, slurred speech, or lack of coordination).
- Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol or other prohibited substances.
- Occurrence of a serious or potentially serious industrial accident that may have been caused by the employee's use of drugs or alcohol.
- Fights (to mean physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operating procedures.

5.5D POST-ACCIDENT

An employee who either contributed to, or cannot be completely discounted as a contributing factor to an accident involving an Authority vehicle, **whether or not on Authority business**, may be administered a drug and alcohol test **at the discretion of the Authority**.

An employee will be required to take a drug and alcohol test when the accident resulted in a fatality involving **an Authority vehicle**, or when **the employee** either contributed to, or cannot be completely discounted as a contributing factor to, an accident involving **an Authority vehicle, whether or not on Authority**

TESTING

5.5D

POST-ACCIDENT (CONTINUED)

business, which resulted in: (1) an injury requiring immediate medical treatment away from the scene, or (2) any vehicle being towed away from the scene with disabling damage.

A decision as to whether to administer a drug and alcohol test after an accident will be made by a Supervisor who was not involved in the accident and based on the best information available at the time. Accident testing is delayed while **the employee** assists in resolution of the accident or receives medical attention following the accident. Following an accident, the **employee(s)** involved shall be tested immediately, but not to exceed eight (8) hours for alcohol testing and thirty-two (32) hours for drug testing. The responding Supervisor at the scene shall document why an alcohol test was not performed within two (2) hours of the accident, an alcohol test was not performed within eight (8) hours of the accident, or a drug test was not performed within thirty-two (32) hours of the accident. **Any employee** subject to post-accident testing who fails to remain readily available for such testing, or who leaves the scene of the accident without prior authorization will be considered to have refused to submit to the test and will be subject to disciplinary action up to and including employment termination.

5.5E

RETURN-TO- DUTY/FOLLOW- UP

Generally, an employee will be terminated for violations of this Policy. However, in the event an employee is suspended or placed on a leave of absence for a violation of this Policy, he/she may not return to duty until the Substance Abuse Professional (SAP) has evaluated the employee to determine whether the employee has followed the recommendation of the SAP, including active participation and completion of a rehabilitation program and he/she passes a drug and alcohol test. The SAP will recommend follow-up testing in accordance with DOT regulations. Frequency and duration is dependent on SAP assessment of which will be a minimum of six (6) tests during twelve (12) months after return to duty of a duration of up to sixty (60) months.

Additionally, in accordance with OCTA's Policy, an employee who has been placed on a leave of absence or suspension for a positive result of a non-DOT test and who has successfully complied with the above paragraph must also execute a Behavioral Contract Attachment C before he/she may return to duty. This Contract allows Management to administer unannounced drug and/or alcohol tests to the employee for up to five (5) years after the employee returns to duty. Follow-up testing under the Behavioral Contract applies only to non-DOT types of testing and is in addition to

TESTING

5.5E

RETURN-TO-DUTY/FOLLOW-UP
(CONTINUED)

the DOT required random testing of safety-sensitive position employees and/or SAP recommended follow-up testing.

5.5F

FIT FOR DUTY

A fit for duty medical examination including an alcohol/drug test may be required to ensure a recovered ill or injured employee is fit to return to his/her normal job duties or to continue in his/her normal job duties.

5.5G

RANDOM

Only those employees who perform, or whose job description includes the performance of, safety-sensitive functions will be subject to random, unannounced testing in accordance with FTA regulations. Random safety-sensitive position employee selections are made using a computer-based random-number selection method. Random testing may include an alcohol test, a drug screen or both. Each such employee shall have an equal chance at selection and shall remain in the pool even after being tested. Random testing will be administered at random times during OCTA's operating hours to avoid predictability. Random alcohol testing is only permissible just before an employee performs safety-sensitive duties, during that performance, and just after an employee has performed safety-sensitive duties.

5.6

EMPLOYEE REQUESTED TESTING

After notification by the MRO of a confirmed or verified positive drug test result, **an employee** may request that an additional test be conducted at a different Department of Health and Human Services (DHHS)-certified laboratory specified by OCTA. The test shall be conducted on the split sample that was provided at the same time as the original or primary sample. **The employee's** request must be made to the MRO within seventy-two (72) hours of notice of the primary test results.

The employee shall pay all costs for the employee-requested testing, including the transportation of the split specimen to the second laboratory. The second test will be a test only for the presence of the prohibited substance(s) found in the primary specimen.

5.7

DILUTE TESTS
(49 CFR SUBPART I
40.197)

If the MRO informs the Authority of a positive dilute test, the test will be considered a verified positive test.

TESTING

5.7

**DILUTE TESTS
(49 CFR SUBPART I
40.197)
(CONTINUED)**

If the MRO informs the Authority of a negative dilute test, with the creatinine between 2-5 mg/dl, then the employee must retest. The second collection must be directly observed. The test must be immediately after notification from the MRO, with no advance notice provided. The second test result is final.

If the MRO informs the Authority of a negative dilute test with the creatinine above 5 mg/dl, then the employee may be directed to take a second test which is NOT directly observed. The result of the second test is the test of record.

Employee's refusal to retest shall be treated as a Test Refusal.

All employees will be treated the same for the purpose of processing dilute tests.

**VIOLATIONS OF POLICY
SECTION 6**

VIOLATION OF POLICY

6.1

DISCIPLINARY ACTION FOR VIOLATIONS OF POLICY

Under FTA guidelines, discipline for policy violations shall be determined by the employer. In general, violation of any portion of this Policy will result in disciplinary action up to and including termination of employment, even for the first offense. This section describes the consequences for violations of this Policy.

6.1A

ALCOHOL POSITIVE TEST

Any employee in a safety-sensitive position whose test results are positive for alcohol may be terminated. **Positive alcohol test results for any employee not in a safety-sensitive position will be reviewed on a case-by-case basis to determine the appropriate level of discipline, which may include discharge.**

6.1B

ILLEGAL DRUG POSITIVE TEST

Any employee whose test results are positive for illegal drugs is subject to employment termination.

6.1C

LEGAL DRUG POSITIVE TEST

As a part of OCTA policy, it is mandatory for an employee in a safety-sensitive position to submit a completed Attachment B form for any legal drug taken, which may cause drowsiness or which may otherwise impair, to any extent, the employees ability to safely and efficiently perform his/her job. If the Attachment B form for the legal drug has not been submitted, an employee will be suspended without pay pending the receipt and review of the Attachment B form. Additionally, the safety-sensitive employee who has failed to submit the Attachment B form will receive a disciplinary Final Warning. In instances when the employee fails to timely submit the Attachment B form, the employee's employment will be subject to termination.

6.2 FAILURE TO PASS

6.2A

PRE-EMPLOYMENT (POST OFFER) DRUG AND/OR ALCOHOL TEST

An applicant for a safety-sensitive position whose test results are positive for any illegal drug **or alcohol** will not be hired and will be given a SAP referral by the Human Resources Department. If the applicant does not pass a drug **or an alcohol test**, **he/she must wait twelve (12) months before reapplying** and then must present evidence of completion of a drug and/or alcohol rehabilitation program, **which meets Authority standards**, before he/she is eligible for employment consideration.

VIOLATION OF POLICY

6.2B

PRE-TRANSFER,
REASONABLE
SUSPICION,
PROBABLE CAUSE,
POST-ACCIDENT,
FOLLOW-UP,
FIT FOR DUTY,
RETURN-TO-DUTY
OR RANDOM
ALCOHOL
AND/OR DRUG
TEST

An employee who has a positive drug or alcohol test shall be immediately removed from duty. **Employees** who have violated a DOT drug and alcohol regulation will be referred to a SAP by Labor and Employee Relations for evaluation and recommendations concerning education, treatment, follow-up testing and aftercare.

An employee who applies for a transfer or promotion into a safety-sensitive position who fails a drug and alcohol test shall not be transferred or promoted into a safety-sensitive position.

6.2c

DRUG OR ALCOHOL
TEST AT TIME
OF DMV RE-
CERTIFICATION
OR ANNUAL OR
BIANNUAL
PHYSICAL

While on duty, if an employee's test results at the time of the DMV re-certification or an annual or biannual physical examination are positive for alcohol or any illegal drug, the employee shall be immediately removed from duty. If an employee is off duty and the test results are positive for alcohol or any illegal drug AND the MRO determines the use occurred while on duty, it will be treated as such.

While off duty, if an employee's test results at the time of DMV re-certification or an annual or biannual physical examination are positive for alcohol or any illegal drug, the employee will be suspended without pay for a minimum of thirty (30) days. The employee must enter an Authority approved substance abuse treatment program and provide verification of such to the Authority. If the employee refuses to comply with the Authority's requirement to enter an Authority approved Substance Abuse Program his/her employment will be terminated.

If an employee is participating in an Authority approved treatment program, and that treatment requires hospitalization, the employee may use available sick leave and/or vacation time to the extent available. All such treatment must be documented by the hospital.

The employee must take a second drug and alcohol test before returning to duty as directed by the SAP. If the employee does not take the second test as designated by the Authority, his/her employment will be terminated.

If the second test is positive for any alcohol or illegal drug, the employee's employment will be terminated. If the

VIOLATION OF POLICY

6.2c

**DRUG OR ALCOHOL
TEST AT TIME
OF DMV RE-
CERTIFICATION
OR ANNUAL OR
BIANNUAL
PHYSICAL
(CONTINUED)**

second test is negative for alcohol or illegal drugs and the MRO determines that the employee may return to duty, then the employee may return to duty only upon agreeing to the terms of and signing an Alcohol and Drug Behavioral Contract Attachment C. Violation of the Behavioral Contract will result in termination of employment.

Should the employee who has entered into an Drug and Alcohol Behavioral Contract have a positive drug or alcohol test at any subsequent DMV re-certification or annual or biannual physical examination, his/her employment will be immediately terminated.

6.3

**FAILURE OR REFUSAL
TO TEST (PART 40.191(A))**

An employee's refusal to comply with a request or directive for testing under this Policy will be considered a positive test and is grounds for employment termination. The following behaviors constitute a test refusal:

- Failure to appear for any test (except for pre-employment) within a reasonable time, as determined by the employer;
- Failure to remain at the testing site until the testing process is complete;
- Failure to provide a urine specimen for any required drug test;
- Failure to permit the observation or monitoring of the specimen collection when required to do so;
- Failure to provide a sufficient amount of urine when directed and there is no adequate medical explanation for the failure;
- Failure to take a second test when directed to do so by the employer or collector;
- Failure to undergo a medical examination when directed to do so by the MRO or employer;
- Failure to cooperate with any part of the testing process (e.g., refuse to empty pockets when directed by the collector, behave in a confrontational way that disrupts the collection process, failure to wash hands after being directed to do so by the collector);

VIOLATION OF POLICY

6.3

FAILURE OR REFUSAL TO TEST (PART 40.191(A)) (CONTINUED)

- Failure to follow the observer's instructions during an observed collection including instructions to raise your clothing above the waist, lower clothing and underpants, and to turn around to permit the observer to determine if you have any type of prosthetic or other device that could be used to interfere with the collection process;
- Possess or wear a prosthetic or other device that could be used to interfere with the collection process; and
- Admit to the collector or MRO that you adulterated or substituted the specimen.

6.3A

SHY LUNG (PART 40.263; 40.265)/

Any employee who is unable to provide the required volume of breath for the EBT without a valid, verified medical reason will be considered to have refused the test and will be subject to employment termination.

SHY BLADDER (PART 40.193, 40.195)

Any employee who is unable to provide the required urine sample for drug testing within three (3) hours of the first attempt, the collection process will be discontinued and the DER notified. After consulting with the MRO, the employer will direct the employee to obtain a medical evaluation from a licensed physician who is acceptable to the MRO. The medical examination must be obtained within five (5) business days of the initial collection effort. If no evidence of a health problem exists, the MRO will determine that the employee refused the test and will be subject to employment termination.

PROGRAMS

SECTION 7

PROGRAMS

7.1

EMPLOYEE ASSISTANCE PROGRAM

The Authority maintains an Employee Assistance Program (EAP) which offers confidential, professional counseling to employees **and family members**. The EAP provides trained Substance Abuse Professionals (SAPs) to assist employees in dealing with drug and/or alcohol related problems before such problems impact on-job performance. Employees experiencing personal or work performance problems associated with drug or alcohol use are urged to utilize the EAP.

It is the responsibility of employees to seek assistance from the EAP *before* drug and/or alcohol problems lead to disciplinary action, which can include discharge for a first offense. Enrollment and participation in the EAP will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. However, **if an employee violates this Policy, his/her subsequent use of the EAP on a voluntary basis will have no bearing on the determination of disciplinary action, up to and including discharge.**

In addition to employees utilizing the EAP on a voluntary basis, the EAP may also be utilized when Management refers an employee for any problems/behaviors that may be impacting job performance.

Provisions for leaves of absence for employees with drug and/or alcohol related problems who have not been found in violation of the Policy and who voluntarily seek assistance through the EAP will be considered on an individual basis.

Any employee who tests positive for the presence of alcohol or illegal drugs at or above the cut off levels established by this Policy shall be referred by Labor and Employee Relations to the EAP for an evaluation by a SAP. The SAP will recommend education and/or treatment to the employee.

The cost of any treatment or rehabilitation services shall be paid directly by the employee or his/her insurance provider.

PROGRAMS

7.2

DRUG-FREE AWARENESS PROGRAM

To assist **employees** to understand and to avoid the perils of drug and alcohol abuse, the Authority has developed and implemented a comprehensive Drug-Free Awareness Program. The Drug-Free Awareness Program includes an ongoing educational and training effort to prevent and eliminate drug and alcohol abuse that may affect the workplace.

The Drug-Free Awareness Program also includes the Drug-Free Workplace Act Certification For A Public Or Private Entity Attachment D and the informational material to inform employees and their families about (1) the dangers of drug and alcohol abuse in the workplace; (2) the consequences of drug and/or alcohol use on personal health, safety, and the work environment; (3) the manifestation and behavioral cues that may indicate drug and/or alcohol use and abuse; (4) educate the employees about their responsibility regarding use of prescription and OTC medication (5) the Authority's Drug and Alcohol Policy Manual; (6) the availability of treatment and counseling for employees who voluntarily seek assistance for alcohol misuse and/or drug abuse, including information about the EAP and community service hotline telephone numbers; and (7) the sanctions the Authority will impose for violations of its Drug and Alcohol Policy Manual.

All employees are required to attend Drug and Alcohol Training a minimum of once every three (3) years. Supervisors and managers receive a minimum of **two (2) hours** training, including the physical, behavioral and performance indicators of probable alcohol, drug and impairment of some OTC and Rx medications in conjunction with the Drug and Alcohol Policy Manual.

GLOSSARY OF TERMS

SECTION 8

GLOSSARY OF TERMS

ADULTERATED SPECIMEN:	A specimen is considered adulterated if it contains a substance that is not a normal constituent or contains a substance that is normally present in the body at a concentration that is not a normal physiological concentration.
ALCOHOL MISUSE:	Occurs when an employee arrives at the work site with alcohol in his/her system or the odor of alcohol on his/her breath; consumes a beverage containing alcohol while on duty or subject to duty; or during coffee or lunch breaks; or is late to work or absent from work due to the consumption of alcohol.
ATTACHMENT B FORM:	The Disclosure of Prescription and Over-the-Counter Medications form; a sample of this form is provided in Attachment B of this Policy and can be obtained from a Manager, a Supervisor, the Human Resources Department or the OCTA Intranet. Employees in safety-sensitive positions are required, under OCTA Policy, to file a completed Attachment B form.
BREATH ALCOHOL TECHNICIAN (BAT):	The Breath Alcohol Technician instructs and assists employees in the alcohol testing process; operates an evidential breath testing device.
CHAIN OF CUSTODY:	The procedure used to document the handling of the urine specimen from the time the employee gives the specimen to the collector until the specimen is destroyed. This procedure uses the Federal Drug Testing Custody and Control Form (CCF).
COLLECTION SITES:	A place selected by the employer where employees present themselves for the purpose of providing a urine specimen for a drug test.
DRUG & ALCOHOL PROGRAM MANAGER (DAPM):	An employee authorized by OCTA to manage and monitor the Drug and Alcohol testing program.
DESIGNATED EMPLOYER REPRESENTATIVE (DER):	Designated Employer Representative is an employee authorized by the employer to take immediate action(s) to remove employees from safety-sensitive duties, or cause employees to be removed from these covered duties, and to make required decisions in the testing and evaluation processes.
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (DHHS OR HHS):	The Department of Health and Human services, or any other designee of the Secretary, Department of Health and Human Services.

GLOSSARY OF TERMS

DHHS CERTIFIED LABS:	Any U.S. laboratory certified by DHHS under the National Laboratory Certification Program as meeting the minimum standards of Subpart C of the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs.
DILUTED SPECIMEN:	Diluted specimens have creatinine and specific gravity values that are lower than expected for human urine. A dilute test will be reported as a positive or negative. For a positive dilute test, the Authority treats the result as a positive test and removes the employee from safety-sensitive duty. For a negative dilute test, the Authority may require, as a matter of policy, employees to retest without direct observation. The second test is the test of record, even if the second test is also a negative dilute.
U.S. DEPARTMENT OF TRANSPORTATION (DOT):	The U.S. Department of Transportation is a government entity which oversees several agencies, including the Federal Transit Administration (FTA) or any designee of a DOT agency.
EVIDENTIAL BREATH TESTING (EBT) DEVICE:	A device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential breath testing and placed on NHTSA's "Conforming Products List of Evidential Breath Measurements Devices," and conforming with the model specifications available from NHTSA's Traffic Safety Program.
FEDERAL TRANSIT ADMINISTRATION (FTA):	The Federal Transit Administration, an agency of the U.S. Department of Transportation.
INVALID SPECIMEN:	An invalid specimen is one that contains unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.
ILLEGAL DRUG:	Any drug which (a) is not legally obtainable or (b) is legally obtainable but had not been legally obtained or is not being used for its prescribed purposes.
LEGAL DRUG:	Any drug prescribed by a physician for the employee or any over-the-counter drug which has been legally obtained which is being used for the purpose for which it has been prescribed or manufactured. A drug, which is legally obtainable but has not been legally obtained or is not being used for its prescribed purposes is an illegal drug, not a legal drug, under this Policy.
MEDICAL REVIEW OFFICER ("MRO"):	A person who is a licensed physician, with MRO certification, who is appointed and authorized by the Authority to be responsible for receiving and reviewing laboratory results

GLOSSARY OF TERMS

MEDICAL REVIEW OFFICER (“MRO”): (CONTINUED)	generated by OCTA’s drug testing program and for evaluating medical explanations for certain drug test results. The MRO shall report each verified positive test result to the DER in the Human Resources Department. The MRO will also determine (when the Authority requests such a determination) whether an employee who is taking a legal drug(s) may work while under the influence of such drug(s).
NHTSA:	National Highway Traffic Safety Administration.
NON-SAFETY SENSITIVE POSITION:	Any position which does <i>not</i> entail any duty related to the safe operation of the Authority’s mass transportation service.
POSITIVE ALCOHOL TEST:	Under the Authority’s Drug and Alcohol Policy Manual, the presence of alcohol in a body at a concentration greater than 0.000 as measured by an Evidential Breath Testing (EBT) Device.
POSITIVE DRUG TEST:	Any urine that is chemically tested (screened and confirmed) which shows the presence of controlled substances, as defined by DOT standards, and is verified by the MRO.
PRE-EMPLOYMENT TESTING:	Employees that are either applying for or transferring to a safety-sensitive position or if ninety (90) days have elapsed since the employee performed safety-sensitive duties and the individual was not in the random pool.
PROBABLE CAUSE	The Authority will require a drug and/or an alcohol test on any employee who is reasonably suspected of violating this policy, including but not limited to, any employee suspected of possessing, using or being under the influence of alcohol or an illegal drug, a legal drug if such use would violate this policy, while on duty or in Authority vehicles or on Authority property or in Authority uniform.
REASONABLE SUSPICION	The Federal Transit Administration (FTA) regulations require a safety-sensitive employee to submit a test when the employer has reasonable suspicion that the employee has used a prohibited drug or has misused alcohol. The request to undergo a reasonable suspicion test must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech or body odor of the safety-sensitive employee.

GLOSSARY OF TERMS

SAFETY-SENSITIVE POSITION:

Any position which entails any duty related to the safe operation of the Authority's mass transportation service, including: (a) operation of a revenue service vehicle, whether or not such vehicle is in revenue service; (b) controlling dispatch or movement of a revenue service vehicle or equipment used in revenue service; (c) maintaining revenue service of vehicles or equipment used in revenue service; (d) carrying a firearm for security purposes; and (e) supervising an employee who performs a function in (a) – (d) above. Positions currently classified as safety-sensitive positions are listed in Attachment A of this Policy and are subject to revision as needed.

SCREENING TEST TECHNICIAN (STT):

A person who instructs and assists employees in the alcohol testing process and operates an alcohol screening device.

SUBSTANCE ABUSE PROFESSIONAL (SAP):

An OCTA authorized licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or a certified addiction counselor, with knowledge of and clinical experience in the diagnosis and treatment of drug and related disorders; evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing and aftercare. Although in most cases, an employee will be terminated for violation of this Policy, in cases in which an employee is suspended or placed on a leave of absence, the SAP will determine when/or if the employee may return to duty.

SUBSTITUTED SPECIMEN:

Substituted specimens have creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

UNDER THE INFLUENCE:

When an employee is affected to any extent by alcohol or a drug, or metabolites of such, or the combination of alcohol and a drug, or has alcohol or a drug, or metabolites of such, in the employee's body in any detectable amount.

END OF POLICY

ATTACHMENTS

SECTION 9

ATTACHMENT A

SAFETY-SENSITIVE POSITIONS

Any level of job classification, or within the general job classification, of the positions listed below are considered safety-sensitive. The listing is subject to revision and may not be all inclusive due to changes in job position titles.

- Coach Operator
- Electronic Technician
- Facilities Maintenance Technicians
- Field Administrator
- Field Supervisor
- Instructor (Maintenance, Coach Operations)
- Mechanic
- Automotive Mechanic
- Radio Dispatcher
- Rail Right-Of-Way Administrator
- Serviceworker
- Supervisor, Maintenance
- Section Supervisor/Section Manager:
 - Central Communications
 - Facilities Maintenance
 - Field Operations
 - Bus Operations
 - Instruction
 - Vehicle Maintenance
- Window Dispatcher
- Or any other employee who operates a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch (anyone who controls revenue service vehicles' movement), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, and any other employee who through course of employment is required to hold a Commercial Driver's License (CDL).



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

PRESCRIPTION DRUGS – PHYSICIAN SIGNATURE REQUIRED

Instructions For Employees In Safety-Sensitive Positions

Attachment B forms are required by Orange County Transportation Authority (OCTA) for employees in Safety-Sensitive Positions.

1. If you are disclosing the use of a new prescription drug, have your doctor complete "Physician" section in full with signature, attach a complete* copy of your prescription label, complete "Employee" section on this form and forward the form and attachment directly to the Benefits Section-Human Resources Department in the confidential envelope provided at each base.
2. If you are disclosing a prescription drug renewal, complete "Employee" section of this form, attach a copy of your prescription renewal label, and forward directly to Benefits Section-Human Resources Department in the confidential envelope provided at each base.
3. Indicate in "Employee" section whether prescription is new or a refill.

* Complete – includes date of prescription, name of medication, dosage, directions for use, physician's name, and expiration date.

To Be Completed by Physician

(includes only those legal drugs which may cause drowsiness or impair employee's ability to safely perform his/her job duties (attached), drugs listed on Schedule I (attached), amphetamines, narcotics, or other habit forming drugs)

I, _____ am aware of the job duties of _____,
 _____ Physician's Name _____ Employee's Name
 who is a _____ at Orange County Transportation Authority. I have
 _____ Employee's Position/Job Title
 prescribed for such employee the medication described below on _____
 _____ Date

(Please print the following information legibly):

Name of Medication: _____

Dosage: _____

Duration to be taken: _____

I am familiar with the employee's medical history and assigned job duties and have advised the employee that the prescribed substance, legal drug and/or over the counter medication will not adversely affect the employee's ability to safely operate a commercial motor vehicle or machinery or to perform his/her job competently and safely.

 Physician's Signature _____ Physician's Telephone Number

 Physician's Printed Name and Address Stamp _____ Date

To Be Completed By Employee

I understand that, in accordance with the OCTA Alcohol and Drug Policy, it is my obligation to inform the OCTA Benefits Section-Human Resources Department of any legal drug or prescription medication I intend to take that may cause drowsiness or impair my ability to safely perform my job duties, drugs listed on Schedule I (attached), amphetamines, narcotics, or other habit forming drugs.

Additionally, I understand that on-going or periodic use of prescription drugs requires a fully completed and appropriately signed Attachment B form, which must be submitted at any time I start, or renew taking a legal prescription drug. I acknowledge that I will read the labels on all medications that I intend to take and that I will take such medication according to label directions.

Please check one: New Prescription OR Refill Prescription

 Employee's Signature _____ Employee's Work Location and Supervisor

 Employee's Printed Name _____ Employee's Badge # _____ Date



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

OVER-THE-COUNTER MEDICATION

Instructions For Employees In Safety-Sensitive Positions

- Attachment B forms are required by Orange County Transportation Authority (OCTA) for employees in Safety-Sensitive positions
- If you are disclosing the use of over-the-counter medications, complete this page and sign the "Employee" section below.

To Be Completed By Employee

(include only those over-the-counter medications which may cause drowsiness or impair employee's ability to safely perform his/her job duties (attached), drugs listed on Schedule (attached), amphetamines, narcotics, or other habit forming drugs.

I, _____, am a Safety Sensitive employee. My job title is _____
Print/Type Name Legibly

_____, and my work location is _____
Print/Type Job Title Print/Type Work Location

I take the following over-the-counter medications as directed* on the package.

* If the medication is not taken as directed, please explain: _____

GENERAL PAIN RELIEF	COLD/FLU MEDICATION
SINUS RELIEF	VITAMINS/MINERALS/HERBS
OTHER	OTHER

I understand that, in accordance with OCTA's Alcohol and Drug Policy and the purpose of review and determination of my eligibility to work, it is my obligation to inform OCTA of any over-the-counter medication I intend to take that may cause drowsiness or impair my ability to safely perform my job duties or ability to operate machinery or a commercial motor vehicle. I understand that I may not engage in any safety-sensitive functions while taking any legal OTC drug that contains a warning label on the packaging which indicates that the drug may cause drowsiness or otherwise impair my ability to safely perform the job duties.

Additionally, I understand that on-going or periodic use of these over-the-counter medications, requires a fully completed and appropriately signed Attachment B form. I acknowledge that I read the labels on all medications that I intend to take and that I will take such medication according to label directions.

 Employee's Signature

 Employee's Badge #

 Date

FOR OCTA USE ONLY

Date HR Received: _____ Received by: _____
 HR: Reviewed MRO Contacted Supervisor Notified: _____
 Date: _____ Time: _____



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

SCHEDULE I

[Code of Federal Regulations]
 [Title 21, Volume 9]
 [Revised as of April 1, 2001]
 From the U.S. Government Printing Office via GPO Access
 [CITE: 21CFR1308.11]

[Page 82-84]

TITLE 21-FOOD AND DRUGS

CHAPTER II--DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308--SCHEDULES OF CONTROLLED SUBSTANCES--Table of Contents

Sec. 1308.11 Schedule I.

(a) Schedule I shall consist of the drugs and other substances, by whatever official name, common or usual name, chemical name, or brand name designated, listed in this section. Each drug or substance has been assigned the DEA Controlled Substances Code Number set forth opposite it.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation (for purposes of paragraph (b)(34) only, the term isomer includes the optical and geometric isomers):

(1) Acetyl-alpha-methylfentanyl (N-[1-(1-methyl-2-phenethyl)-4-piperidinyl]-N-phenylacetamide).....	9815
(2) Acetylmethadol.....	9601
(3) Allylprodine.....	9602
(4) Alphacetylmethadol (except levo-alphacetylmethadol also known as levo-alpha-acetylmethadol, levomethadyl acetate, or LAAM)....	9603
(5) Alphameprodine.....	9604
(6) Alphamethadol.....	9605
(7) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-(N-propanilido) piperidine).....	9814
(8) Alpha-methylthiofentanyl (N-[1-methyl-2-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).....	9832
(9) Benzethidine.....	9606
(10) Betacetylmethadol.....	9607
(11) Beta-hydroxyfentanyl (N-[1-(2-hydroxy-2-phenethyl)-4-piperidinyl]-N-phenylpropanamide).....	9830
(12) Beta-hydroxy-3-methylfentanyl (other name: N-[1-(2-hydroxy-2-phenethyl)-3-methyl-4-piperidinyl]-N-phenylpropanamide).....	9831
(13) Betameprodine.....	9608
(14) Betamethadol.....	9609
(15) Betaprodine.....	9611
(16) Clonitazene.....	9612
(17) Dextromoramide.....	9613
(18) Diampromide.....	9615
(19) Diethylthiambutene.....	9616
(20) Difenoxin.....	9168
(21) Dimenoxadol.....	9617



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

(22) Dimepheptanol.....	9618
(23) Dimethylthiambutene.....	9619
(24) Dioxaphetyl butyrate.....	9621
(25) Dipipanone.....	9622
(26) Ethylmethylthiambutene.....	9623
(27) Etonitazene.....	9624
(28) Etoxeridine.....	9625
(29) Furethidine.....	9626
(30) Hydroxypethidine.....	9627
(31) Ketobemidone.....	9628
(32) Levomoramide.....	9629
(33) Levophenacetylmorphan.....	9631
(34) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).....	9813
(35) 3-methylthiofentanyl (N-[(3-methyl-1-(2-thienyl)ethyl-4-piperidinyl]-N-phenylpropanamide).....	9833
(36) Morpheridine.....	9632
(37) MPPP (1-methyl-4-phenyl-4-propionoxypiperidine).....	9661
(38) Noracymethadol.....	9633
(39) Norlevorphanol.....	9634
(40) Normethadone.....	9635
(41) Norpipanone.....	9636
(42) Para-fluorofentanyl (N-(4-fluorophenyl)-N-[1-(2-phenethyl)-4-piperidinyl] propanamide.....	9812
(43) PEPAP (1-(-2-phenethyl)-4-phenyl-4-acetoxypiperidine.....	9663
(44) Phenadoxone.....	9637
(45) Phenampromide.....	9638
(46) Phenomorphan.....	9647
(47) Phenoperidine.....	9641
(48) Piritramide.....	9642
(49) Proheptazine.....	9643
(50) Properidine.....	9644
(51) Propiram.....	9649
(52) Racemoramide.....	9645
(53) Thiofentanyl (N-phenyl-N-[1-(2-thienyl)ethyl-4-piperidinyl]-propanamide.....	9835
(54) Tilidine.....	9750
(55) Trimeperidine.....	9646

(c) Opium derivatives. Unless specifically excepted or unless listed in another schedule, any of the following opium derivatives, its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:

[[Page 83]]

(1) Acetorphine.....	9319
(2) Acetyldihydrocodeine.....	9051
(3) Benzylmorphine.....	9052
(4) Codeine methylbromide.....	9070
(5) Codeine-N-Oxide.....	9053
(6) Cyprenorphine.....	9054
(7) Desomorphine.....	9055
(8) Dihydromorphine.....	9145
(9) Drotebanol.....	9335
(10) Etorphine (except hydrochloride salt).....	9056
(11) Heroin.....	9200
(12) Hydromorphanol.....	9301



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

(13) Methyldesorphine.....	9302
(14) Methyldihydromorphine.....	9304
(15) Morphine methylbromide.....	9305
(16) Morphine methylsulfonate.....	9306
(17) Morphine-N-Oxide.....	9307
(18) Myrophine.....	9308
(19) Nicocodeine.....	9309
(20) Nicomorphine.....	9312
(21) Normorphine.....	9313
(22) Pholcodine.....	9314
(23) Thebacon.....	9315

(d) Hallucinogenic substances. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation, which contains any quantity of the following hallucinogenic substances, or which contains any of its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation (for purposes of this paragraph only, the term "isomer" includes the optical, position and geometric isomers):

(1) Alpha-ethyltryptamine.....	7249
Some trade or other names: etryptamine; Monase; -ethyl-1H-indole-3-ethanamine; 3-(2-aminobutyl) indole; -ET; and AET.	
(2) 4-bromo-2,5-dimethoxy-amphetamine.....	7391
Some trade or other names: 4-bromo-2,5-dimethoxy--methylphenethylamine; 4-bromo-2,5-DMA	
(3) 4-Bromo-2,5-dimethoxyphenethylamine.....	7392
Some trade or other names: 2-(4-bromo-2,5-dimethoxyphenyl)-1-aminoethane; alpha-desmethyl DOB; 2C-B, Nexus.	
(4) 2,5-dimethoxyamphetamine.....	7396
Some trade or other names: 2,5-dimethoxy--methylphenethylamine; 2,5-DMA	
(5) 2,5-dimethoxy-4-ethylamphet-amine.....	7399
Some trade or other names: DOET	
(6) 4-methoxyamphetamine.....	7411
Some trade or other names: 4-methoxy--methylphenethylamine; paramethoxyamphetamine, PMA	
(7) 5-methoxy-3,4-methylenedioxy-amphetamine.....	7401
(8) 4-methyl-2,5-dimethoxy-amphetamine.....	7395
Some trade and other names: 4-methyl-2,5-dimethoxy--methylphenethylamine; "DOM"; and "STP"	
(9) 3,4-methylenedioxy amphetamine.....	7400
(10) 3,4-methylenedioxymethamphetamine (MDMA).....	7405
(11) 3,4-methylenedioxy-N-ethylamphetamine (also known as N-ethyl-alpha-methyl-3,4(methylenedioxy)phenethylamine, N-ethyl MDA, MDE, MDEA.....	7404
(12) N-hydroxy-3,4-methylenedioxyamphetamine (also known as N-hydroxy-alpha-methyl-3,4(methylenedioxy)phenethylamine, and N-hydroxy MDA.....	7402
(13) 3,4,5-trimethoxy amphetamine.....	7390
(14) Bufotenine.....	7433
Some trade and other names: 3-(-Dimethylaminoethyl)-5-hydroxyindole; 3-(2-dimethylaminoethyl)-5-indolol; N, N-dimethylserotonin; 5-hydroxy-N,N-dimethyltryptamine; mappine	
(15) Diethyltryptamine.....	7434
Some trade and other names: N,N-Diethyltryptamine; DET	
(16) Dimethyltryptamine.....	7435



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

Some trade or other names: DMT

(17) Ibogaine.....	7260
Some trade and other names: 7-Ethyl-6,6,7,8,9,10,12,13-octahydro-2-methoxy-6,9-methano-5H-pyrido [1', 2':1,2] azepino [5,4-b] indole; Tabernanthe iboga	
(18) Lysergic acid diethylamide.....	7315
(19) Marijuana.....	7360
(20) Mescaline.....	7381
(21) Parahexyl--7374; some trade or other names: 3-Hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran; Synhexyl.	
(22) Peyote.....	7415
Meaning all parts of the plant presently classified botanically as Lophophora williamsii Lemaire, whether growing or not, the seeds thereof, any extract from any part of such plant, and every compound, manufacture, salts, derivative, mixture, or preparation of such plant, its seeds or extracts (Interprets 21 USC 812(c), Schedule I(c) (12))	
(23) N-ethyl-3-piperidyl benzilate.....	7482
(24) N-methyl-3-piperidyl benzilate.....	7484
(25) Psilocybin.....	7437
(26) Psilocyn.....	7438
(27) Tetrahydrocannabinols.....	7370
Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of Cannabis, sp. and/or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:	
1 cis or trans tetrahydrocannabinol, and their optical isomers	
6 cis or trans tetrahydrocannabinol, and their optical isomers	
3,4 cis or trans tetrahydrocannabinol, and its optical isomers	
(Since nomenclature of these substances is not internationally standardized, compounds of these structures, regardless of numerical designation of atomic positions covered.)	
(28) Ethylamine analog of phencyclidine.....	7455
Some trade or other names: N-ethyl-1-phenylcyclohexylamine, (1-phenylcyclohexyl)ethylamine, N-(1-phenylcyclohexyl)ethylamine, cyclohexamine, PCE	
(29) Pyrrolidine analog of phencyclidine.....	7458
Some trade or other names: 1-(1-phenylcyclohexyl)-pyrrolidine, PCPy, PHP	
(30) Thiophene analog of phencyclidine.....	7470
Some trade or other names: 1-[1-(2-thienyl)-cyclohexyl]-piperidine, 2-thienylanalog of phencyclidine, TPCP, TCP	
(31) 1-[1-(2-thienyl)cyclohexyl]pyrrolidine.....	7473
Some other names: TCPy	

(e) Depressants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains

[[Page 84]]

any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is possible within the specific chemical designation:



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

(1) gamma-hydroxybutyric acid (some other names include GHB; gamma-hydroxybutyrate; 4-hydroxybutyrate; 4-hydroxybutanoic acid; sodium oxybate; sodium oxybutyrate).....	2010
(2) Mecloqualone.....	2572
(3) Methaqualone.....	2565

(f) Stimulants. Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers, and salts of isomers:

(1) Aminorex (Some other names: aminoxaphen; 2-amino-5-phenyl-2-oxazoline; or 4,5-dihydro-5-phenyl-2-oxazolamine).....	1585
(2) Cathinone.....	1235
Some trade or other names: 2-amino-1-phenyl-1-propanone, alpha-aminopropiophenone, 2-aminopropiophenone, and norephedrone	
(3) Fenethylamine.....	1503
(4) Methcathinone (Some other names: 2-(methylamino)-propio-phenone; alpha-(methylamino)propio-phenone; 2-(methylamino)-1-phenylpropan-1-one; alpha-N-methylaminopropiophenone; monomethylpropion; ephedrone; N-methylcathinone; methylcathinone; AL-464; AL-422; AL-463 and UR1432), its salts, optical isomers and salts of optical isomers.....	1237
(5) () cis-4-methylaminorex () cis-4,5-dihydro-4-methyl-5-phenyl-2-oxazolamine).....	1590
(6) N-ethylamphetamine.....	1475
(7) N,N-dimethylamphetamine (also known as N,N-alpha-trimethylbenzeneethanamine; N,N-alpha-trimethylphenethylamine).....	1480

(g) Temporary listing of substances subject to emergency scheduling. Any material, compound, mixture or preparation which contains any quantity of the following substances:

(1) N-[1-benzyl-4-piperidyl]-N-phenylpropanamide (benzylfentanyl), its optical isomers, salts and salts of isomers.....	9818
(2) N-[1-(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (thienylfentanyl), its optical isomers, salts and salts of isomers.....	9834

[39 FR 22141, June 20, 1974]

Editorial Note: For Federal Register citations affecting Sec. 1308.11, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

SUMMARY OF SAFETY SENSITIVE JOB DUTIES

Central Communications –

Under general supervision, provides management by monitoring and coordinating the delivery of a 24/7 fixed route bus service through two-way radio communications with **bus drivers**, ensures safe, reliable, courteous service. Provides customer service to both internal and external customers.

Coach Operator –

Responsible for safely operating all types of agency motor coaches/ **buses** and on-board equipment to transport passengers over specified routes. **Position requires a commercial driver's license with passenger endorsement.**

Field Supervisor –

Under general supervision and with the support of Central Communications, physically manages the 24/7 bus system to ensure safe, reliable, courteous service. Provides customer service to both internal and external customers. **Position requires a commercial driver's license with passenger endorsement.**

Line Supervisor –

Under general direction, supervises maintenance employees in the repair, maintenance, cleaning, servicing, and/or revenue transferring for the agency's fleet of buses and other vehicles.

Mechanic –

Under supervision, diagnoses and makes mechanical repairs to buses and other automotive equipment. **Position requires a commercial driver's license with passenger endorsement.**

Service Worker –

Under direct supervision, performs vehicle movement, servicing, fueling, refilling consumables, repairs and cleaning. **Position requires a commercial driver's license with passenger endorsement.**

Window Dispatcher –

Under general supervision, provides management by monitoring and coordinating the delivery of a 24/7 fixed route bus service from the base, ensuring safe, reliable, courteous service. Provides customer service to both internal and external customers.

Facilities Technician –

Under the general supervision is responsible for mechanical and preventive maintenance of agency buildings, facilities, and compressed gas facilities.

Instructor (Bus Operations & Maintenance)

Bus Operations

Under minimal supervision, conducts classroom and on-the-job training for Coach Operators with a focus on customer service, safety, courtesy, and reliability. Designs, develops, and implements training programs that meet regulatory and agency guidelines. Evaluates student performance and administers discipline.

Maintenance

Under general supervision, researches, designs, coordinates, and presents training classes, which include maintenance of vehicles, use of tools and equipment, and Maintenance Certification Training. Provides consultation on technical vehicle issues.



ATTACHMENT B

Disclosure of Prescription and Over-the-Counter Drugs

SUMMARY OF SAFETY SENSITIVE JOB DUTIES

Other –

Any employee who operates a revenue service vehicle (whether or not the vehicle is in revenue service), dispatch (anyone who controls revenue service vehicles' movement), maintenance of a revenue service vehicle or equipment used in revenue serve, security personnel who carry firearms, and any other employee who through course of employment is required to hold a Commercial Driver's License (CDL).

ATTACHMENT C

DRUG AND ALCOHOL BEHAVIORAL CONTRACT

I understand that I will be allowed to continue my employment with Orange County Transportation Authority if I will participate in and submit continuing documentation on a monthly basis of my participation in an Authority approved substance abuse treatment program. Additionally, upon successful completion of said program, I will provide the necessary documentation of such.

I agree not to use illegal drugs, including marijuana and alcohol, in accordance with the Authority's Alcohol/Drug Policy.

I understand that in order to return to my employment, I must submit to additional alcohol/drug test(s) and that such test(s) demonstrate there is no trace of alcohol or a drug or metabolite of any drug in my system.

I also understand that during the sixty (60) months following my return to work I may be tested without prior notice and if there is any trace of drug or metabolites and/or alcohol in my system, my employment with Orange County Transportation Authority will be terminated. Additionally, I understand that refusal to submit to such a test will result in the termination of my employment.

I understand and agree to all the above conditions. I also understand and agree that failure to meet all terms and conditions of this commitment will result in the termination of my employment, with no Hearing Before Discharge and no right of appeal through the grievance procedure.

Employee Signature

Date

Union Representative Signature

Date

Base Manager Signature

Date

Employee and Labor Relations Representative
Signature

Date

ATTACHMENT D

DRUG-FREE WORKPLACE ACT CERTIFICATION FOR A PUBLIC OR PRIVATE ENTITY

Orange County Transportation Authority (OCTA or Authority) has a vital interest in providing its employees with safe and healthful working conditions and providing its riders and the public with high quality public transportation that is effective, safe and efficient. Therefore, OCTA is committed to establishing and maintaining a work environment free from the influence of drug and alcohol.

The Orange County Transportation Authority certifies that it will strive to provide a drug-free workplace through the following steps:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in OCTA's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an on-going drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) OCTA's policy of maintaining a drug-free workplace;
 - (c) Potential dangers associated with the use of prescription (Rx) and over-the-counter (OTC) medications;
 - (d) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (e) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Requiring that each employee, including those engaged in the performance of a grant or cooperative agreement, be given a copy of the statement required by paragraph one (1) above.
4. Notifying employees, in the statement required by paragraph one (1), that as a condition of employment under any grant or cooperative agreement the employees will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his/her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

5. Notifying the Federal agency in writing within ten (10) calendar days after receiving notice from an employee under subparagraph four (4) (b) above or receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working, unless the Federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant or cooperative agreement.
6. Taking one of the following actions within thirty (30) calendar days of receiving notice under subparagraph four (4) (b) above, with respect to any employee who is so convicted:
 - (a) Take appropriate personnel action against such an employee, up to and including employment termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs one (1) through six (6) above.

OCTA's headquarters is located at the following address. Addresses of other OCTA workplace sites maintained by OCTA are either attached or available upon request.

Orange County Transportation Authority
550 South Main Street
PO BOX 14184
Orange, CA 92863-1584

Arthur T. Leahy
Chief Executive Officer
Orange County Transportation Authority

Date

ATTACHMENT E

**DRUG AND ALCOHOL POLICY MANUAL TEST REASONS
AND REQUIREMENTS TABLE**

Test Reason	Drug Test Requirement	Alcohol Test Requirement
Bi-Annual Physical	OCTA	OCTA
Behavioral Contract	OCTA	OCTA
DMV Certification/Re-Certification	OCTA	OCTA
Fit for Duty	OCTA	OCTA
Follow-Up Test	DOT	DOT
Post Accident resulting in a fatality	DOT	DOT
Post Accident resulting in injury treatment away from scene	DOT	DOT
Post Accident resulting in any vehicle towed	DOT	DOT
Post Accident (none of the above or non-revenue service vehicle)	OCTA	OCTA
Pre-Employment/Post Offer (Safety-Sensitive)	DOT	OCTA
Probable Cause (Non-Safety Sensitive)	OCTA	OCTA
Random	DOT	DOT
Reasonable Suspicion (Safety-Sensitive)	DOT	DOT
Return to Duty	DOT	DOT
All of the above tests and reasons for testing are described in Section 5 of the Drug and Alcohol Policy Manual.		

ATTACHMENT F

TESTING PROCESS

Drug and Alcohol testing is required to be conducted consistent with the procedures in 49 CFR Part 40, as amended. The Authority has selected testing sites that conduct testing following 49 CFR Part 40 processes and procedures and that have a high degree of accuracy and reliability and use techniques, equipment, and laboratory facilities which have been approved by the US Department of Health and Human Services. The Authority is not responsible for the manner in which the testing is conducted and is not involved in this procedure. To the extent that the following testing procedure/process is not used by the clinic, the employee may discuss any deviation with the clinic. However, the Authority is no way liable for any deviation from the following procedure/process.

ALCOHOL TESTING

- A. The use of Evidential Breath Testing devices (EBTs) with a test results printing device is mandatory.
- B. The equipment used for breath alcohol testing must be included on the National Highway Traffic Safety Administration's Conforming Products List.
- C. The confirmation method should be alcohol-specific (i.e., does not produce a reading for acetone).
- D. For confirmation testing, EBTs that have the capability of providing a printed result in the triplicate are required. The EBT used for confirmation must also have the capability of assigning a unique and sequential number to each complete test. It must be possible for the Breath Alcohol Technician (BAT) and the employee to read the number before each test. The number must be printed on each copy of the test result. Additionally, the EBT must print the name of its manufacturer, the device's serial number and the time of the test.
- E. The EBT must be capable of testing an air blank. EBTs must also be capable of performing an external calibration check.
- F. Breath Alcohol Technicians (BATs) must be trained to proficiency in the operation of the EBT he or she is using and in the alcohol testing procedures mandated by DOT/FTA.
- G. Only those courses of instruction for operation of EBTs that are equivalent to the Department of Transportation model course as determined by NHTSA may be used to train BATs to proficiency.
- H. An EBT must have a quality assurance plan developed by the manufacturer.
- I. Testing must be performed in a location that provides visual and aural privacy to the individual being tested.

- J. Records concerning EBTs and BATs must be maintained as outlined by DOT/FTA regulations.
- K. FTA rules prohibit consumption of alcohol: four hours prior to performing a safety-sensitive function; eight hours following an accident; while on call; and/or a blood alcohol concentration of 0.04 or greater when performing a safety-sensitive function.
- L. Under FTA rules, an individual who has an alcohol concentration of 0.02 or greater, but less than 0.04 will be removed from duty for at least 8 hours unless a retest results in an alcohol concentration of less than 0.02. Under OCTA Policy, a concentration greater than 0.00 is considered a positive alcohol test.

DRUG TESTING

- A. The Authority may, at its discretion, send an employee to the clinic to be tested for possible alcohol/drug use. A urine specimen shall be taken by the clinic and a full drug screen shall be conducted. The Authority's Alcohol/Drug Testing Authorization form will indicate the reason for the test requested (see Attachment E)
- B. Obtain a urine specimen for drug screen which shall include analysis for the following substances at the levels set by DOT/FTA, as may be amended:
 - Amphetamine
 - Cocaine
 - Marijuana
 - Opiate
 - Phencyclidine
- C. A split sample method will be used for collecting and analyzing urine specimens.
- D. The amount of urine collected will be at a minimum 45 ml. Of the specimen, 30 ml. is to be used for the primary specimen and 15 ml. for the split specimen.
- E. Two means of collecting urine may be utilized.
 1. An employee can provide a urine specimen in a collection container, the specimen would be subdivided and poured into two separate specimen bottles, one with 30 ml. as the primary specimen and the other with 15 ml. as the split specimen, or
 2. An employee could urinate into a specimen bottle. The collection site person would then pour 30 ml. of the urine from that bottle into a second specimen bottle. The second bottle would be the primary sample and the original specimen bottle would be used for the split sample.
- F. Temperature on sample will be tested within four (4) minutes for between 32° – 38°C or 90° – 100°F.
- G. Both the primary specimen and the split specimen must be shipped together to a certified Department of Health and Human Services (DHHS) laboratory for analysis. If an

employee requests a test of the split specimen, it must be shipped to a second DHHS certified laboratory for analysis, at the employee's expense.

- H. Any employee who tests positive for drugs may request a retest, using the split sample, at another DHHS Certified Laboratory. The employee must inform the MRO within 72 hours of receiving notification of a positive result for a retest. The clinic will be responsible for all aspects of transporting the specimen to the other laboratory. The employee will pay all such expenses related to the retest directly to the appropriate parties. The clinic and MRO are subject to the DOT/FTA regulations regarding employee contact, paperwork/receiving and maintenance of files/specimens.
- I. The following are the required procedures. The clinic may have additional procedures and standards to ensure quality of work performed.
1. Alcohol/Drug Testing Authorization Form - The employee must complete Step 3 and sign and date the form. The Authority will provide this form. The yellow copy of this form is to be returned to the Authority with full results of physical examination and drug testing. Clinic personnel to record on form positive/negative results of drug testing.
 2. Custody and Control Form – (Clinic/Laboratory). The urine custody and control form shall be used for maintaining control and accountability of each specimen from the point of collection to final disposition of the specimen. Handling and transportation of specimens from one authorized individual or place to another shall always be accomplished through chain of custody procedures and proper documentation of the custody and control form including date, purpose and individuals in the chain. Clinic shall make every effort to minimize the number of persons handling specimens.
 3. Tamperproof Sealing System. Clinic must use a tamperproof sealing system designed in such a manner that the specimen bottle top can be sealed against undetected opening, the bottle can be identified with a unique identifying number identical to that appearing on the clinic/laboratory urine custody and control form, and space has been provided to initial the bottle affirming its identity.
 4. Shipping Container. Clinic must use a shipping container in which one or more specimens and associated paperwork may be transferred and which can be sealed and initialed to prevent undetected tampering.
 5. Security. Clinic must use all reasonable means to prevent unauthorized access that could compromise the integrity of the collection process or the specimen. The portion of the clinic used for testing must be secured during collection by effective restriction of access to collection materials and specimens. If practical, clinic shall maintain continuous physical security of the collection site from the time the specimen is presented until the sealed mailer is transferred for shipment. If continuous security is impractical, the specimen shall remain under the direct control of the person monitoring collection of the specimen (the "collection site person") from delivery to its being sealed in the mailer. The mailer shall be immediately mailed, maintained in secure storage, or remain under the personal control of the collection site person until mailed.

The collection site person shall have successfully completed training in accordance with Section 40.33 of 49 CFR Part 40, as amended, to carry out this function. The collection site person must be a person of the same gender as the

employee giving the specimen when a collection is observed, or a collection is monitored by non-medical personnel.

6. Access to Authorized Personnel Only. No unauthorized personnel shall be permitted in the part of the clinic used for collection and storage of specimens during such collection or storage. Only the collection site person may handle specimens prior to their securement in the mailing container or monitor or observe specimen collection. The collection site person shall conduct only one collection procedure at any given time. For this purpose, a collection procedure is complete when the urine bottle has been sealed and initialed, the clinic/laboratory urine custody and control form has been executed, and the employee has initialed the tamperproof bag.
7. Privacy. Clinic shall allow the employee privacy unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided because:
 - a. the employee has presented a urine specimen that falls outside the normal temperature range (90° – 100°F);
 - b. the last urine specimen, on a previous occasion, provided by the employee, was determined by the laboratory to have a specific gravity of less than 1.003 and a creatinine concentration below .2g/L;
 - c. the collection site person observes conduct clearly and unequivocally indicating an attempt to substitute or adulterate the sample; or
 - d. the employee has previously been determined to have used a controlled substance without medical authorization and the particular test is being conducted as part of the rehabilitation program, on return to service after any required rehabilitation.

If the collection site person has reason to suspect tampering or adulteration based on one or more of the above criteria, and this suspicion is reviewed and concurred with by a higher level supervisor of the collection site person or a designated representative of the Authority, then the collection site person shall observe the specimen collection. In the absence of such suspicion, the collection site person may not observe the specimen collection.

8. Integrity and Identity of Specimen. Clinic shall take precautions to ensure that a urine specimen is not adulterated or diluted during the collection procedure and that information on the urine bottle and on the clinic/laboratory urine custody and control form can identify the individual from whom the specimen was collected. The following minimum precautions shall be taken to ensure that unadulterated specimens are obtained and correctly identified:
 - a. Water in toilet bowl must be blue.
 - b. Faucets must be shut off in bathroom, and evidence tape must be put around water control valves.
 - c. Clinic shall positively identify the individual as the employee selected for testing by requiring photo identification.
 - d. If the employee fails to arrive at the designated time, clinic shall contact Authority for instructions.
 - e. The employee shall empty all pockets of clothing prior to giving a urine specimen. All belongings (sweaters, jackets, vests, purses, briefcases, bulky outerwear, etc.) must remain with the collection site person. The employee may retain his/her wallet if requested. (Re-certification testing is gowned.)

- f. The employee shall be instructed to wash and dry his or her hands prior to urination.
- g. After washing hands, the employee shall remain in the presence of the collection site person and shall not have access to any water fountain, faucet, soap dispenser, cleaning agent or any other materials that could be used to adulterate the specimen.
- h. Unwrap the collection cup or specimen bottle in front of the employee and direct the employee to the privacy enclosure.
- i. The employee may provide his or her specimen in the privacy of a stall or otherwise partitioned area that allows for individual privacy.
- j. Instruct the employee that at least 45 ml (about 1-1/2 ounces) of urine is required and that the temperature will be taken to ensure the integrity of the sample.
- k. The collection site person shall note any unusual behavior or appearance on the urine custody and control form.
- l. Upon receiving the specimen from the employee, the collection site person shall determine that it contains at least 45 ml. of urine. If there is less than 45 ml. of urine in the container, the insufficient specimen will be discarded except if the insufficient specimen is out of temperature range or shows evidence of adulteration or tampering. If the employee fails for any reason to provide 45 ml. of urine, the collection site person shall contact the Authority to obtain guidance on the action to be taken.
- m. After the specimen has been provided and submitted to the collection site person, the employee shall be allowed to wash his or her hands.
- n. Immediately after the specimen is collected, the collection site person shall measure the temperature of the specimen. The temperature measuring device used must accurately reflect the temperature of the specimen and not contaminate the specimen. The time from urination to temperature measure is critical and shall not exceed four minutes. If the temperature of a specimen is outside the range of 32° – 38°C or 90° – 100°F, that is a reason to believe that the individual may have altered or substituted the specimen, and another specimen shall be collected pursuant to paragraph “p.” below.
- o. Immediately after the specimen is collected, the collection site person shall also inspect the specimen to determine its color and look for any signs of contaminates. Any unusual findings shall be noted on the clinic/laboratory urine custody and control form.
- p. Whenever there is reason to believe that a particular employee has altered or substituted the specimen because one or more of the criteria in paragraphs 7a.-d. above is met, a second specimen shall be obtained as soon as possible under the direct observation of a same gender collection site person. A higher level supervisor of the collection site person, or a designated representative of the Authority, shall review and concur in advance with any decision by a collection site person to obtain a specimen under the direct observation of a same gender collection site person based upon the circumstances described in paragraph (7) above. Both the specimen suspected of being adulterated and the second specimen collected under direct observation shall be forwarded to the laboratory for testing.
- q. Both the employee being tested and the collection site person shall keep the specimen in view at all times prior to its being sealed and labeled. As provided below, the specimen shall be sealed (by placement of a tamperproof seal over

the bottle cap and down the sides of the bottle) and labeled in the presence of the employee. If the specimen is transferred to a second bottle, the collection site person shall request the employee to observe the transfer of the specimen and the placement of the tamperproof seal over the bottle cap and down the sides of the bottle.

- r. The collection site person and the employee shall be present at the same time during procedures outlined in paragraphs (s) through (v) of this section.
- s. The collection site person shall place securely on the bottle an identification label that contains the date, the employee's specimen number, and any other identifying information provided or required by the Authority and/or DOT/FTA. If separate from the label, the tamperproof seal shall also be applied.
- t. The employee shall initial the identification label on the specimen bottle for the purpose of certifying that it is the specimen collected from him or her.
- u. The collection site person shall enter on the clinic/laboratory urine custody and control form all information identifying the specimen. The collection site person shall sign the urine custody and control form certifying that the collection was accomplished according to the instructions provided.
- v. The employee shall be asked to read and sign a statement on the clinic/laboratory urine custody and control form certifying that the specimen identified as having been collected from him or her is in fact the specimen he or she provided.
- w. The employee shall be provided an opportunity to provide on the Alcohol/Drug Testing Authorization form, information concerning medications taken by the employee or administered to the employee within the past 3 months.
- x. The collection site person shall complete the chain of custody portion of the clinic/laboratory urine custody and control form to indicate receipt from the employee and shall certify proper completion of the collection.
- y. The urine specimen and clinic/laboratory chain of custody form are now ready for shipment. If the specimen is not immediately prepared for shipment, it shall be appropriately safeguarded during temporary storage.
- z. While any part of the above chain of custody procedures is being performed:
 - 1. It is essential that the urine specimen and custody documents be under the control of the involved collection site person.
 - 2. If the involved collection site person leaves his or her work station momentarily, the specimen and urine custody and control form shall be taken with him or her or shall be secured.
 - 3. After the collection site person returns to the work station, the custody process will continue.
 - 4. If the collection site person is leaving for an extended period of time, the specimen shall be packaged for mailing before he or she leaves the site.
 - 5. The collection site person shall not leave the collection site in the interval between presentation of the specimen by the employee and securement of the sample with an identifying label bearing the employee's specimen identification number (shown on the clinic/laboratory urine custody and control form) and seal initialed by the employee.
 - 6. If it becomes necessary for the collection site person to leave the site during this interval, the collection shall be nullified and (at the election of the Authority) a new collection begun.
 - 7. Collection Control. The collection site personnel must keep the employee's specimen bottle within sight both before and after the employee has

urinated. After the specimen is collected, it shall be properly sealed and labeled.

8. Transportation to Laboratory. Collection site personnel shall arrange for delivery of the collected specimens to the laboratory. The specimens shall be placed in containers designed to minimize the possibility of damage during delivery process (e.g. specimen boxes and/or padded mailer), and those containers shall be securely sealed to eliminate the possibility of undetected tampering. On the tape sealing the container, the collection site person shall sign and enter the date specimens were sealed in the containers for shipment. The collection site person shall ensure that the chain of custody documentation is attached to each container sealed for shipment to the drug testing laboratory.
9. Failure to Cooperate. If the employee refuses to cooperate with the collection process (e.g. refusal to provide a complete specimen, complete paperwork, initial specimen) the collection site person shall inform the Authority representative and shall document the non-cooperation on the urine custody and control form.
10. Reporting Findings. Verbal results for physical examinations, including results of breath alcohol/drug screens, shall be provided to the Authority within seventy-two (72) hours. Written reports shall be delivered to the Authority within ninety-six (96) hours. The yellow copy of the completed Authority Alcohol/Drug Testing Authorization form shall be attached to the written reports.
11. Retention of Specimens and Documentation. Clinic shall retain all records and reports related to the collection and testing process for at least five (5) years as to employees not passing a drug or alcohol test and at least one (1) year as to employees passing a drug or alcohol test. Such records and report shall be kept in a separate file appropriately labeled and indexed.

The laboratory must retain urine specimens in secured long-term frozen storage for a minimum of one (1) year and maintain and make available documentation of all aspects of the testing process. The laboratory is required to maintain any specimens under legal challenge and the associated documentation for an indefinite period. Clinic shall ensure that the laboratory follows these procedures for the retention of specimens and documentation.

12. Confidentiality. Clinic and the laboratory shall maintain employee test records in confidence and shall not release the results of an employee's drug or alcohol test to anyone other than the clinic, the laboratory, the Medical Review Officer (MRO) or other designated Authority representative(s) without the express written authorization of the tested employee, unless ordered by appropriate legal authority.

MEDICAL REVIEW OFFICER (MRO)

- A. An MRO is defined in the regulation as a licensed physician responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and

evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.

- B. The MRO must adhere to all rules of DOT/FTA for training and handling of alcohol/drug tests.
- C. The MRO is required to perform the following functions:
 - 1. Receive the results of drug tests from the laboratory.
 - 2. Review and interpret lab reports for integrity, authenticity, false negatives and false positives.
 - 3. Conduct administrative review of the control and custody form to ensure its accuracy.
 - 4. Review and interpret an individual's confirmed positive test by:
 - a. Reviewing the individual's medical history, including any medical records and biomedical information provided;
 - b. Affording the individual an opportunity to discuss the test result; and
 - c. Deciding whether there is a legitimate medical explanation for the result, including legally prescribed medication.
 - 5. Notify each employee who has a verified positive test that the employee has 72 hours in which to request a test of the split specimen. If the employee requests an analysis of the split specimen within 72 hours of having been informed of a verified positive test, the MRO shall direct, in writing, the laboratory to ship the split specimen to another DHHS-certified laboratory for analysis.
 - a. If the analysis of the split specimen fails to confirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, or if the split specimen is unavailable, the MRO shall cancel the test and report the cancellation and the reason for it to the DOT, the employer, and the employee.
 - b. If the employee has not contacted the MRO within 72 hours of being notified of a verified positive drug test, the employee may present to the MRO information documenting that serious illness, injury, inability to contact the MRO, lack of actual notice of the verified positive test, or other circumstances unavoidably prevented the employee from contacting the MRO in time.
 - c. If the MRO concludes that there is a legitimate explanation for the employee's failure to contact the MRO within 72 hours, the MRO shall direct that the analysis of the split specimen be performed.
 - d. If the MRO concludes that there is no legitimate explanation for the employee's failure to contact the MRO within 72 hours, then the MRO is not required to direct the analysis of the split specimen to be performed.
 - e. If, after the MRO makes all reasonable efforts (and documents them), the MRO is unable to reach the individual directly, the MRO shall contact the Authority who shall direct the individual to contact the MRO as soon as possible. If, after making all reasonable efforts, the Authority is unable to contact the employee, the Authority may place the employee on temporary unqualified status or medical leave.
 - 6. Report each verified test result to the Authority. Reporting of a verified positive result is not delayed pending the split specimen analysis.
 - 7. Maintain all necessary records and send test result reports to the Authority.
 - 8. Cooperate with Substance Abuse Professionals as required.
 - 9. Protect the employee's privacy and testing program confidentiality.

ATTACHMENT G

Contact Persons

For more information or questions about the OCTA Drug and Alcohol Policy Manual or testing program, please contact a staff member in the Human Resources Department at the telephone numbers listed below. Each of these Contact Persons are located at the OCTA Administrative Offices: 550 South Main Street; PO Box 14184; Orange, CA 92863-1584.

- Department Manager, Human Resources 714.560.5801
- Section Manager, Compensation and Benefits 714.560.5811
- Designated Employer Representative 714.560.5825 or 714.560.5814

ATTACHMENT H

**ACKNOWLEDGEMENT OF RECEIPT OF OCTA DRUG AND ALCOHOL POLICY MANUAL
AND
CONSENT TO DRUG AND ALCOHOL TESTING**

I, the undersigned, have received a copy of the Orange County Transportation Authority (OCTA or Authority) Drug and Alcohol Policy Manual, which complies with the Federal Transit Administration (FTA) and U.S. Department of Transportation (DOT) regulations, 49 CFR Part 40 and Part 655 as amended. I understand that nothing in this publication is intended to supplement, alter or serve as an official interpretation of 49 CFR Part 40 or DOT agency regulations.

I understand and acknowledge that compliance with this Policy is a condition of my employment and that if I violate any provision of this Policy I will be subject to disciplinary action, which may include termination of employment. Further, I understand that it is my responsibility to read, understand and comply with the Drug and Alcohol Policy Manual.

For employees performing safety-sensitive functions, I hereby consent for the Authority to collect breath and/or urine samples from me to determine the presence of alcohol, through the use of an Evidential Breath Testing Device (EBT), and/or the presence of drugs or their metabolites under the circumstances specified in the OCTA Drug and Alcohol Policy Manual to the certified laboratory designated by the Authority, to the analysis of the specimen for controlled substances and to the release of test results from that analysis to the Medical Review Officer (MRO) designated by the Authority. I further understand that the quantitation of the positive test arising from any verified positive drug or alcohol test may be revealed to the Authority or legal counsel or the decision-maker in a lawsuit, grievance, or as required by a federal, state or local agency, or other proceeding initiated by or on behalf of me.

Employee Name (Print)

Employee Badge #

Employee Signature

Date

ATTACHMENT I

APPROVAL OF POLICY BY BOARD OF DIRECTORS

ATTACHMENT B

DRUG-FREE WORKPLACE ACT CERTIFICATION FOR A PUBLIC OR PRIVATE ENTITY

Orange County Transportation Authority (OCTA or Authority) has a vital interest in providing its employees with safe and healthful working conditions and providing its riders and the public with high quality public transportation that is effective, safe, and efficient. Therefore, OCTA is committed to establishing and maintaining a work environment free from the influence of alcohol and drugs.

The Orange County Transportation Authority certifies that it will strive to provide a drug-free workplace through the following steps:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in OCTA's workplace and specifying the actions that will be taken against employees for violation of such prohibition.
2. Establishing an on going drug-free awareness program to inform employees about:
 - (a) The dangers of drug abuse in the workplace;
 - (b) OCTA's policy of maintaining a drug-free workplace;
 - (c) Potential dangers associated with the use of prescription (Rx) and over-the-counter (OTC) medications;
 - (d) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (e) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Requiring that each employee, including those engaged in the performance of a grant or cooperative agreement, be given a copy of the statement required by paragraph one (1) above.
4. Notifying employees, in the statement required by paragraph one (1), that as a condition of employment under any grant or cooperative agreement the employees will:
 - (a) Abide by the terms of the statement; and
 - (b) Notify the employer in writing of his/her conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after such conviction.

5. Notifying the federal agency in writing within ten (10) calendar days after receiving notice from an employee under subparagraph four (4) (b) above or receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working, unless the federal agency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant or cooperative agreement.
6. Taking one of the following actions within thirty (30) calendar days of receiving notice under subparagraph four (4) (b) above, with respect to any employee who is so convicted:
 - (a) Take appropriate personnel action against such an employee, up to and including employment termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
 - (b) Require such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State or local health, law enforcement or other appropriate agency.
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs one (1) through six (6) above.

OCTA's headquarters is located at the following address. Addresses of other OCTA workplace sites maintained by OCTA are either attached or available upon request.

Orange County Transportation Authority
550 South Main Street
PO BOX 14184
Orange, CA 92863-1584

Arthur T. Leahy
Chief Executive Officer
Orange County Transportation Authority

Date

**Summary of Proposed Changes
Drug and Alcohol Policy Manual
2009 Revision**

DRUG AND ALCOHOL

PROPOSED CHANGE	REASON	SUBJECT	SECTION
Added "Part 655"	The new regulation, 49 CR Part 655, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations, incorporates guidance that FTA previously issued through letters of interpretation, newsletters, training classes, and compliance audits.	Cover Letter "2009 Revision"	
Deleted "Conviction of a Drug-Related Offense" section	Legal counsel recommended the removal of this section as the actual Conviction of a Drug Related Offense policy is not included in this policy	Conviction of a Drug-Related Offense	1.6
Changed Responsible Department to Human Resources Department	To reflect current practice	Responsibilities	2.3
Changed Attachment B processes, procedures and form	Legal counsel recommended the Attachment B process be changed to require reporting only of prescription drugs and over the counter medication which may affect the employee's ability to do his/her job safely. Collecting private medical information that does not affect their ability to perform their job is a violation of their privacy rights.	Legal Drugs and Attachment B	4.2A – 4.4C Attachment B
Added language to include when an employee should proceed to the clinic	Clarity	Reasonable Suspicion	5.5C
Added language to include "observed collection"	Clarity	Dilute Tests	5.7
Updated behaviors that constitute a test refusal	DOT regulation	Failure or Refusal to Test	6.3
Updated behaviors that constitute a test refusal	DOT regulation	Shy Lung/Shy Bladder	6.3A

PROPOSED CHANGE	REASON	SUBJECT	SECTION
Moved "Definitions" to the end of the policy – Glossary of Terms	Flow	Definitions used in the Policy	8
Updated Attachment A – List of Safety-Sensitive positions	Updated and added job titles to reflect current practice	Safety-Sensitive Positions	Attachment A
Removed Attachment B Annual Reporting requirement	Attachment B's are submitted on a continual basis, throughout the year	Attachment B	Attachment B
Deleted "Pre-Employment/Post Offer/ "drug and alcohol testing for non Safety- Sensitive positions	Due to recent legislation, OCTA no longer requires drug and alcohol testing for applicants who are applying for a non safety-sensitive position.	Drug and Alcohol Test Reasons and Requirements Table	Attachment E
Changed Contact Persons to Human Resources staff members	To reflect current administration of the program	Contact Persons	Attachment G
Deleted "Alcohol Fact Sheet" attachment	DOT does not require the Alcohol Fact Sheet to be included in the policy. It can be used during training. Legal counsel approved this change.	Alcohol Fact Sheet	



MEMO

April 8, 2009

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


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

Thank you.



April 8, 2008

To: Finance and Administration Committee

From:  James S. Kenan, Interim Chief Executive Officer

Subject: Fiscal Year 2008-09 Second Budget Amendment #2

Overview

The Orange County Transportation Authority continues to be faced with serious financial challenges in the current and upcoming fiscal year. The elimination of funding from the state and steep declines in sales tax receipts have created large funding shortfalls for transit operations and decreased revenues for the Measure M Program.

To address these revenue shortfalls, immediate action needs to be taken to realign expenditure and revenue levels and confirm the use of reserves required to manage through this economic crisis. Approval from the Board of Directors is requested to implement several short-term actions to realign the fiscal year 2008-09 budget to help ensure long-term sustainability.

Recommendations

- A. Amend the bus transit fiscal year 2008-09 budget by reducing expected revenues by \$18.3 million, reducing the expenditure budget by \$6.1 million, and increasing the use of reserves by \$12.2 million.
- B. Amend the Local Transportation Authority fiscal year 2008-09 budget by reducing expected revenues by \$20.4 million, reducing expenditures by \$111.5 million, and reducing the use of reserves by \$91.1 million.

Background

On June 9, 2008, the Orange County Transportation Authority (OCTA) Board of Directors (Board) adopted a balanced operating and capital plan that included the delivery of many multi-modal transportation programs. This budget was approved at \$1.057 billion. However, as a result of various amendments, including a mid-year amendment on November 24, 2008, the

working budget is now \$1.002 billion. This amendment will further reduce the working budget to \$872.2 million.

Discussion

The local economy continues to be adversely affected by the downward trend in the national economy which has caused a dramatic decline in taxable sales. OCTA relies on sales tax revenue to help fund bus operations and provide the only ongoing revenue source to deliver the Measure M (M1) and Renewed Measure M (M2) programs. As a result of this downturn and discretionary actions by the State of California, certain budgetary actions are required to help maintain long-term solvency of these programs.

Bus Transit Budget

The primary source of revenue for ongoing bus operations is the ¼-cent Local Transportation Fund (LTF) sales tax. On November 24, 2008, the LTF revenue budget was reduced from \$112.7 million to \$103.7 million based on actual receipts for the first four months being 6 percent less than the prior year and a forecasted 1.56 percent growth rate for the balance of the year based on a three-university forecast. Over the past few months, LTF sales tax receipts have trended downward by approximately 8 percent for the year and this trend is expected through the end of the fiscal year. As a result, the LTF should be reduced by an additional \$9.9 million to \$93.8 million. This would bring the total revised reduction for LTF to \$18.9 million for the current fiscal year.

The State Transit Assistance Fund (STAF) has historically provided an additional ongoing revenue source for bus operations. As part of the approved fiscal year 2008-09 budget, OCTA expected to receive \$25.8 million from this funding source. Earlier in the year, the Governor and legislature deleted funding from the STAF to provide General Fund relief for the State of California. This action resulted in \$9 million less STAF funds to OCTA. In November, the Board amended the budget down to \$16.8 million to reflect this change. Recent action by the State of California limits the amount of STAF funds for OCTA to a total of \$8.4 million for the current fiscal year and eliminates the program entirely for the next five years.

Given the dramatic reduction in revenue, the Board has directed staff to implement a service reduction program. In addition, the Chief Executive Officer has implemented a hiring freeze for administrative employees and many services and supplies line items are being removed from the budget (Attachment A). All of these additional reductions eliminate \$6.1 million

against the current year operating budget. Since expenditures have not been eliminated commensurate with the reduction in revenues, a draw on reserves of approximately \$20.2 million is necessary to balance the bus operations budget within the current fiscal year (Attachment B). The detailed budgetary transactions are listed under Attachment C.

Local Transportation Authority Budget

Similar to the reductions in LTF sales tax receipts, M1 sales tax receipts have also continued to erode. In November, the Local Transportation Authority (LTA) sales tax assumption was reduced by \$19 million to \$263.5 million. Given the new assumptions on sales tax receipts, the year-end estimate for LTA sales tax is \$243.1 million, an additional \$20.4 million lower than anticipated in November and \$39.4 million less than originally budgeted.

An immediate and direct result of lower than expected sales tax returns will mean that less funds will be sent to the cities and the County of Orange through the local "turnback" program. Since 14.6 percent of the sales tax receipts automatically gets turned back by formula, \$3 million less will be available to local agencies for this purpose.

Several items that are budgeted in the current fiscal year that are funded through M1 or M2 will be rebudgeted next fiscal year due to various timing issues. A total of \$101.9 million of M1 line items and \$6.6 million of M2 line items will be moved to the fiscal year 2009-10 budget.

Despite lower than expected sales tax receipts, all capital projects continue to remain funded and on schedule. However, based on new sales tax projections, the freeway program contingency, which was reported in February as \$15 million, is now only \$2 million. Furthermore, the nominal dollars expected to be collected under the entire 30-year M2 program have been reduced to \$15.1 billion, significantly lower than the original expectation of \$24.3 billion.

Summary

The Orange County Transportation Authority continues to face challenges as the economy continues on a downward spiral. Since November, operating revenues for the bus operations program are down an additional \$18.3 million and Measure M sales tax revenue is down an additional \$20.4 million. For the bus operations program, staff recommends removing \$6.1 million from the budget based on eliminating some line items, implementing a hiring freeze, and reducing bus service. Despite these reductions, a draw on reserves for bus

operations of \$20.2 million is still necessary to balance the budget. Staff is also recommending that \$101.9 million of Measure M line items and \$6.6 million of Renewed Measure M line items be rebudgeted to fiscal year 2009-10 due to various timing issues. While all of these projects remain funded and on schedule, the reduction in Measure M sales tax receipts will result in a reduction in turnback allocations to the cities of \$3 million this fiscal year, while the contingency balance in the freeway mode has been reduced to \$2 million. Additionally, the long-term forecast of total collections for Renewed Measure M funds has been reduced to \$15.1 billion.

Attachments

- A. Fiscal Year 2008-09 Revenue, Reserves, Operating, and Capital Line Item Reductions
- B. Fiscal Year 2008-09 Bus Transit Operating Reserve Summary
- C. Fiscal Year 2008-09 Sources and Uses Summary

Prepared by:

Victor Velasquez
Section Manager
Financial Planning and Analysis
(714) 560-5592

Approved by:

Kenneth Phipps
Director,
Finance and Administration
(714) 560-5637

Fiscal Year 2008-09

Revenue, Reserves, Operating, and Capital Line Item Reductions

Bus Transit Line Items

Description	Working Budget	Amendment	Revised Working Budget
Sales Tax Revenue Transfer from Local Transportation Fund (LTF)	89,226,084	(9,918,310)	79,307,774
Revenue Transfer from State Transit Assistance Funds (STAF)	16,852,860	(8,423,397)	8,429,463
Revenues Sub-Total	106,078,944	(18,341,707)	87,737,237
Reserves	7,922,638	12,283,821	20,206,459
Reserves Sub-Total	7,922,638	12,283,821	20,206,459
Total Revenues and Reserves	114,001,582	(6,057,886)	107,943,696
Fuel and Maintenance Parts	29,770,094	(3,305,108)	26,464,986
Salaries and Benefits	135,840,523	(1,829,029)	134,011,495
General Fund Reductions*	34,254,795	(923,749)	33,331,046
Total Operating	199,865,412	(6,057,886)	193,807,527
Total Expenses (Operating plus Capital)	199,865,412	(6,057,886)	193,807,527

***Note - General Fund Reductions Include:**

	Amendment
Salaries and Benefits	(491,592)
Professional Services	(153,008)
General Auditing Services	(125,875)
Employment Advertising	(75,000)
Miscellaneous	(9,158)
Travel, Conference, and Training	(9,116)
Total Operating	(863,749)
IFAS Upgrade	(60,000)
Total Capital	(60,000)
Total Expenses (Operating plus Capital)	(923,749)

Fiscal Year 2008-09

Revenue, Reserves, Operating, and Capital Line Item Reductions

Local Transportation Authority Line Items

Description	Working Budget	Amendment	Revised Working Budget
LTA Sales Tax Revenue	263,517,494	(20,412,547)	243,104,947
Revenues Sub-Total	263,517,494	(20,412,547)	243,104,947
Reserves	144,774,711	(84,492,685)	60,282,026
Reserves (Measure M2)	71,694,578	(6,600,000)	65,094,578
Reserves Sub-Total	216,469,289	(91,092,685)	125,376,604
Total Revenues and Reserves	479,986,783	(111,505,232)	368,481,551
Metrolink Service Expansion Plan Infrastructure Improvements	60,175,000	(40,175,000)	20,000,000
Anaheim Regional Transportation Intermodal Center - Phase I	21,000,000	(16,950,000)	4,050,000
Go Local - Step II	17,700,000	(14,700,000)	3,000,000
Metrolink Rail Cars	28,000,000	(10,000,000)	18,000,000
Measure M Turnback Program	38,452,601	(2,980,232)	35,472,369
Orange Metrolink Station Parking Expansion	2,000,000	(1,800,000)	200,000
Laguna Niguel/Mission Viejo Station Parking Expansion	1,500,000	(1,000,000)	500,000
Grade Crossing Safety Enhancements (Measure M2)	15,200,000	(5,200,000)	10,000,000
Grade Separation Project Study Report (Measure M2)	1,800,000	(1,400,000)	400,000
Total Operating	185,827,601	(94,205,232)	91,622,369
Santa Ana Freeway (I-5) Gateway Construction	40,800,000	(13,800,000)	27,000,000
Metrolink Service Expansion Plan Utility Relocation	4,000,000	(3,500,000)	500,000
Total Capital	44,800,000	(17,300,000)	27,500,000
Total Expenses (Operating plus Capital)	230,627,601	(111,505,232)	119,122,369

**Fiscal Year 2008-09
Bus Transit
Operating Reserve Summary**

Description	Amount
Local Transportation Fund (LTF) Reduction	\$ (18,918,310)
State Transit Assistance Fund (STAF) Reduction	(17,423,397)
Revenue Shortfall	\$ (36,341,707)
Hiring Freeze Savings	(1,045,560)
Service Reduction	(4,504,898)
General Fund Line Item Reductions	(966,503)
Orange County Transit District (OCTD) Line Item Reductions	(2,495,900)
Deferred Sinking Fund Payment	(7,122,387)
Expense Reductions	\$ (16,135,248)
Operating Reserves Needed	\$ (20,206,459)

Fiscal Year 2008-09 Sources and Uses Summary

Orange County Transit District (OCTD) Fund Sources

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
5100 Passenger Fares	\$ 57,165,672	\$ -	\$ 57,165,672	\$ -	\$ 57,165,672	\$ -	\$ 57,165,672
5300 Charges for Services	72,972	-	72,972	-	72,972	-	72,972
5500 Tollroad Revenue	-	-	-	-	-	-	-
6010 State Transit Assistance	13,775,116	-	13,775,116	(8,000,000)	5,775,116	-	5,775,116
6020 State Assistance	-	-	-	-	-	-	-
6030 Federal Operating Assist Grnts	28,704,531	-	28,704,531	-	28,704,531	-	28,704,531
6040 Federal Capital Assist Grants	11,820,200	-	11,820,200	(11,570,200)	250,000	-	250,000
6050 Reimb from other agencies	159,602	-	159,602	-	159,602	-	159,602
6055 Gas tax exchange	23,000,004	-	23,000,004	-	23,000,004	-	23,000,004
6100 Property taxes	11,462,235	-	11,462,235	-	11,462,235	-	11,462,235
6101 Taxes	-	-	-	-	-	-	-
6110 License Fees	-	-	-	-	-	-	-
6200 Interest Income	3,212,207	-	3,212,207	-	3,212,207	-	3,212,207
6300 Other Nonoperating Rev/Expense	6,169,840	-	6,169,840	-	6,169,840	-	6,169,840
6400 Management Fee	-	-	-	-	-	-	-
6500 Operating Transfers In	145,732,926	-	145,732,926	(18,000,000)	127,732,926	(18,341,707)	109,391,219
6550 Proceeds sale of capital asset	-	-	-	-	-	-	-
Res Bristol Street Widening	14,000,000	-	14,000,000	-	14,000,000	-	14,000,000
Res OCTD Fixed Asset Reserves	17,726,729	1,712,629	19,439,358	(15,954,199)	3,485,159	-	3,485,159
Res Use of Reserves (Operating)	-	487,794	487,794	7,434,844	7,922,638	12,283,821	20,206,459
	\$ 333,002,034	\$ 2,200,423	\$ 335,202,457	\$ (46,089,555)	\$ 289,112,902	\$ (6,057,886)	\$ 283,055,016

Orange County Transit District (OCTD) Fund Uses

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
7100 Wages, Salaries and Benefits	\$ 135,840,523	\$ -	\$ 135,840,523	\$ -	\$ 135,840,523	\$ (1,829,029)	\$ 134,011,495
7300 Purchased Transportation Servs	37,690,864	-	37,690,864	-	37,690,864	-	37,690,864
7400 Management Fee Expense	34,713,870	487,794	35,201,664	(946,869)	34,254,795	(923,749)	33,331,046
7500 Professional Services	20,972,459	-	20,972,459	(2,110,500)	18,861,959	-	18,861,959
7540 Insurance Claims/premiums	-	-	-	-	-	-	-
7600 General and Administrative	7,035,343	-	7,035,343	(285,400)	6,749,943	-	6,749,943
7700 Maintenance Parts and Fuel	29,770,094	-	29,770,094	-	29,770,094	(3,305,108)	26,464,986
7800 Other Operating Expenses	641,403	-	641,403	(100,000)	541,403	-	541,403
8111 Interest expense	-	-	-	-	-	-	-
8112 Prin Pmt On Long Term Debt	-	-	-	-	-	-	-
8200 Operating Transfers Out	17,417,091	-	17,417,091	-	17,417,091	-	17,417,091
9000 Capital Expenditures	41,798,000	1,712,629	43,510,629	(35,524,399)	7,986,230	-	7,986,230
Des Fixed Asset Designation	7,122,387	-	7,122,387	(7,122,387)	-	-	-
	\$ 333,002,034	\$ 2,200,423	\$ 335,202,457	\$ (46,089,555)	\$ 289,112,902	\$ (6,057,886)	\$ 283,055,016

Fiscal Year 2008-09 Sources and Uses Summary

General Fund Sources

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
5100 Passenger Fares	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5300 Charges for Services	88,524	-	88,524	-	88,524	-	88,524
5500 Tollroad Revenue	-	-	-	-	-	-	-
6010 State Transit Assistance	21,963,172	-	21,963,172	(16,000,000)	5,963,172	-	5,963,172
6020 State Assistance	8,326,450	-	8,326,450	-	8,326,450	-	8,326,450
6030 Federal Operating Assist Grnts	977,497	-	977,497	-	977,497	-	977,497
6040 Federal Capital Assist Grants	7,688,957	-	7,688,957	-	7,688,957	-	7,688,957
6050 Reimb from other agencies	-	-	-	-	-	-	-
6055 Gas tax exchange	-	-	-	-	-	-	-
6100 Property taxes	-	-	-	-	-	-	-
6101 Taxes	-	-	-	-	-	-	-
6110 License Fees	-	-	-	-	-	-	-
6200 Interest Income	478,980	-	478,980	-	478,980	-	478,980
6300 Other Nonoperating Rev/Expense	292,588	-	292,588	-	292,588	-	292,588
6400 Management Fee	51,251,307	487,794	51,739,101	(946,869)	50,792,232	(923,749)	49,868,483
6500 Operating Transfers In	20,405,898	-	20,405,898	-	20,405,898	-	20,405,898
6550 Proceeds sale of capital asset	-	-	-	-	-	-	-
Res Use of Reserves	-	-	-	-	-	-	-
	\$ 111,473,373	\$ 487,794	\$ 111,961,167	\$(16,946,869)	\$ 95,014,298	\$ (923,749)	\$ 94,090,549

General Fund Uses

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
7100 Wages, Salaries and Benefits	38,546,266	-	\$ 38,546,266	\$ -	\$ 38,546,266	\$ (491,592)	\$ 38,054,674
7300 Purchased Transportation Servs	-	-	-	-	-	-	-
7400 Management Fee Expense	-	-	-	-	-	-	-
7500 Professional Services	19,242,765	-	19,242,765	(679,516)	18,563,249	(282,868)	18,280,381
7540 Insurance Claims/premiums	62,115	-	62,115	-	62,115	(62,115)	-
7600 General and Administrative	7,777,530	-	7,777,530	(137,353)	7,640,177	(26,474)	7,613,703
7700 Maintenance Parts and Fuel	6,000	-	6,000	-	6,000	-	6,000
7800 Other Operating Expenses	22,450,525	-	22,450,525	-	22,450,525	(700)	22,449,825
8111 Interest expense	-	-	-	-	-	-	-
8112 Prin Pmt On Long Term Debt	-	-	-	-	-	-	-
8200 Operating Transfers Out	-	-	-	-	-	-	-
9000 Capital Expenditures	23,388,172	487,794	23,875,966	(16,130,000)	7,745,966	(60,000)	7,685,966
Des Designations	-	-	-	-	-	-	-
	\$ 111,473,373	\$ 487,794	\$ 111,961,167	\$(16,946,869)	\$ 95,014,298	\$ (923,749)	\$ 94,090,549

Fiscal Year 2008-09 Sources and Uses Summary

Local Transportation Fund (LTF) Sources

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
5100 Passenger Fares	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5300 Charges for Services	-	-	-	-	-	-	-
5500 Tollroad Revenue	-	-	-	-	-	-	-
6010 State Transit Assistance	-	-	-	-	-	-	-
6020 State Assistance	-	-	-	-	-	-	-
6030 Federal Operating Assist Grnts	-	-	-	-	-	-	-
6040 Federal Capital Assist Grants	-	-	-	-	-	-	-
6050 Reimb from other agencies	-	-	-	-	-	-	-
6055 Gas tax exchange	-	-	-	-	-	-	-
6100 Property taxes	-	-	-	-	-	-	-
6101 Taxes	112,688,085	-	112,688,085	(9,000,000)	103,688,085	(9,918,310)	93,769,775
6110 License Fees	-	-	-	-	-	-	-
6200 Interest Income	48,777	-	48,777	-	48,777	-	48,777
6300 Other Nonoperating Rev/Expense	-	-	-	-	-	-	-
6400 Management Fee	-	-	-	-	-	-	-
6500 Operating Transfers In	-	-	-	-	-	-	-
6550 Proceeds sale of captial asset	-	-	-	-	-	-	-
Res Use of Reserves	3,118,985	-	3,118,985	-	3,118,985	-	3,118,985
	\$ 115,855,847	\$ -	\$ 115,855,847	\$ (9,000,000)	\$ 106,855,847	\$ (9,918,310)	\$ 96,937,537

Local Transportation Fund (LTF) Uses

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
7100 Wages, Salaries and Benefits	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
7300 Purchased Transportation Servs	-	-	-	-	-	-	-
7400 Management Fee Expense	-	-	-	-	-	-	-
7500 Professional Services	1,239,332	-	1,239,332	-	1,239,332	-	1,239,332
7540 Insurance Claims/premiums	-	-	-	-	-	-	-
7600 General and Administrative	-	-	-	-	-	-	-
7700 Maintenance Parts and Fuel	-	-	-	-	-	-	-
7800 Other Operating Expenses	7,598,640	-	7,598,640	-	7,598,640	-	7,598,640
8111 Interest expense	-	-	-	-	-	-	-
8112 Prin Pmt On Long Term Debt	-	-	-	-	-	-	-
8200 Operating Transfers Out	106,990,975	-	106,990,975	(9,000,000)	97,990,975	(9,918,310)	88,072,665
9000 Capital Expenditures	-	-	-	-	-	-	-
Des Designations	26,900	-	26,900	-	26,900	-	26,900
	\$ 115,855,847	\$ -	\$ 115,855,847	\$ (9,000,000)	\$ 106,855,847	\$ (9,918,310)	\$ 96,937,537

Fiscal Year 2008-09 Sources and Uses Summary

State Transit Assistance Fund (STAF) Sources

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
5100 Passenger Fares	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5300 Charges for Services	-	0	-	-	-	-	-
5500 Tollroad Revenue	-	0	-	-	-	-	-
6010 State Transit Assistance	-	0	-	-	-	-	-
6020 State Assistance	-	0	-	-	-	-	-
6030 Federal Operating Assist Grnts	-	0	-	-	-	-	-
6040 Federal Capital Assist Grants	-	0	-	-	-	-	-
6050 Reimb from other agencies	-	0	-	-	-	-	-
6055 Gas tax exchange	-	0	-	-	-	-	-
6100 Property taxes	-	0	-	-	-	-	-
6101 Taxes	25,829,395	0	25,829,395	(9,000,000)	16,829,395	(8,423,397)	8,405,998
6110 License Fees	-	0	-	-	-	-	-
6200 Interest Income	25,060	0	25,060	-	25,060	-	25,060
6300 Other Nonoperating Rev/Expense	-	0	-	-	-	-	-
6400 Management Fee	-	0	-	-	-	-	-
6500 Operating Transfers In	-	0	-	-	-	-	-
6550 Proceeds sale of capitol asset	-	0	-	-	-	-	-
Res Use of Reserves	-	0	-	-	-	-	-
	\$ 25,854,455	\$ -	\$ 25,854,455	\$ (9,000,000)	\$ 16,854,455	\$ (8,423,397)	\$ 8,431,058

State Transit Assistance Fund (STAF) Uses

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
7100 Wages, Salaries and Benefits	\$ -	0	\$ -	\$ -	\$ -	\$ -	\$ -
7300 Purchased Transportation Servs	-	0	-	-	-	-	-
7400 Management Fee Expense	-	0	-	-	-	-	-
7500 Professional Services	468	0	468	-	468	-	468
7540 Insurance Claims/premiums	-	0	-	-	-	-	-
7600 General and Administrative	-	0	-	-	-	-	-
7700 Maintenance Parts and Fuel	-	0	-	-	-	-	-
7800 Other Operating Expenses	1,127	0	1,127	-	1,127	-	1,127
8111 Interest expense	-	0	-	-	-	-	-
8112 Prin Pmt On Long Term Debt	-	0	-	-	-	-	-
8200 Operating Transfers Out	25,852,860	0	25,852,860	(9,000,000)	16,852,860	(8,423,397)	8,429,463
9000 Capital Expenditures	-	0	-	-	-	-	-
Des Designations	-	0	-	-	-	-	-
	\$ 25,854,455	\$ -	\$ 25,854,455	\$ (9,000,000)	\$ 16,854,455	\$ (8,423,397)	\$ 8,431,058

Fiscal Year 2008-09 Sources and Uses Summary

Local Transportation Authority (LTA) Fund Sources

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
5100 Passenger Fares	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5300 Charges for Services	-	-	-	-	-	-	-
5500 Tollroad Revenue	-	-	-	-	-	-	-
6010 State Transit Assistance	1,760,000	-	1,760,000	-	1,760,000	-	1,760,000
6020 State Assistance	122,943	-	122,943	-	122,943	-	122,943
6030 Federal Operating Assist Grnts	-	-	-	-	-	-	-
6040 Federal Capital Assist Grants	32,100,000	-	32,100,000	-	32,100,000	-	32,100,000
6050 Reimb from other agencies	-	-	-	-	-	-	-
6055 Gas tax exchange	-	-	-	-	-	-	-
6100 Property taxes	-	-	-	-	-	-	-
6101 Taxes	282,517,494	-	282,517,494	(19,000,000)	263,517,494	(20,412,547)	243,104,947
6110 License Fees	-	-	-	-	-	-	-
6200 Interest Income	14,975,220	-	14,975,220	-	14,975,220	-	14,975,220
6300 Other Nonoperating Rev/Expense	394,423	-	394,423	-	394,423	-	394,423
6400 Management Fee	-	-	-	-	-	-	-
6500 Operating Transfers In	-	-	-	-	-	-	-
6550 Proceeds sale of captial asset	2,146,696	-	2,146,696	-	2,146,696	-	2,146,696
Res Use of Reserves	129,679,664	-	129,679,664	15,095,047	144,774,711	(84,492,685)	60,282,026
	\$ 463,696,440	\$ -	\$ 463,696,440	\$ (3,904,953)	\$ 459,791,487	\$ (104,905,232)	\$ 354,886,255

Local Transportation Authority (LTA) Fund Uses

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
7100 Wages, Salaries and Benefits	-	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
7300 Purchased Transportation Servs	-	-	-	-	-	-	-
7400 Management Fee Expense	8,528,861	-	8,528,861	-	8,528,861	-	8,528,861
7500 Professional Services	30,162,473	-	30,467,473	(1,110,000)	29,357,473	(2,800,000)	26,557,473
7540 Insurance Claims/premiums	-	-	-	-	-	-	-
7600 General and Administrative	111,390	-	106,390	-	106,390	-	106,390
7700 Maintenance Parts and Fuel	-	-	-	-	-	-	-
7800 Other Operating Expenses	214,298,872	-	213,998,872	(2,794,953)	211,203,919	(84,805,232)	126,398,687
8111 Interest expense	586,834	-	586,834	-	586,834	-	586,834
8112 Prin Pmt On Long Term Debt	-	-	-	-	-	-	-
8200 Operating Transfers Out	90,081,010	-	90,081,010	-	90,081,010	-	90,081,010
9000 Capital Expenditures	118,927,000	-	118,927,000	-	118,927,000	(17,300,000)	101,627,000
Des Designations	1,000,000	-	1,000,000	-	1,000,000	-	1,000,000
	\$ 463,696,440	\$ -	\$ 463,696,440	\$ (3,904,953)	\$ 459,791,487	\$ (104,905,232)	\$ 354,886,255

Fiscal Year 2008-09 Sources and Uses Summary

Renewed Measure M Fund Sources

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
5100 Passenger Fares	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
5300 Charges for Services	-	-	-	-	-	-	-
5500 Tollroad Revenue	-	-	-	-	-	-	-
6010 State Transit Assistance	-	-	-	-	-	-	-
6020 State Assistance	-	-	-	-	-	-	-
6030 Federal Operating Assist Grnts	-	-	-	-	-	-	-
6040 Federal Capital Assist Grants	5,558,000	-	5,558,000	-	5,558,000	-	5,558,000
6050 Reimb from other agencies	-	-	-	-	-	-	-
6055 Gas tax exchange	-	-	-	-	-	-	-
6100 Property taxes	-	-	-	-	-	-	-
6101 Taxes	-	-	-	-	-	-	-
6110 License Fees	-	-	-	-	-	-	-
6200 Interest Income	-	-	-	-	-	-	-
6300 Other Nonoperating Rev/Expense	-	-	-	-	-	-	-
6400 Management Fee	-	-	-	-	-	-	-
6500 Operating Transfers In	3,014,602	-	3,014,602	-	3,014,602	-	3,014,602
6550 Proceeds sale of captial asset	-	-	-	-	-	-	-
Res Use of Reserves	71,386,978	307,600	71,694,578	-	71,694,578	(6,600,000)	65,094,578
	\$ 79,959,580	\$ 307,600	\$ 80,267,180	\$ -	\$ 80,267,180	\$ (6,600,000)	\$ 73,667,180

Renewed Measure M Fund Uses

Description	2009 Approved Budget	Amendments	2009 Working Budget	Amendment #1	2009 Amended Budget #1	Amendment #2	2009 Amended Budget #2
7100 Wages, Salaries and Benefits	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
7300 Purchased Transportation Servs	-	-	-	-	-	-	-
7400 Management Fee Expense	1,988,435	-	1,988,435	-	1,988,435	-	1,988,435
7500 Professional Services	49,669,500	307,600	49,977,100	-	49,977,100	(1,400,000)	48,577,100
7540 Insurance Claims/premiums	-	-	-	-	-	-	-
7600 General and Administrative	51,645	-	51,645	-	51,645	-	51,645
7700 Maintenance Parts and Fuel	-	-	-	-	-	-	-
7800 Other Operating Expenses	18,500,000	-	18,500,000	-	18,500,000	(5,200,000)	13,300,000
8111 Interest expense	1,750,000	-	1,750,000	-	1,750,000	-	1,750,000
8112 Prin Pmt On Long Term Debt	-	-	-	-	-	-	-
8200 Operating Transfers Out	-	-	-	-	-	-	-
9000 Capital Expenditures	8,000,000	-	8,000,000	-	8,000,000	-	8,000,000
Des Designations	-	-	-	-	-	-	-
	\$ 79,959,580	\$ 307,600	\$ 80,267,180	\$ -	\$ 80,267,180	\$ (6,600,000)	\$ 73,667,180



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008

Finance and Administration Committee meeting of March 25, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendations (Reflects change from Staff Recommendations)

- A. Receive and file the Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008.
- B. Direct staff to initiate an amendment to the Orange County Local Transportation Authority Ordinances No. 2 and 3, clarifying whether or not projects must be included in the Seven-Year Capital Improvement Program for every year in which expenditures are made and that turnback funds cannot be used for internal city borrowing or to pay interest or costs of issuance for debt incurred to advance projects.
- C. Direct staff to accept an amended Seven-Year Capital Improvement Program from the City of Irvine.



March 25, 2009

To: Finance and Administration Committee
ATL/pt

From: Arthur T. Leahy, Chief Executive Officer

Subject: Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008

Overview

Mayer Hoffman McCann P.C., an independent accounting firm, has completed its annual agreed-upon procedures for ten Orange County cities for the fiscal year ended June 30, 2008. These procedures were developed by the Taxpayers Oversight Committee of the Orange County Local Transportation Authority to assist them in evaluating the selected cities' level of compliance with provisions of Measure M Local Transportation Ordinance No. 2.

Recommendations

- A. Receive and file the Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008.
- B. Direct staff to initiate an amendment to the Measure M Local Transportation Ordinance clarifying the requirement that projects be included in the Seven Year Capital Improvement Program.
- C. Direct staff to accept an amended Seven Year Capital Improvement Program from the City of Irvine.

Background

Annually, the Audit Subcommittee of the Taxpayers Oversight Committee (Committee) selects a sample of cities receiving Measure M turnback funding to evaluate the cities' level of compliance with provisions of the Measure M Local Transportation Ordinance No. 2 (Ordinance). The selection for the fiscal year ended June 30, 2008, was based, in part, on risks identified through questionnaires, management letters, and single audit reports

collected from all 34 Orange County cities. A total of ten cities were selected for audit.

Discussion

Mayer Hoffman McCann P.C. (MHM or auditors) conducted the audits, including site visits to each of the selected cities and interviews of city Finance Department and Public Works Department staff. Procedures also included review of the cities' maintenance of effort (MOE) calculation and sample testing of the underlying expenditures to ensure that they met the definition of local street and road expenditures. The auditors also tested a sample of Measure M turnback expenditures to ensure they were related to projects listed in the cities' current year Seven Year Capital Improvement Program (CIP). Other procedures related to indirect costs, interest earnings, and timing of expenditures were performed.

Agreed-upon procedures performed for two cities, Huntington Beach and Placentia, identified some expenditures in the calculation of the MOE requirement that did not meet the definition of local street and road expenditures according to the Ordinance. Despite the disallowance of these expenditures in the calculation of MOE, both cities still met the minimum requirements.

The cities of Cypress and Irvine were found to have spent turnback funds on projects not included in their CIP for fiscal year 2007-08. The expenditures, totaling \$73,016 for the City of Cypress and \$705,152 for the City of Irvine, were not included in the fiscal year 2007-08 CIP, but were included in prior years' CIPs. Because the Ordinance does not specify whether expenditures must be included in the CIP in every year the expenditures are incurred, MHM recommended that both cities obtain approval from the Orange County Transportation Authority (OCTA) allowing the expenditures. In their response to the audit report, the City of Cypress argued that it is common to have approved projects incomplete at fiscal year end and carried into a new fiscal year for completion. The City of Irvine responded similarly, stating that the projects are multi-year projects that were appropriately programmed in the CIP at inception. OCTA staff have agreed with the cities. OCTA's Internal Audit Department recommends that OCTA staff initiate an amendment to the Ordinance clarifying the requirement that projects be included in the CIP for every year in which expenditures are made.

In addition to the issue noted above, the auditors found that the City of Irvine spent \$1,479,892 of turnback funds on projects that were not included in any CIP. The auditors recommended restoration of these funds. The City of Irvine

has responded that the projects are eligible expenditures and were approved by the city council as part of the approval of its annual budget. The City of Irvine also indicated that the CIP has been updated to reflect these projects.

OCTA staff responded to the finding and recommendation by MHM. OCTA staff believes that, while the projects were not included in the City of Irvine's CIP, the expenditures were all related to projects that would otherwise have been eligible. OCTA staff recommends that the amended CIP be accepted and will take action to remind all cities that CIPs must be amended and forwarded to OCTA in a timely manner.

Summary

Mayer Hoffman McCann P.C., an independent accounting firm, has completed its annual agreed-upon procedures reviews of ten selected cities for the fiscal year ended June 30, 2008.

Attachments

- A. Orange County Local Transportation Authority Measure M Agreed-Upon Procedures Reports, Year Ended June 30, 2008
- B. Independent Accountant's Report – City of Irvine

Prepared by:



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

**ORANGE COUNTY LOCAL
TRANSPORTATION AUTHORITY**

**MEASURE M
AGREED-UPON PROCEDURES REPORTS**

Year Ended June 30, 2008

**ORANGE COUNTY LOCAL
TRANSPORTATION AUTHORITY**

**MEASURE M
AGREED-UPON PROCEDURES REPORTS**

Year Ended June 30, 2008

The cities listed below were selected by the Authority to perform agreed-upon procedures for the fiscal year ended June 30, 2008. Please refer to the individual divider tabs for our report on each City.

City of Costa Mesa

City of Cypress

City of Fullerton

City of Huntington Beach

City of Irvine

City of Laguna Beach

City of Placentia

City of Rancho Santa Margarita

City of San Clemente

City of Villa Park



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANTS' REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF COSTA MESA**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Costa Mesa's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$5,980,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: All MOE expenditures are tracked in the general ledger by fund, account number, department, program and project number.

3. We obtained the detail of MOE expenditures during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the City of Costa Mesa
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were charged through an indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of the general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from the OCLTA to the City and calculated the amount the City received for the past three fiscal years.

Results: The City received \$5,502,192 of Turnback monies for the three years ended June 30, 2008, including \$1,861,089 for the fiscal year ended June 30, 2008.

10. We obtained the cash balance of the City's Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$6,447,918, which consisted of \$3,422,268 in unspent Turnback monies and \$3,025,650 in unspent interest income. Per discussion with the Assistant Finance Director, it is the City's practice to spend the Turnback allocation first, then to spend any interest earned. The City intends to expend the accumulated interest income by June 30, 2009.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was credited to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion, on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.



Board of Directors of the City of Costa Mesa
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Margie Mathis McKim P.C.

Irvine, California
December 23, 2008

CITY OF COSTA MESA, CALIFORNIA
 Schedule of MOE and Turnback Expenditures
 Year Ended June 30, 2008
 (Unaudited)

Maintenance of Effort (MOE):	
Fairview / I-405 interchange improvements	\$ 1,795,260
Harbor / I-405 SB to Sunflower improvements	1,801,388
AHRP St improvements - 17th St & Santa Ana	1,431,934
CCTV III expansion project	41,066
Bristol / I-405 landscape improvements	72,985
Signal management system upgrade	169,152
AHRP St improvements - 19th St & Magnolia	1,217,698
AHRP St improvements - Sakioka Ave & Anton	3,733
AHRP St improvements - S Coast Dr & Carmel	665,064
Newport Blvd N/B capacity	<u>76,047</u>
 Total MOE expenditures	 <u>7,274,327</u>
Turnback:	
Engineering - crack seal program Citywide	18,000
Engineering - street improvement - Wilson St. & Harbor	225
Engineering - street improvement - 19th St. & Monrovia	905
Engineering - street improvement - Sakioka Ave. & Anton	3,733
Engineering - street improvement - South Coast Dr. & Carmel	4,507
Engineering - Theatre & Arts District street improvements	88,746
Street maintenance Citywide	<u>11,839</u>
 Total Turnback expenditures	 <u>127,955</u>
 Total MOE and Turnback expenditures	 <u>\$ 7,402,282</u>

Note: The above amounts were taken directly from the financial records of the City of Costa Mesa and were not audited.



Mayer Hoffman McCann P.C.

An Independent CPA Firm

Conrad Government Services Division

2301 Dupont Drive, Suite 200

Irvine, California 92612

949-474-2020 ph

949-263-5520 fx

www.mhm-pc.com

Board of Directors of the City of Cypress
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES – CITY OF CYPRESS

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Cypress' (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$2,670,215 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: MOE expenditures are tracked in the general ledger by fund and program number. The City's MOE expenditures are recorded in the following funds: General Fund (Fund 11), City CIP Fund (Fund 15) and Lighting District Fund (Fund 25).

3. We obtained the detail of MOE expenditures during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the City of Cypress
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Results: The City's MOE expenditures for the fiscal year ended June 30, 2008 were \$6,214,640, or \$3,544,425 above the minimum MOE requirement.

4. We judgmentally selected 25 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$1,961,233, representing 32% of total MOE expenditures during the fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed in the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, MOE expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which funds the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: Turnback expenditures are tracked in the general ledger by fund and program number. The City's Turnback expenditures are recorded in Fund 39, Measure M Gas Tax Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$641,624.

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 7 Turnback expenditures from the City's general ledger detail. Total Turnback expenditures tested were \$459,862, representing 72% of total Turnback expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:



Board of Directors of the City of Cypress
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Results: The City received \$2,105,126 of Turnback monies for the three years ended June 30, 2008, including \$727,038 for the year ended June 30, 2008.

10. We obtained the cash balance of the Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$1,110,686. No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was returned to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

The City's written response to the recommendation identified above has not been subjected to the agreed-upon procedures applied in this engagement and, accordingly, we express no opinion on it.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
February 27, 2009

CITY OF CYPRESS, CALIFORNIA
Schedule of MOE and Turnback Expenditures
Year Ended June 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
Maintenance Administration	\$ 447,417
Street Maintenance	211,409
Street Cleaning	200,900
Traffic Safety	168,538
Traffic Signal Maintenance	187,018
Tree Maintenance	330,307
Parkway Maintenance	769,006
Sidewalk Repair	146,520
Residential Street Rehabilitation	2,541,677
Sidewalk Construction	400,328
Public Works Administration	444,222
Engineering Administration	102,117
Engineering Plan Checking	9,702
Engineering	63,470
General Engineering	52,051
Traffic Safety Engineering	<u>139,958</u>
Total MOE expenditures	<u>6,214,640</u>
Turnback:	
Arterial Rehabilitation	558,553
CCTV - VV/Katella	5,091
Left Turn Relocation - Various	4,964
Update Signal Timing - Lincoln Ave (1)	36,577
CCTV Installation - Lincoln (1)	<u>36,439</u>
Total Turnback expenditures	<u>641,624</u>
Total MOE and Turnback expenditures	<u>\$ 6,856,264</u>

Note: The above amounts were taken directly from the financial records of the City of Cypress and were not audited.

(1) These projects not included in the City's Seven-Year Capital Improvement Program for the fiscal year ended June 30, 2008. However, the projects were included in the City's Seven-Year Capital Improvement Program for the fiscal year ended June 30, 2007.



Mayer Hoffman McCann P.C.

An Independent CPA Firm

Conrad Government Services Division

2301 Dupont Drive, Suite 200

Irvine, California 92612

949-474-2020 ph

949-263-5520 fx

www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES – CITY OF FULLERTON

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Fullerton's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$3,083,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: The City records and tracks its MOE expenditures in various funds and departments of the City. MOE expenditures are tracked in the City's general ledger by fund and department.

3. We obtained the detail of MOE expenditures incurred during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Results: The City's MOE expenditures for the fiscal year ended June 30, 2008 were \$5,899,919, or \$2,816,919 above the minimum MOE requirement.

4. We judgmentally selected 44 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$1,794,791, representing 31% of total MOE expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, MOE expenditures during the fiscal year ended June 30, 2008 included indirect costs. Indirect costs are allocated per the indirect cost proposal prepared by outside auditors. A sample of the indirect costs was included in MOE expenditure testing. No exceptions were noted as a result of our procedures.

6. We documented which fund the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 144, Measure M Turnback Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$588,429.

7. We obtained City's Seven-Year Capital Improvement Program and judgmentally selected 28 Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$487,155, representing 83% of total Turnback expenditures during fiscal year ended June 30, 2008. For each item selected, we performed the following:



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

- a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures incurred during the fiscal year ended June 30, 2008 included indirect costs. Indirect costs are allocated per the indirect cost proposal prepared by outside auditors. A sample of the indirect costs was included in Turnback expenditure testing. No exceptions were noted as a result of our procedures.

9. We obtained a listing of Turnback payments made from OCTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$4,907,948 of Turnback monies for the three years ended June 30, 2008, including \$1,692,071 for the year ended June 30, 2008.

10. We obtained the cash balance of the Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$5,024,019, which is greater than the City's total Turnback receipts for the previous three years by \$116,071. According to City staff, the City spent its fiscal year 2005-2006 Turnback allocation and the excess cash represents unspent investment earnings.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was returned to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
December 18, 2008

CITY OF FULLERTON, CALIFORNIA
Schedule of MOE and Turnback Expenditures
Year Ended June 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
General Engineering Services/Redevelopment	\$ 183,540
Maintenance Services Administration	109,662
Building & Facility Maintenance	624,497
Maintenance Services Street Maintenance	3,055,549
Maintenance Services Street Cleaning	749,478
Maintenance Services Landscape Maintenance	1,659
Maintenance Services Tree Maintenance	<u>1,175,533</u>
 Total MOE expenditures	 <u>5,899,918</u>
Turnback:	
Engineering - Administration	\$ 1,140
General Engineering Services/Redevelopment	10,200
Project Development & Design	11,680
Traffic Engineering/Signal Operations	107,123
Construction Management	5,180
Transfers to Capital Projects Fund	<u>453,106</u>
 Total Turnback expenditures	 <u>588,429</u>
 Total MOE and Turnback expenditures	 <u>\$ 6,488,347</u>

Note: The above amounts were taken directly from the financial records of the City of Fullerton and were not audited.



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF HUNTINGTON BEACH**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Huntington Beach's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended September 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$4,510,000 in MOE expenditures during the fiscal year ended September 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: The City uses the General Fund to track all street and road expenditures. MOE is calculated during budget preparation to assure funding levels are adequate to maintain eligibility for Measure M. The MOE is extracted from the general ledger, using totals allocated to each eligible program. MOE expenditures are identified by account numbers in the general ledger.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

3. We obtained the detail of MOE expenditures during the fiscal year ended September 30, 2008 to determine whether the City met the minimum MOE requirement.

Results: The City's MOE expenditures for the fiscal year ended September 30, 2008 were \$10,461,389, or \$5,951,389 above the minimum MOE requirement.

4. We judgmentally selected 41 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$1,010,943, representing 10% of total MOE expenditures during fiscal year ended September 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: Of the 41 MOE expenditures tested, 7 were not properly classified as local street and road expenditures. Based upon our discussion with the City's Finance staff, we disallowed the entire object code that included a questioned expenditure. Total nonallowable MOE expenditures were \$3,471,417. However, even with the disallowed funds the City's allowable MOE expenditures of \$6,989,971 exceeded its MOE requirement by \$2,479,971.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, MOE expenditures incurred during the fiscal year ended September 30, 2008 did not include indirect costs.

6. We documented which fund the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended September 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 213, Measure M Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended September 30, 2008 were \$442,777.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 5 Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$277,192, representing 63% of total Turnback expenditures during the fiscal year ended September 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures during the fiscal year ended September 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$7,345,914 of Turnback monies for the three years ended September 30, 2008, including \$2,498,875 for the year ended September 30, 2008.

10. We obtained the cash balance of the Turnback Fund as of September 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of September 30, 2008 was \$2,704,461. No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was returned to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
December 18, 2008

CITY OF HUNTINGTON BEACH, CALIFORNIA
Schedule of MOE and Turnback Expenditures
Year Ended September 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
Public works administration (1)	\$ 203,951
Storm drain pollution control	179,744
Design/construction	216,999
Development processing	374,785
Traffic engineering	517,617
Traffic sign/stripping	582,134
Traffic signal/lighting (1)	886,889
Maintenance administration (1)	228,809
Concrete maintenance	218,483
Street maintenance	2,413,886
Street cleaning	913,722
Storm drain maintenance	38,660
Flood control station maintenance	82,949
Landscape maintenance (1)	1,372,343
Tree maintenance	1,205,471
Fleet management	245,520
Equipment maintenance (1)	<u>779,425</u>
 Total MOE expenditures	 <u>10,461,388</u>
 Turnback:	
Engineering design/construction	163,996
Transportation management	71
Residential pavement	153,533
Arterial highway rehabilitation	<u>125,177</u>
 Total Turnback expenditures	 <u>442,777</u>
 Total MOE and Turnback expenditures	 <u>\$ 10,904,166</u>

(1) City was not able to substantiate that selected items tested from these object codes were related to local street and road expenditures. As a result, the entire object code was excluded from the total allowable MOE expenditures.

Note: The above amounts were taken directly from the financial records of the City of Huntington Beach and were not audited.



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF IRVINE**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Irvine's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$5,112,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: The City analyzes the budget to actual expenditures in the General Fund using section, service and object codes to identify MOE expenditures.

3. We obtained the detail of MOE expenditures during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Results: The City's MOE expenditures for the fiscal year ended June 30, 2008 were \$19,583,602, or \$14,471,602 above the minimum MOE requirement.

4. We judgmentally selected 40 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$1,512,821, representing 8% of total MOE expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, MOE expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which fund the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 110, Measure M Special Revenue Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$4,462,275.

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 8 Turnback expenditures from the City's general ledger detail. Total Turnback expenditures tested were \$3,596,444, representing 81% of total Turnback expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: Six of the expenditures tested related to capital projects that were not included in the City's Seven-Year Capital Improvement Program. Specifically, the questioned costs related to the following:

Traffic signal rehabilitation	\$ 188,600
Culver signal upgrade – Bake/Irvine	169,833
Irvine transportation engineering management system rehab	285,191
Toledo rehab – Alton/Bake	532,938
Rehab (north of I-5)	836,268
Walnut rehab – Culver/Jeffrey	<u>172,214</u>
Total questioned costs	<u>\$2,185,044</u>

Two of the projects (Toledo Rehab – Alton/Bake and Walnut Rehab – Culver/Jeffrey) were included in the City's approved Seven-Year Capital Improvement Program for the fiscal year ended June 30, 2006. (The Walnut Rehab – Culver/Jeffrey project was also included in the City's approved Seven-Year Capital Improvement Program for the fiscal year ended June 30, 2007.) The City did not include these projects on the Seven-Year Capital Improvement Program it submitted to OCLTA for the fiscal year ended June 30, 2008 due to oversight.

Recommendations: We recommend the following:

- a) The City should obtain approval from OCLTA to utilize Turnback monies to fund expenditures during June 30, 2008 for projects (Toledo Rehab and Walnut Rehab) that were not included in the Seven-Year Capital Improvement Program for fiscal year ended June 30, 2008 but were included in the City's Seven-Year Capital Improvement Program in previous fiscal years.
- b) The City should prepare a journal entry to restore Turnback funds for expenditures during fiscal year ended June 30, 2008 related to the following projects: Traffic signal rehabilitation, Culver signal upgrade, Irvine transportation engineering management system rehabilitation, and North of I-5 rehabilitation. In addition, we recommend the City prepare a journal entry to restore Turnback funds for any additional expenditures for these projects that were not tested by us.

City's Response: While 2 of the projects (Toledo Rehabilitation and Walnut Rehabilitation) were not included in the copy of the CIP obtained by your staff in November 2008, both projects were included in the City's previous year CIP.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Since these are multi-year projects, based on procedures set during the Measure M semi-annual reviews process, we had appropriately programmed these projects in the CIP in the year of their inception. Therefore, funds for the Toledo Rehabilitation project were programmed for design and construction in Fiscal Year 2005-2006 and funds for the Walnut Rehabilitation project were programmed for design in Fiscal Year 2005-2006 and for construction in Fiscal Year 2006-2007. These projects were identified as such in the Fiscal Year 2005-2006 through Fiscal Year 2010-2011 and Fiscal Year 2006-2007 through Fiscal Year 2011-2012 CIPs, respectively.

The other four projects identified above are traffic signal rehabilitation and maintenance projects, which are eligible expenditures of Measure M Turnback funds. Hence, these projects were approved for the use of Measure M Turnback funds by the City Council as part of the approval of the City's annual budget. As part of the finalization of the City's Fiscal Year 2007-2008 budget, revenue from the Measure M Turnback Fund was allocated to four projects which were not listed on the initial Seven-Year CIP for that year. We have updated our most recent CIP to include these four projects.

Based on our response, we do not believe that any journal entry for the restoration of the Turnback funds is necessary at this time. The City is committed to our continued close coordination with OCLTA staff to ensure that all technical procedures are followed for the use of Turnback funds. We assure you that the City will continue to be in compliance with the Measure M Ordinance Agreed-Upon Procedures. As part of our commitment, we will implement a new procedure to review and update our CIP to reflect any new projects that may have been identified for Turnback funds as part of the City's mid-year budget review. We will then forward the updated CIP to OCLTA staff.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$9,172,373 of Turnback monies for the three years ended June 30, 2008, including \$3,191,675 for the year ended June 30, 2008.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

10. We obtained the cash balance of the Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$7,819,951. This amount includes \$5,634,909 recorded in the City's Turnback Fund, as well as the questioned Turnback expenditures of \$2,185,044 that should be restored to cash when the ineligible expenditures are reclassified to another fund.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was returned to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

The City's written response to the recommendations identified above has not been subjected to the agreed-upon procedures applied in this engagement and, accordingly, we express no opinion on it.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
December 18, 2008

CITY OF IRVINE, CALIFORNIA
Schedule of MOE and Turnback Expenditures
Year Ended June 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
Landscape Maintenance - Streetscapes	\$ 5,994,754
Project Mgmt - Division Admin	419,162
Fleet Services - CIP Admin	140,021
Transportation Dev - Division Admin	157,974
Transportation Dev - Project Dev	196,041
Transportation Dev - Trans Advocacy	24,926
Development Eng - Neigh Eng	2,743
Development Eng - ROW Acquisition Admin.	96,165
Street/Row Maint - Pavement Management	1,511,295
Street/Row Maint - Infrastructure Cleaning	960,364
Street/Row Maint - Drainage System	690,734
Street/Row Maint - Concrete Main	1,215,136
Street/Row Maint - Traffic Safety	1,334,107
Admin/Fiscal & Environ - Department Admin.	2,968,923
Traffic Engineering/Circulation - Signal Maintenance	2,458,198
Traffic Engineering/Circulation - ITRAC/S Timing	799,795
Develop Review - Forecast & Analysis	155,155
Develop Review - Trans Review & Analysis	<u>458,109</u>
 Total MOE expenditures	 <u>19,583,602</u>
Turnback:	
Fiscal Services - Acctg. & Financial Reporting	1,200
AS-Treasury Special Funds Administration	10,569
Traffic Engineering/Signal Operations and Maintenance	200,000
Transfers To Other Funds for Capital Improvements	
Capital Improvements (1)	<u>4,250,506</u>
 Total Turnback expenditures	 <u>4,462,275</u>
 Total MOE and Turnback expenditures	 <u>\$ 24,045,877</u>

(1) We identified \$2,185,044 in expenditures for projects that were not included in the City's Seven-Year Capital Improvement Program for the fiscal year ended June 30, 2008. However, we verified through inspection that \$705,152 of this amount was for projects that were included in the City's Seven-Year Capital Improvement Programs for the fiscal years ended June 30, 2006 and 2007.

Note: The above amounts were taken directly from the financial records of the City of Irvine and were not audited.



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF LAGUNA BEACH**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Laguna Beach's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$1,358,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: The City records MOE expenditures in various funds of the City. MOE expenditures are tracked in the general ledger by fund, department, and specific object code.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

3. We obtained the detail of MOE expenditures during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.

Results: The City's MOE expenditures for the fiscal year ended June 30, 2008 were \$2,916,238, or \$1,558,238 above the minimum MOE requirement.

4. We judgmentally selected 28 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$1,114,484, representing 38% of total MOE expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:

- a. Agreed the dollar amount listed in the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
- b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, MOE expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which fund the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 132, Gas Tax Special Revenue Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$218,923.

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 10 Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$117,646, representing 54% of total Turnback expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

- a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$1,059,254 of Turnback monies for the three years ended June 30, 2008, including \$340,433 for the year ended June 30, 2008.

10. We obtained the cash balance of the Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$0. No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was returned to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann Pincus & Kurzman

Irvine, California
February 13, 2009

CITY OF LAGUNA BEACH, CALIFORNIA
Schedule of MOE and Turnback Expenditures
Year Ended June 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
Oriole/Meadowlark Streets Rehab	\$ 395,964
Street Rehab Design FY 2008-09	332,157
Mountains/Nyes Street Rehab	30,632
Road Rehab/ Cyn Acres/Frontage	304,000
Upper Bluebird Cyn Streets	2,950
Street Lighting	311,040
Equipment Maintenance	139,035
Streets Maintenance	1,053,669
Administration	22,369
Circle Way Storm Dr. To Beach	921
So. Laguna Sidewalk Construction	8
Nyes Place/Coast Highway Curb	14,985
Storm Drain Video Inspection	10,181
Storm Drain Upper Park Avenue	188,749
Boyd - Zimmerman Storm Drains	<u>115,078</u>
 Total MOE expenditures	 <u>2,921,738</u>
 Turnback:	
Mountain/Nyes Street Rehab (1)	17,990
Street Rehab-Oriole/Meadowlark	87,451
Road Rehab/Cyn Acres/Frontage	96,000
Street Rehab Design FY 08-09	<u>17,482</u>
 Total Turnback expenditures	 <u>218,923</u>
 Total MOE and Turnback expenditures	 <u>\$ 3,140,661</u>

Note: The above amounts were taken directly from the financial records of the City of Laguna Beach and were not audited.

(1) Expenditures include \$17,990 for one project not included in the City's approved Seven-Year Capital Improvement Program for the fiscal year ended June 30, 2008. However, the project was included in the City's approved Seven-Year Capital Improvement Programs for the fiscal year ended June 30, 2007.



Mayer Hoffman McCann P.C.

An Independent CPA Firm

Conrad Government Services Division

2301 Dupont Drive, Suite 200

Irvine, California 92612

949-474-2020 ph

949-263-5520 fx

www.mhm-pc.com

Board of Directors of
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF PLACENTIA**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Placentia's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$546,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results The City records its MOE expenditures in the General Fund. MOE expenditures are identified in the City's general ledger by fund, department, division and object.

3. We obtained the detail of MOE expenditures during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Results: The City's MOE expenditures for the fiscal year ended June 30, 2008 were \$692,592, or \$146,592 above the minimum MOE requirement.

4. We judgmentally selected 44 MOE transactions from the City's general ledger expenditure detail. Total MOE expenditures tested were \$435,531, representing 63% of total MOE expenditures incurred during the fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: Of the 44 MOE transactions selected for testing, 2 invoices selected from U.S. Bank Corporation had discrepancies. From the 2 invoices, \$1,222 of the total \$2,451 were not street and road related expenditures. No additional transactions from U.S. Bank Corporation were reviewed as the total expenditures for U.S. Bank Corporation were \$7,798, which is approximately 1% of the total MOE expenditures of \$692,592 and is considerably less than the \$146,592 the City spent over the required minimum MOE expenditures.

Of the 7 accounts that include MOE transactions, there were 2 accounts that did not meet the street and road related expenditure requirement. These accounts, totaling of \$87,051, were disallowed. However, the City still met the minimum required MOE expenditures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance Manager, MOE expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which fund the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 210, Measure M Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$622,925.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 4 Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$618,672, representing 99% of total Turnback expenditures during the fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including City check copy or wire transfer and vendor invoice or journal entry voucher.
 - b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance Manager, Turnback expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from the OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$1,826,019 of Turnback monies for the three years ended June 30, 2008, including \$621,551 for the year ended June 30, 2008.

10. We obtained the cash balance of the City's Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was (\$66,960). No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was credited to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
December 18, 2008

CITY OF PLACENTIA
Schedule of MOE and Turnback M Expenditures
Year Ended June 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
Bradford over-crossing	\$ 365,757
Quiet zone	93,483
Special department supplies	50,368
Traffic control devices	174,874
Street signs	<u>8,110</u>
 Total MOE expenditures	 692,592
 Turnback expenditures:	
Placentia Road rehabilitation	617,925
Alta Vista sidewalk	<u>5,000</u>
 Total Turnback expenditures	 622,925
 Total Measure M expenditures	 <u>\$ 1,315,517</u>

Note: The above amounts were taken directly from the financial records of the City of Placentia and were not audited.

The above amounts do not include disallowed expenditures.



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF RANCHO SANTA MARGARITA**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Rancho Santa Margarita's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$350,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results The City records its MOE expenditures in the Street Maintenance Division of the General Fund. MOE expenditures are identified by fund, department and object number in the City's general ledger.

3. We obtained the detail of MOE expenditures incurred during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

Results: The City's total MOE expenditures for the fiscal year ended June 30, 2008 were \$1,023,147, or \$673,147 above the minimum MOE requirement.

4. We judgmentally selected 35 MOE transactions from the City's general ledger expenditure detail. Total MOE expenditures tested were \$510,923, representing 50% of total MOE expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Accountant, MOE expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which funds the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 212, Measure M Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$280,243.

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 5 Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$102,281, representing 37% of total Turnback expenditures during the fiscal year ended June 30, 2008. For each item selected we performed the following:



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

- a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including City check copy or wire transfer and vendor invoice or journal voucher.
- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Accountant, Turnback expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from the OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$1,675,221 of Turnback monies for the three years ended June 30, 2008, including \$571,810 for the year ended June 30, 2008.

10. We obtained the cash balance of the City's Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$1,222,413. No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was credited to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority, the Taxpayers Oversight Committee and



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
December 18, 2008

CITY OF RANCHO SANTA MARGARITA, CALIFORNIA
 Schedule of MOE and Turnback Expenditures
 Year Ended June 30, 2008
 (Unaudited)

Maintenance of Effort (MOE):	
Professional services - contract administration	\$ 77,220
Miscellaneous street maintenance	112,797
Street maintenance contract	524,285
Street sweeping contract	100,121
Traffic signal maintenance	138,400
Traffic improvements	21,383
NPDES improvements	7,906
Street maintenance - NPDES	<u>41,035</u>
 Total MOE expenditures	 1,023,147
Turnback expenditures:	
Transfers to Capital Projects Fund (1)	<u>280,243</u>
 Total Turnback expenditures	 <u>280,243</u>
 Total MOE and Turnback expenditures	 <u>\$ 1,303,390</u>

(1) Auditor reviewed the expenditure detail of the Capital Projects Fund and verified that expenditures funded with Turnback funds were charged to projects included in the City's Seven-Year CIP.

Note: The above amounts were taken directly from the financial records of the City of Rancho Santa Margarita and were not audited.



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the City of San Clemente
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANTS' REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF SAN CLEMENTE**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of San Clemente's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum that the City was required to spend in MOE expenditures.

Results: The City was required to spend \$951,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: The City records its MOE expenditures in the General Fund. MOE expenditures are identified by project code in the City's general ledger.

3. We obtained the detail of MOE expenditures incurred during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.



Board of Directors of the
Orange County Local Transportation Authority
and the Citizens Oversight Committee

Results: The City's total MOE expenditures for the fiscal year ended June 30, 2008 were \$3,167,239, or \$2,216,239 above the minimum MOE requirement.

4. We judgmentally selected 127 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$1,420,882, representing 45% of total MOE expenditures during the fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed in the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were charged through an indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of the general ledger expenditure detail and discussion with the City's Finance staff, MOE expenditures incurred during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which funds the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are segregated within Fund 012 Gas Tax Fund, and Fund 042, Street Improvement Fund (collectively "Turnback Fund"), using a project code that is added to the account numbers. Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$1,810,477.

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected four Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$1,566,109, representing 87% of total Turnback expenditures during the fiscal year ended June 30, 2008. For each item selected we performed the following:



Board of Directors of the
Orange County Local Transportation Authority
and the Citizens Oversight Committee

- a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including City check copy or wire transfer and vendor invoice or journal entry voucher.
- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were charged through an indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of the general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures during the fiscal year ended June 30, 2008 did not include allocated indirect costs.

9. We obtained a listing of Turnback payments made from the OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$2,128,295 of Turnback monies for the three years ended June 30, 2008, including \$732,357 for the fiscal year ended June 30, 2008.

10. We obtained the cash balance of the City's Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was (\$98,858). No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was credited to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.



Board of Directors of the
Orange County Local Transportation Authority
and the Citizens Oversight Committee

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
December 18, 2008

CITY OF SAN CLEMENTE, CALIFORNIA
 Schedule of MOE and Turnback Expenditures
 Year Ended June 30, 2008
 (Unaudited)

Maintenance of Effort (MOE):	
Major street maintenance	\$ 1,265,615
Traffic signals	527,764
Traffic maintenance	313,508
Street maintenance and repair	663,845
Street lighting	<u>396,507</u>
 Total MOE expenditures	 <u>3,167,239</u>
 Turnback:	
Improvements other than buildings:	
Gas Tax Fund	
Camino de Estrella & Camino Mira Costa	1,237,455
Improvements other than buildings:	
Street Improvements Fund	
Avenida Crespi/Avenida Cota	194,405
Avenida Montalvo	317,993
Avenida Magdalena	<u>60,624</u>
 Total Turnback expenditures	 <u>1,810,477</u>
 Total MOE and Turnback expenditures	 <u>\$ 4,977,716</u>

Note: The above amounts were taken directly from the financial records of the City of San Clemente and were not audited.



Mayer Hoffman McCann P.C.
An Independent CPA Firm
Conrad Government Services Division
2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

**INDEPENDENT ACCOUNTANT'S REPORT
ON APPLYING AGREED-UPON PROCEDURES –
CITY OF VILLA PARK**

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee (Committee) of the Orange County Local Transportation Authority (OCLTA), solely to assist you in evaluating the City of Villa Park's (City's) level of compliance with the provisions of Measure M, Local Transportation Ordinance #2 (Ordinance) as of and for the fiscal year ended June 30, 2008. The City's management is responsible for compliance with the Ordinance and for its cash, revenue and expenditure records. This agreed-upon procedures engagement was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of those parties specified in the report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

The procedures performed and the results of those procedures were as follows:

1. We obtained and read the Maintenance of Effort (MOE) Calculation Report established by the OCLTA for the City and determined the minimum the City was required to spend in MOE expenditures.

Results: The City was required to spend \$263,000 in MOE expenditures during the fiscal year ended June 30, 2008.

2. We documented which funds the City used to track all street and road expenditures and inquired how the City identified MOE expenditures in its general ledger.

Results: The City uses the General Fund, Gas Tax Fund, Aid to Cities Fund, Local Sales Tax Fund, and the Capital Improvement Fund to track all street and road expenditures. MOE expenditures are identified by accounts 4340-5376 in the general ledger.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

3. We obtained the detail of MOE expenditures during the fiscal year ended June 30, 2008 to determine whether the City met the minimum MOE requirement.

Results: The City's MOE expenditures for the fiscal year ended June 30, 2008 were \$634,286, or \$371,286 above the minimum MOE requirement.

4. We judgmentally selected 6 MOE expenditures from the City's general ledger expenditure detail. Total MOE expenditures tested were \$535,982, representing 84% of total MOE expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:
 - a. Agreed the dollar amount listed on the general ledger for the MOE expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
 - b. Verified that the expenditure was properly classified as local street and road expenditures.

Results: No exceptions were noted as a result of our procedures.

5. We identified MOE expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance Manager, MOE expenditures during the fiscal year ended June 30, 2008 did not include indirect costs.

6. We documented which fund the City used to track expenditures relating to Turnback monies in its general ledger and the amount spent during the fiscal year ended June 30, 2008.

Results: The City's Turnback expenditures are recorded in Fund 05, Local Sales Tax Fund (Turnback Fund). Total Turnback expenditures during the fiscal year ended June 30, 2008 were \$32,981.

7. We obtained the City's Seven-Year Capital Improvement Program and judgmentally selected 2 Turnback expenditures from the City's general ledger expenditure detail. Total Turnback expenditures tested were \$30,723, representing 93% of total Turnback expenditures during fiscal year ended June 30, 2008. For each item selected we performed the following:



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

- a. Agreed the dollar amount listed on the general ledger for the Turnback expenditure to supporting documentation, including the City check copy or wire transfer and vendor invoice or journal voucher.
- b. Verified that the expenditure was related to projects included in the City's Seven-Year Capital Improvement Program.

Results: No exceptions were noted as a result of our procedures.

8. We identified Turnback expenditures that were included through indirect cost allocation and reviewed the City's indirect cost allocation plan for reasonableness.

Results: Based upon our review of general ledger expenditure detail and discussion with the City's Finance staff, Turnback expenditures incurred during the fiscal year ended June 30, 2008 did not include indirect costs.

9. We obtained a listing of Turnback payments made from OCLTA to the City and calculated how much the City received for the past three fiscal years.

Results: The City received \$206,364 of Turnback monies for the three years ended June 30, 2008, including \$70,116 for the year ended June 30, 2008.

10. We obtained the cash balance of the Turnback Fund as of June 30, 2008 to determine whether funds were expended within three years of receipt.

Results: The City's cash balance in its Turnback Fund as of June 30, 2008 was \$91,270. No exceptions were noted as a result of our procedures.

11. We reviewed the City's interest allocation methodology to ensure the proper amount of interest was returned to the Turnback Fund.

Results: No exceptions were noted as a result of our procedures.

We were not engaged to, and did not conduct an audit, the objective of which would be the expression of an opinion on the accounting records. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.



Board of Directors of the
Orange County Local Transportation Authority
and the Taxpayers Oversight Committee

This report is intended solely for the information and use of the Board of Directors of the Orange County Local Transportation Authority and the Taxpayers Oversight Committee and is not intended to be and should not be used by anyone other than those specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
September 2, 2008

CITY OF VILLA PARK, CALIFORNIA
Schedule of MOE and Turnback Expenditures
Year Ended June 30, 2008
(Unaudited)

Maintenance of Effort (MOE):	
Pavement rehabilitation	\$ 228,961
Villa Park Road rehabilitation	<u>405,325</u>
Total MOE expenditures	634,286
Turnback:	
Pavement rehabilitation	<u>32,981</u>
Total MOE and Turnback expenditures	<u>\$ 667,267</u>

Note: The above amounts were taken directly from the financial records of the City of Villa Park and were not audited.



INTEROFFICE MEMO

March 11, 2009

To: Janet Sutter, Principal Internal Auditor
From: Andy Oftelie, Department Manager, FP&A
Subject: **Independent Accountant's Report - City of Irvine**

The Independent Accountant's Report on Applying Agreed-Upon Procedures – City of Irvine correctly found that the City of Irvine did not include some projects that were funded with Turnback funds in their Seven-Year Capital Improvement Program (CIP). Please include the following as the OCTA staff response to Finding #7 of the report:

Eligible cities within Orange County receive a formula allocation of turnback funds for street maintenance and local traffic improvements. Cities have the discretion to use the funding for projects as they see fit so long as the expenditures meet certain criteria defined in Orange County Local Transportation Authority Ordinance No. 2 ("Ordinance") and are eligible under Article XIX of the State of California Constitution. The Ordinance requires that each city include eligible projects in their Seven-Year Capital Improvement Program.

When cities provide their CIP to meet eligibility requirements, it is an accepted practice for cities to include a general description related to rehabilitation projects rather than listing each project individually. In this case, the City of Irvine, given what they knew at the time, provided more detail than required and listed each project individually. As is often the case, circumstances changed and they chose to utilize their turnback funds for other Article XIX eligible projects. City staff has indicated that they have amended their most recent CIP to include the projects not previously included.

As evidenced by City staff's response to the finding where they amended their recent CIP and only funded projects that would of otherwise been eligible, it is OCTA staff's opinion that a good faith effort was made by the City to comply with all requirements. Furthermore, OCTA staff does not want to incentivize any city to provide less detail in their CIP. OCTA staff will request a copy of the City's amended CIP and will reiterate at the annual meeting that necessary amendments to CIPs be forwarded to OCTA on a timely bases. With this

recommended action, OCTA would recommend that no further action beyond this be required of the City.

C: Kathleen O'Connell
Kurt Brotcke
Tresa Oliveri



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: Cooperative Agreements with the Cities of Aliso Viejo and Irvine for Go Local Step Two Bus/Shuttle Service Planning

Transit Committee meeting of March 26, 2009

Present: Directors Brown, Dalton, Dixon, Nguyen, Pulido, and Winterbottom
Absent: Director Green

Committee Vote

This item was passed by all Committee Members present.

Director Pulido was not present to vote on this item.

Committee Recommendations

- A. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0304 between the Orange County Transportation Authority and the City of Aliso Viejo to define each party's roles and responsibilities for service planning of the Aliso Viejo Town Center Shuttle Bus.
- B. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0303 between the Orange County Transportation Authority and the City of Irvine to define each party's roles and responsibilities for service planning of the Irvine Spectrum Shuttle.



March 26, 2009

To: Transit Committee
ATL/RA

From: Arthur T. Leahy, Chief Executive Officer

Subject: Cooperative Agreements with the Cities of Aliso Viejo and Irvine for Go Local Step Two Bus/Shuttle Service Planning

Overview

The Orange County Transportation Authority Board of Directors has approved 27 bus/shuttle proposals submitted under Go Local Step One to be advanced to Step Two. As part of Step Two, each bus/shuttle proposal will undergo detailed service planning. Cooperative agreements are needed to outline roles and responsibilities for the Step Two service planning effort. Cooperative agreements with the cities of Aliso Viejo and Irvine for service planning of the cities' respective bus/shuttle proposals are presented for review and approval.

Recommendations

- A. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0304 between the Orange County Transportation Authority and the City of Aliso Viejo to define each party's roles and responsibilities for service planning of the Aliso Viejo Town Center Shuttle Bus.
- B. Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0303 between the Orange County Transportation Authority and the City of Irvine to define each party's roles and responsibilities for service planning of the Irvine Spectrum Shuttle.

Background

On October 27, 2008, the Orange County Transportation Authority (OCTA) Board of Directors (Board) approved 25 bus/shuttle proposals submitted under Go Local Step One to be advanced to Step Two. Two additional bus/shuttle proposals were submitted and approved by the Board on January 12, 2009. For the Step Two service planning, OCTA will utilize a bench of consultants that were retained through a competitive procurement process. This bench will assist OCTA staff in assessing the feasibility of the proposals by evaluating

areas such as, but not limited to, potential demand and customer needs, route segment and system performance, potential impacts to existing OCTA fixed-route bus and paratransit service, boarding/revenue vehicle hours, resources, budgets, policies, and technical aspects of the proposed service. Using OCTA's pre-selected bench of consultants is intended to ensure consistency and standardization in the evaluation process for all participating cities.

As part of Go Local Step One, cooperative agreements were executed with participating cities to specify the roles and responsibilities of the initial needs assessment phase. OCTA encouraged cities to partner with neighboring cities in an effort to develop optimal regional connections to Metrolink stations. When cities came together as a team, a lead agency was identified as the point of contact to OCTA. Prior to initiation of the Step Two service planning work, the cooperative agreements with the lead agencies are needed as a result of the expiration of the Step One agreements and to identify any modifications to teaming arrangements.

Discussion

Currently there are 13 cities/teams participating in the Go Local Step Two bus/shuttle service planning effort. In the coming months, staff will be bringing forward cooperative agreements with each of the lead agencies for Board consideration. The order in which the agreements are brought to the Board is dependent upon the schedule in which the lead agency approves the agreement. Two of the 13 teams have approved the agreement.

A brief summary of the cities of Aliso Viejo and Irvine's approved bus/shuttle proposals are below:

City of Aliso Viejo

The City of Aliso Viejo proposed the Aliso Viejo Town Center Shuttle Bus as part of its Step One final report. The Board approved this concept for advancement into Step Two. The shuttle system would serve as a linkage between the Laguna Niguel/Mission Viejo Metrolink Station, Aliso Viejo Town Center, Soka University, and other nearby employment and business centers.

City of Irvine

The City of Irvine proposed the Irvine Spectrum Shuttle project as part of its Step One final report. The Board approved this concept for advancement into

Step Two. The Irvine Spectrum Shuttle proposes to provide local circulator service throughout the Irvine Spectrum area including apartment villages and a variety of corporate offices, retailers, and local businesses. Key stops being proposed include the Irvine Station, Verizon Amphitheater, Broadcom, The Village, and the future Lifelong Learning District and Great Park.

The City of Irvine will also be submitting a revised Go Local Step One final report to include additional bus/shuttle proposal(s) in light of the OCTA Board and California Transportation Commission's approval of the transfer of Proposition 116 funds. These additional concepts will replace the City of Irvine's previously submitted fixed-guideway project. The revised report from the City of Irvine will be evaluated and brought to the Board for consideration consistent with prior evaluations of Go Local Step One final reports.

The general purpose and content of the Go Local Step Two cooperative agreements is to identify the roles and responsibilities of both OCTA and the lead agency for the service planning effort. The cooperative agreements will be similar for each lead agency, except for a few minor differences in language to meet city-specific requirements.

OCTA's principal responsibilities described in the cooperative agreement include:

- Procure and manage consultant support to work directly with the lead agency to develop comprehensive service plans for the bus/shuttle proposals as identified in the respective Go Local Step One final reports.
- Direct consultant to perform detailed service planning activities for each of the Board-approved bus/shuttle proposals.
- Evaluate final Go Local Step Two reports summarizing service planning activities and funding plans for each of the bus/shuttle proposals that have been approved by the City Council.

The lead agency's principal responsibilities described in the cooperative agreement include:

- Work collaboratively with consultant selected by OCTA and supply all requested data necessary to support the service planning.
- Participate in the development of a comprehensive service planning report, which will be led by the consultant, for each bus/shuttle proposal

that addresses all the service planning activities. Report must be accompanied by a City Council resolution indicating support and approving the final service planning report and funding plan for each bus/shuttle proposal.

- Provide eligible local matching funds, excluding in-kind sources, for the city's proportionate share. Consistent with previous Board action, cities are required to provide a local funding match of 10 percent of the actual service planning activities cost, up to \$100,000, for each bus/shuttle proposal.

Next Steps

Upon the Board's approval of the subject cooperative agreements, contract task orders will be issued to the bench of consultants and competitively awarded to provide service planning for the Aliso Viejo Town Center Shuttle Bus and Irvine Spectrum Shuttle. Staff will return to the Board in April with additional cooperative agreements that have been approved by the participating lead agencies.

Fiscal Impact

Funding for this project is currently included in OCTA's Fiscal Year 2008-09 Budget, Account 0010-6062-T5410-3SB. This is a reimbursable agreement as cities are responsible for reimbursing OCTA 10 percent of consultant work for this phase of study.

Summary

Staff is seeking Board authorization to execute cooperative agreements with the cities of Aliso Viejo and Irvine to initiate service planning for the cities' respective Board-approved bus/shuttle proposals.

Attachments

- A. Cooperative Agreement No. C-9-0304 Between Orange County Transportation Authority and City of Aliso Viejo for Go Local Bus/Shuttle Service Planning
- B. Cooperative Agreement No. C-9-0303 Between Orange County Transportation Authority and City of Irvine for Go Local Bus/Shuttle Service Planning

Prepared by:



Kelly Long
Senior Transportation Analyst
(714) 560-5725

Approved by:



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

COOPERATIVE AGREEMENT NO. C-9-0304

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF ALISO VIEJO

FOR

GO LOCAL BUS/SHUTTLE SERVICE PLANNING

THIS AGREEMENT is effective on this _____ day of _____
2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box
14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter
referred to as "AUTHORITY"), and the City of Aliso Viejo, 12 Journey, Suite 100, Aliso Viejo, CA 92656,
a municipal corporation duly organized and existing under the constitution and laws of the State of
California (hereinafter referred to as "CITY").

RECITALS:

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

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

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

WHEREAS, the AUTHORITY's Board of Directors, on January 12, 2009 approved the
bus/shuttle proposal dated August 22, 2008 submitted by the CITY to advance to Step Two for further
study entitled "Town Center Shuttle Bus" (hereinafter referred to as "BUS/SHUTTLE PROPOSAL") ;
and

/

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

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

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

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

13 **ARTICLE 1. COMPLETE AGREEMENT**

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

19 **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

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

21 A. Procure and manage consultant of the AUTHORITY to work directly with the CITY to
22 develop comprehensive service plans for the BUS/SHUTTLE PROPOSAL to include an analysis of
23 Passenger Demands and Needs, Route Segment Performance; System Performance; Analysis of
24 Impacts to Existing Fixed Route Service, including transit centers and transfer points; Compliance with
25 American Disabilities Act (ADA) and Impacts to Paratransit Service; Boardings/Revenue Vehicle Hour
26 and Passenger Loads; Market Research and Segmentation Analysis; and Resource Requirements and

1 Financial Parameters, including fare type and farebox recovery estimate, operating and capital costs
2 and service cost-benefit analysis (hereinafter, referred to as "SERVICE PLANNING ACTIVITIES"); and

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

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

10 D. Invoice CITY on a quarterly basis for proportionate share, ten percent (10%), of actual
11 SERVICE PLANNING ACTIVITIES cost, which shall not exceed One Hundred Thousand Dollars
12 (\$100,000), for the CITY's BUS/SHUTTLE PROPOSAL; and

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

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

21 **ARTICLE 3. RESPONSIBILITIES OF CITY**

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

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

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

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

3 D. Participate in the development of a comprehensive service planning report, which will be
4 led by the consultant, for the BUS/SHUTTLE PROPOSAL that addresses all the SERVICE PLANNING
5 ACTIVITIES and is accompanied by a CITY Council resolution indicating support and approving the
6 final service planning report and funding plan for the BUS/SHUTTLE PROPOSAL; and

7 E. Provide eligible local matching funds, excluding in-kind sources, for CITY's proportionate
8 share (ten percent (10%) of actual SERVICE PLANNING ACTIVITIES cost, up to One Hundred
9 Thousand Dollars (\$100,000), for the BUS/SHUTTLE PROPOSAL); and

10 F. Pay AUTHORITY, on a quarterly basis, within 30 days of receipt of invoice for CITY's
11 proportionate share (ten percent (10%) of actual SERVICE PLANNING ACTIVITIES cost, up to One
12 Hundred Thousand Dollars (\$100,000), for the BUS/SHUTTLE PROPOSAL); and

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

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

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

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

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

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

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

7 To CITY:	To AUTHORITY:
8 Public Works Department	Orange County Transportation Authority
9 City of Aliso Viejo	550 South Main Street
10 12 Journey Suite 100	P. O. Box 14184
11 Aliso Viejo, CA 92656	Orange, CA 92863-1584
12 Attention: John Whitman	Attention: Jennifer Bergener
13 City Engineer	Manager, Local Initiatives
14 Telephone: (949) 425-2500	Telephone: (714) 560-5462
15 e-mail: jwhitman@cityofaliso Viejo.com	e-mail: Jbergener@octa.net

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

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

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

26 /

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

4 I. Neither this Agreement, nor any of a Party's rights, obligations, duties, or authority
5 hereunder may be assigned in whole or in part by either Party without the prior written consent of the
6 other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent
7 to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any
8 right to consent to such subsequent assignment.

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

16 /
17 /
18 /
19 /
20 /
21 /
22 /
23 /
24 /
25 /
26 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0304 to be executed on the date first above written.

CITY OF ALISO VIEJO

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____

By: _____

Donald A. Garcia
Mayor

Arthur T. Leahy
Chief Executive Officer

ATTEST:

APPROVED AS TO FORM

By: _____

By: _____

Susan A. Ramos
City Clerk

Kennard R. Smart, Jr.
General Counsel

APPROVED AS TO FORM:

APPROVAL RECOMMENDED:

By: _____

By: _____

Scott C. Smith
City Attorney

Kia Mortazavi,
Executive Director, Development

Dated: _____

Dated: _____

1 detailed service planning for Step Three implementation; and

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

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

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

11 **ARTICLE 1. COMPLETE AGREEMENT**

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

17 **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

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

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

B. Participate in service planning team meetings with CITY and consultant for

1 BUS/SHUTTLE PROPOSAL and provide AUTHORITY-generated transit planning data and transit
2 planning support where AUTHORITY deems necessary; and

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

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

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

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

17 **ARTICLE 3. RESPONSIBILITIES OF CITY**

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

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

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

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

25 D. Participate in the development of a comprehensive service planning report, which will be
26 led by the consultant, for the BUS/SHUTTLE PROPOSAL that addresses all the SERVICE PLANNING
ACTIVITIES and is accompanied by a CITY Council resolution indicating support and approving the

1 final service planning report and funding plan for the BUS/SHUTTLE PROPOSAL; and

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

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

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

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

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

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

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

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

25 /

26 /

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

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

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

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

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

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

26 I. Neither this Agreement, nor any of a Party's rights, obligations, duties, or authority
 hereunder may be assigned in whole or in part by either Party without the prior written consent of the

1 other Party. Any such attempt of assignment shall be deemed void and of no force and effect. Consent
2 to one assignment shall not be deemed consent to any subsequent assignment, nor the waiver of any
3 right to consent to such subsequent assignment.

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

11 /
12 /
13 /
14 /
15 /
16 /
17 /
18 /
19 /
20 /
21 /
22 /
23 /
24 /
25 /
26 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

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

CITY OF IRVINE

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
Manuel Gomez
Public Works Director

By: _____
Arthur T. Leahy
Chief Executive Officer

ATTEST:

APPROVED AS TO FORM

By: _____
Sharie Apodaca
City Clerk

By: _____
Kennard R. Smart, Jr.
General Counsel

APPROVED AS TO FORM:

APPROVAL RECOMMENDED:

By: _____
Phil Kohn
City Attorney

By: _____
Kia Mortazavi,
Executive Director, Development

Dated: _____

Dated: _____



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors

From: Wendy Knowles, Clerk of the Board ^{WK}

Subject: Cooperative Agreement with the California Department of Transportation for the Eastbound Riverside Freeway (State Route 91) Project

Highways Committee Meeting of April 6, 2009

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

Absent: None

Committee Vote

This item was passed by all Committee Members present.

Director Dixon was not present to vote on this item.


Committee Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0359 between the California Department of Transportation and the Orange County Transportation Authority, in an amount not to exceed the current estimate of \$67.852 million, for construction of an eastbound lane on the Riverside Freeway (State Route 91).



April 6, 2009

To: Highways Committee

From:  James S. Kenan, Interim Chief Executive Officer

Subject: Cooperative Agreement with the California Department of Transportation for the Eastbound Riverside Freeway (State Route 91) Project

Overview

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to establish the funding responsibilities related to the construction of an eastbound lane on the Riverside Freeway (State Route 91) between the Eastern Transportation Corridor (State Route 241) and the Corona Expressway (State Route 71).

Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0359 between the California Department of Transportation and the Orange County Transportation Authority, in an amount not to exceed the current estimate of \$67.852 million, for construction of an eastbound lane on the Riverside Freeway (State Route 91).

Background

The proposed project improvements to the Riverside Freeway (State Route 91) between the Eastern Transportation Corridor (State Route 241) and the Corona Expressway (State Route 71) include the construction of a fifth eastbound mixed-flow lane and widening of the existing lanes and shoulders to standard widths. In the past, agreements with the California Department of Transportation (Caltrans) have been executed that address the funding necessary to prepare the plans, specifications, and estimate, and acquire right-of-way.

At this time, the design for the project is complete and advertisement for construction is expected in May 2009.

Discussion

In May 2007, this project was selected by the California Transportation Commission (CTC) to receive Proposition 1B funding, \$71.44 million, for construction of improvements. The project was scheduled to be awarded for construction in August 2009. Due to the fiscal status of the State of California (State), the State is unable to issue bonds for construction at this time. Therefore, the Director of Caltrans suspended the award of all State-advertised bond-funded construction contracts in December 2008.

The Orange County Transportation Authority (OCTA) has explored other options to fund this project. The Board of Directors (Board) approved the use of federal stimulus funding for this project to avoid construction delays.

An agreement is required with Caltrans to commit the federal stimulus funds to the project. The Board adopted up to \$71.44 million for the project. However, the current estimate is \$67.852 million. Therefore, this agreement calls for OCTA to contribute a not-to-exceed amount of \$67.852 million in federal funds to Caltrans. These include Federal Highway Administration Highway Infrastructure Investment funds through the American Reinvestment and Recovery Act of 2009 and Regional Surface Transportation Funds. It is also proposed that the total programmed amount be redistributed among construction capital and construction support components.

With the cooperation of the CTC, OCTA staff is in the process of reprogramming the original Corridor Mobility Improvement Account (CMIA) funds of \$71.44 million allocated to the State Route 91 project to other Orange County projects. OCTA is proposing to shift the CMIA funds, displaced by the federal funds, to the Orange Freeway (State Route 57) northbound widening project.

Fiscal Impact

None.

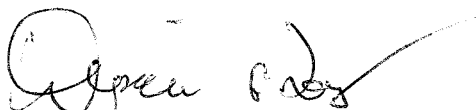
Summary

Staff requests Board approval for the Chief Executive Officer to execute Cooperative Agreement No. C-9-0359 with Caltrans, in the amount of \$67.852 million, for construction of an eastbound lane on State Route 91 between the State Route 241 and State Route 71.

Attachment

- A. Draft Cooperative Agreement No. C-9-0359

Prepared by:



Dipak Roy, P.E.
Project Manager
(714) 560-5863

Approved by:



Kia Mortazavi
Executive Director, Development
(714) 560-57412

COOPERATIVE AGREEMENT
Contribution Only

This agreement, effective on _____, 2009 is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

Orange County Transportation Authority, referred to as "OCTA".

RECITALS

1. CALTRANS and OCTA, collectively referred to as PARTNERS, are authorized to enter into a cooperative agreement for improvements to the SHS per Streets and Highways Code sections 114 and 130.
2. CALTRANS is building a project that adds a lane on Route 91 in the eastbound direction from the SR-241/SR-91 interchange to the SR-71/SR-91 interchange, in Orange County and Riverside County, referred to as PROJECT.
3. OCTA will contribute funds to PROJECT. Contributed funds will be used for the PROJECT.
4. Caltrans shall obligate funds by June 1, 2009.
5. PARTNERS now define in this agreement the terms and conditions of this contribution.

RESPONSIBILITIES

6. CALTRANS is the IMPLEMENTING AGENCY for PROJECT.
7. OCTA is a FUNDING PARTNER contributing a fixed amount towards PROJECT.

DEFINITIONS

FUNDING PARTNER – A partner who commits a defined dollar amount.

IMPLEMENTING AGENCY – The partner responsible for managing the scope, cost, and schedule of a project component to ensure the completion of that component.

PARTNERS – The term that collectively references all of the signatory agencies to this agreement. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one partner's individual actions legally bind the other partners.

SCOPE

8. CALTRANS is responsible for all work for PROJECT.

COST

9. OCTA will contribute a fixed amount of \$67,852 million in regional federal funds including Federal Highway Administration Highway Infrastructure Investment funds through the American Reinvestment and Recovery Act of 2009 (Economic Stimulus) and Regional Surface Transportation Funds (STP) funds, by designating Caltrans as the direct recipient for these funds. The said amount is for construction capital (\$58.852 million) and construction management (\$9 million) of PROJECT. These funds are replacing the funding previously committed under state Proposition 1B Corridor Mobility Improvement Account. OCTA expects that the full amount previously programmed in Proposition 1B funds (\$71.44 million) will be transferred by the California Transportation Commission to other OCTA projects.
10. CALTRANS will administer all federal funds.
11. Any additional cost over the agreed to \$67,852,000.00 will require prior written authorization by OCTA Executive Director of the Development Division.

GENERAL CONDITIONS

12. All obligations of CALTRANS under the terms of this agreement are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
13. Neither OCTA nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS under this agreement.

It is understood and agreed that, CALTRANS will fully defend, indemnify, and save harmless OCTA and all of its officers and employees from all claims, suits, or actions of every name, kind and description brought forth under, including, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS under this agreement.

14. PROJECT is subject to the intent, terms, conditions, requirements, and constraints of the American Recovery and Reinvestment Act of 2009 (ARRA) and as directed by CALTRANS.
15. This agreement is intended to be PARTNERS' final expression and supersedes all prior oral understanding or writings pertaining to PROJECT.
16. This agreement will terminate upon receipt of the full payment in the amount of \$67,852,000.00 in ARRA and STP funds to CALTRANS.

However, all indemnification provisions will remain in effect until terminated or modified in writing by mutual agreement.

SIGNATURES

PARTNERS declare that:

- 1. Each partner is an authorized legal entity under California state law.
- 2. Each partner has the authority to enter into this agreement.
- 3. The people signing this agreement have the authority to do so on behalf of their public agencies.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

ORANGE COUNTY
TRANSPORTATION AUTHORITY

By: _____ Date: _____
Cindy Quon
District Director

By: _____ Date: _____
James S. Kenan
Interim Chief Executive Officer

CERTIFIED AS TO FUNDS:

APPROVED AS TO FORM:

By: _____ Date: _____
Neda Saber
District Budget Manager

By: _____ Date: _____
Ken Smart
Legal Counsel

By: _____ Date: _____
Kia Mortazavi
Executive Director, Development



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board ^{WK}
Subject: Cooperative Agreement with the California Department of Transportation for the San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project

Highways Committee Meeting of April 6, 2009

Present: Directors Amante, Cavecche, Dixon, Glaab, Green, Mansoor, Norby, and Pringle
Absent: None

Committee Vote

This item was passed by all Committee Members present.

Directors Dixon and Mansoor were not present to vote on this item.

Committee Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0270 between the Orange County Transportation Authority and the California Department of Transportation for the project approval and environmental document phase of the San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project between San Juan Creek Road and Avenida Pico.



April 6, 2009

To: Highways Committee

From: *JJK* James S. Kenan, Interim Chief Executive Officer

Subject: Cooperative Agreement with the California Department of Transportation for the San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project

Overview

The San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project will extend the high-occupancy vehicle lanes from San Juan Creek Road in the City of San Juan Capistrano to Avenida Pico in the City of San Clemente. A draft cooperative agreement has been prepared that outlines the roles and responsibilities of the Orange County Transportation Authority and the California Department of Transportation for the project approval and environmental document phase of the project.

Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0270 between the Orange County Transportation Authority and the California Department of Transportation for the project approval and environmental document phase of the San Diego Freeway (Interstate 5) High-Occupancy Vehicle Project between San Juan Creek Road and Avenida Pico.

Background

In August 2007, the Orange County Transportation Authority (Authority) Board of Directors (Board) approved and released the Renewed Measure M Early Action Plan that proposes to start the environmental phase of the San Diego Freeway (Interstate 5) High-Occupancy Vehicle (HOV) Project between Pacific Coast Highway (State Route 1) and Avenida Pico in early 2009.

The California Department of Transportation (Caltrans) recently completed the conceptual engineering study or project study report which recommends that the no-build alternative and three build alternatives proceed to the project

approval and environmental document (PA/ED) phase. The build alternatives are:

- Build alternative 1 would add one HOV lane in each direction with full design standard lanes and shoulders.
- Build alternative 2 would add one HOV lane in each direction with full design standard lanes and shoulders except for one southbound segment where non-standard design features are proposed.
- In addition to one HOV lane in each direction with full design standard lanes and shoulders, build alternative 3 would also add auxiliary lanes between on-ramps and off-ramps and widen three ramps.

Discussion

The type of environmental document that will be proposed for the project is an initial study/environmental assessment with an anticipated Mitigated Negative Declaration and Finding of No Significant Impact. The environmental phase is scheduled for a duration of two years. The project report, environmental document, and technical studies will be prepared in cooperation with Caltrans and the Federal Highway Administration and in accordance with California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements. Once the preferred alternative is cleared environmentally, the project will be ready to proceed to the design and construction phases.

Draft Cooperative Agreement No. C-9-0270 between Caltrans and the Authority outlines the roles and responsibilities of each party during the PA/ED phase. Pursuant to CEQA and NEPA requirements, Caltrans will be the lead agency and the Authority will be the responsible agency. The Authority will be responsible for funding, procuring, and administering the PA/ED professional services contract and also for the CEQA/NEPA public involvement process, including public notices, planning the scoping meetings, and conducting the public meetings. At its own cost, Caltrans will be responsible for providing independent quality assurance and approval of the environmental and engineering documents and will act as the approving agency pursuant to the NEPA Delegation Pilot Program.

Fiscal Impact

None.

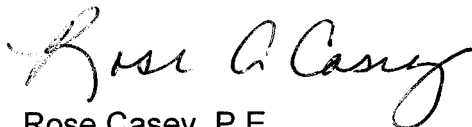
Summary

Staff is requesting the Board to authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0270 with Caltrans for the PA/ED phase for the Interstate 5 HOV Project from San Juan Creek Road to Avenida Pico.

Attachment

- A. Draft Cooperative Agreement No. C-9-0270 between the Orange County Transportation Authority and the California Department of Transportation

Prepared by:



Rose Casey, P.E.
Program Manager
Highway Project Delivery
(714) 560-5729

Approved by:



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

DRAFT COOPERATIVE AGREEMENT
NO. C-9-0270 BETWEEN THE ORANGE
COUNTY TRANSPORTATION

ATTACHMENT A

AUTHORITY AND THE CALIFORNIA
DEPARTMENT OF TRANSPORTATION

COOPERATIVE AGREEMENT

12-ORA-005, PM 3.30/8.70
In the Cities of San Clemente, Dana Point, and San Juan Capistrano
12-OF960K
District Agreement No. 12-606
OCTA Agreement No. C-9-0270

This AGREEMENT, entered into and made effective on _____, 2008, is between the STATE OF CALIFORNIA, acting by and through its Department of Transportation, referred to herein as "STATE", and the

ORANGE COUNTY TRANSPORTATION AUTHORITY, a public corporation of the State of California, referred to herein as "AUTHORITY".

RECITALS

1. The STATE and AUTHORITY, pursuant to Streets and Highways Code sections 114 and 130, are authorized to enter into a Cooperative Agreement for improvements to the State Highway System (SHS).
2. AUTHORITY desires to perform preliminary engineering and preparation of environmental documentation for State Highway improvements consisting of adding HOV lanes on Interstate 5 (I-5) from 0.1 mile south of Avenida Pico UC (PM 3.30) to 0.1 mile south of San Juan Creek Rd UC (PM 8.70) in the cities of San Clemente, Dana Point and San Juan Capistrano, referred to herein as the "PROJECT".
3. AUTHORITY is willing to fund one hundred percent (100%) of all support costs, except that the costs of STATE's Independent Quality Assurance (IQA) of Project Approval and Environmental Document (PA&ED), and STATE's costs incurred as the California Environmental Quality Act (CEQA) Lead Agency and National Environmental Policy Act (NEPA) Lead Agency, if applicable, in the review, comment and approval of the PROJECT environmental documentation prepared entirely by AUTHORITY, will be borne by STATE.
4. STATE funds will not be used to finance any of the PROJECT support costs except as set forth in Recital 3 above.
5. The terms of this Agreement shall supersede any inconsistent terms of any prior Memorandum of Understanding (MOU) or Agreement relating to PROJECT.
6. PROJECT construction and preparation of detailed Plans, Specifications and Estimate (PS&E) of PROJECT, as well as landscape maintenance and construction, will be the subjects of separate future Agreement(s).
7. This Agreement will define the roles and responsibilities of the California Environmental Quality Act (CEQA) Lead Agency and CEQA Responsible Agency regarding environmental documentation, studies, and reports necessary for compliance with CEQA. This Agreement will also define roles and responsibilities for compliance with National Environmental Policy Act (NEPA), if applicable.
8. The parties now define herein below the terms and conditions under which PROJECT is to be developed.

SECTION I

AUTHORITY AGREES:

1. To fund one hundred percent (100%) of all PA&ED costs in the preparation of Project Report (PR) and Environmental Document (ED), except for costs of STATE's IQA and STATE's review, comment, and approval, if appropriate, of the PROJECT environmental documentation for CEQA and NEPA, if applicable.
2. To not use STATE funds for any PROJECT support costs except as mentioned in Section 1 Article 1 above.
3. All PROJECT work performed by AUTHORITY, or performed on AUTHORITY's behalf, shall be performed in accordance with all State and Federal laws, regulations, policies, procedures, and standards that STATE would normally follow. All such PROJECT work shall be submitted to STATE for STATE's review, comment, and concurrence at appropriate stages of development.
4. All PROJECT work, except as set forth in this Agreement, is to be performed by AUTHORITY. Should AUTHORITY request that STATE perform any portion of PROJECT work, except as otherwise set forth in this Agreement, AUTHORITY shall first agree to reimburse STATE for such work pursuant to an amendment to this Agreement or a separate executed Agreement.
5. To have a PR and environmental documentation, including the investigative studies and technical environmental reports, prepared, at no cost to STATE, and to submit each to STATE for STATE's review, concurrence and/or approval at appropriate stages of development. The PR shall be signed on behalf of AUTHORITY by a Civil Engineer registered in the State of California.
6. To permit STATE to monitor, participate, and oversee the selection of personnel who will prepare the PR and prepare environmental documentation, including the investigative studies and technical environmental reports. AUTHORITY agrees to consider any request by STATE to avoid a contract award or to discontinue the services of any personnel considered by STATE to be unqualified on the basis of credentials, professional expertise, failure to perform and/or other pertinent criteria.
7. Personnel who prepare the environmental documentation, including the investigative studies and technical environmental reports, shall be made available to STATE, at no cost to STATE, through completion of PROJECT construction to discuss problems which may arise during PS&E, right of way acquisition, and construction phases of the PROJECT, and/or to make design revisions for contract change orders.
8. To make written application to STATE for necessary encroachment permits authorizing entry of AUTHORITY onto the SHS right-of-way to perform surveying and other investigative activities required for preparation of the PR and ED. AUTHORITY shall also require AUTHORITY'S consultants and contractors to make written application to STATE for the same necessary encroachment permits.

9. To identify and locate all utility facilities within the area of PROJECT as part of the design responsibility for PROJECT. All utility facilities not relocated or removed in advance of construction shall be identified on the PS&E for PROJECT.
10. If any existing utility facilities conflict with the construction of PROJECT or violate STATE's encroachment policy, AUTHORITY shall make all necessary arrangements with the owners of such facilities for their timely accommodation, protection, relocation, or removal.
11. To be responsible for, and to the STATE's satisfaction, the investigation of potential hazardous material sites within and outside of the existing SHS right of way that could impact PROJECT as part of performing any preliminary engineering work. If AUTHORITY discovers hazardous material or contamination within PROJECT study area during said investigation, AUTHORITY shall immediately notify STATE.
12. All aerial photography and photogrammetric mapping for PROJECT shall conform to STATE's latest standards.
13. An electronic (compatible with STATE software) and paper copy of the PR, ED and original survey documents resulting from surveys performed for PROJECT, including original field notes, adjustment calculations, final results, and appropriate intermediate documents, shall be delivered to STATE and shall become property of STATE. For aerial mapping, all information and materials listed in the document "Materials Needed to Review Consultant Photogrammetric Mapping" shall be delivered to STATE and shall become property of STATE.

SECTION II

STATE AGREES:

1. At no cost to AUTHORITY, to complete STATE's review, comment and approval, if appropriate, as the CEQA Lead Agency and NEPA Lead Agency, if applicable, of the environmental documentation prepared entirely by AUTHORITY and to provide IQA of all AUTHORITY work necessary for completion of the Project Report and Environmental Document for PROJECT done by AUTHORITY, including, but not limited to, investigation of potential hazardous material sites undertaken by AUTHORITY or its designee, and provide prompt reviews, comments, concurrence, and or approvals, as appropriate, of submittals by AUTHORITY, while cooperating in timely processing of documents necessary for completion of the environmental documentation and PR for PROJECT.
2. Upon proper application by AUTHORITY and by AUTHORITY's consultants/contractors, to issue, at no cost to AUTHORITY and AUTHORITY's consultants/contractors, the necessary encroachment permits for required work within the SHS right of way as specifically defined elsewhere in this Agreement.

SECTION III

IT IS MUTUALLY AGREED:

1. All obligations of STATE under the terms of this Agreement are subject to the appropriation of resources by the Legislature, State Budget Act authority and the allocation of funds by the California Transportation Commission (CTC).
2. The parties to this Agreement understand and agree that STATE's IQA is defined as providing STATE policy and procedural guidance through to completion of the PROJECT preliminary engineering phase administered by AUTHORITY. This guidance includes prompt reviews by STATE to assure that all work and products delivered or incorporated into the PROJECT by AUTHORITY conform to then existing STATE standards. IQA does not include any PROJECT related work deemed necessary to actually develop and deliver the PROJECT, nor does it involve any validation to verify and recheck any work performed by AUTHORITY and/or its consultants or contractors and no liability will be assignable to STATE, its officers and employees by AUTHORITY under the terms of this Agreement or by third parties by reason of STATE's IQA activities. All work authorized by AUTHORITY and performed by STATE that is not direct IQA shall be chargeable against PROJECT funds as a service for which STATE will invoice its actual costs and AUTHORITY will pay or authorize STATE to reimburse itself from then available PROJECT funds.
3. The parties to this Agreement hereto will execute and implement PROJECT in accordance with the Scope of Work, attached and made a part of the Agreement, which outlines the specific roles and responsibilities of the parties hereto. The attached Scope of Work may be modified in writing in the future to reflect changes in the roles and responsibilities of the respective parties. Such modifications shall be made by a formal amendment executed by the parties hereto.
4. The basic design features shall comply with those addressed in the approved PSR/PDS, unless modified as required for completion of the PROJECT's environmental documentation and/or if applicable, requested by the Federal Highway Administration (FHWA).
5. The design and preparation of environmental documentation, including the investigative studies and technical environmental reports, for PROJECT shall be performed in accordance with all applicable Federal and STATE standards and practices current as of the date of performance. Any exceptions to applicable design standards shall first be approved by STATE for approval via the processes outlined in STATE's Highway Design Manual and appropriate memoranda and design bulletins published by STATE. In the event that STATE proposes and /or requires a change in design standards, implementation of new or revised design standards shall be done as part of the work on PROJECT in accordance with STATE's current Highway Design Manual Section 82.5, "Effective Date for Implementing Revisions to Design Standards". STATE shall consult with AUTHORITY in a timely manner regarding effects of proposed and/or required changes on PROJECT.
6. AUTHORITY's share of all changes in development costs associated with modifications to the basic design features as described above shall be in the same proportion as described in this Agreement, unless mutually agreed to the contrary by STATE and AUTHORITY in a subsequent amendment to this Agreement.

7. STATE will be the CEQA Lead Agency and AUTHORITY will be a CEQA Responsible Agency. STATE will be the NEPA Lead Agency, if applicable. AUTHORITY will assess PROJECT impacts on the environment and AUTHORITY will prepare the appropriate level of environmental documentation and necessary associated supporting investigative studies and technical environmental reports in order to meet the requirements of CEQA and, if applicable, NEPA. AUTHORITY will submit to STATE all investigative studies and technical environmental reports for STATE's review, comment, and approval. The environmental document and/or categorical exemption/exclusion determination, including the administrative draft, draft, administrative final, and final environmental documentation, as applicable, will require STATE's review, comment, and approval prior to public availability.

If, during preparation of preliminary engineering, preparation of PS&E, performance of Right of Way activities or performance of construction, new information is obtained which requires the preparation of additional environmental documentation to comply with CEQA and, if applicable, NEPA, this Agreement will be amended to include completion of these additional tasks by AUTHORITY.

8. AUTHORITY agrees to obtain, as a PROJECT cost, all necessary PROJECT permits, agreements and/or approvals from appropriate regulatory agencies, unless the parties agree otherwise in writing. If STATE agrees in writing to obtain said PROJECT permits, agreements, and/or approvals, those said costs shall be paid by AUTHORITY, as a PROJECT cost.
9. AUTHORITY shall be fully responsible for complying with and implementing any and all environmental commitments set forth in the environmental documentation, permit(s), agreement(s) and/or approvals for PROJECT. The costs of said compliance and implementation shall be a PROJECT cost.
10. If there is a legal challenge to the environmental documentation, including investigative studies and/or technical environmental report(s), permit(s), agreement(s), and/or approval(s) for PROJECT, all legal costs associated with those said legal challenges shall be a PROJECT cost.
11. AUTHORITY, subject to STATE's prior review and approval, as a PROJECT cost, shall be responsible for preparing, submitting, publicizing and circulating all public notices related to the CEQA environmental process and, if applicable, the NEPA environmental process, including, but not limited to, notice(s) of availability of the environmental document and/or determinations and notices of public hearings. Public notices shall comply with all State and Federal laws, regulations, policies and procedures. STATE will work with the appropriate Federal agency to publish notices in the Federal Register if applicable.

STATE shall be responsible for overseeing the planning, scheduling and holding of all public meetings/hearings related to the CEQA environmental process and, if applicable, the NEPA environmental process. AUTHORITY, to the satisfaction of STATE and subject to all of STATE's and FHWA's policies and procedures, shall be responsible for performing the planning, scheduling and details of holding all public meetings/hearings related to the CEQA environmental process and, if applicable, the NEPA environmental process. STATE will participate as CEQA Lead Agency and, if applicable, the NEPA Lead Agency, in all public meetings/hearings related to the CEQA environmental process and, if applicable, the NEPA environmental process, for PROJECT. AUTHORITY shall provide STATE the opportunity to provide comments on any public meeting/hearing exhibits, handouts or other materials at least ten (10) days prior to any such public meetings/hearings. STATE maintains final editorial control of exhibits, handouts or other materials to be used at public meetings/hearings.

12. In the event AUTHORITY would like to hold separate and/or additional public meetings/hearings regarding the PROJECT, AUTHORITY must clarify in any meeting/hearing notices, exhibits, handouts or other materials that STATE is the CEQA Lead Agency and, if applicable, the NEPA Lead Agency, and AUTHORITY is the CEQA Responsible Agency. Such notices, handouts and other materials shall also specify that public comments gathered at such meetings/hearings are not part of the CEQA and, if applicable, the NEPA public review process. AUTHORITY shall provide STATE the opportunity to provide comments on any meeting/hearing exhibits, handouts or other materials at least ten (10) days prior to any such meetings/hearings. STATE maintains final editorial control of exhibits, handouts or other materials to be used at public meetings/hearings solely with respect to text or graphics that could lead to public confusion over CEQA and, if applicable, NEPA related roles and responsibilities.
13. The party that discovers HM will immediately notify the other party(ies) to this Agreement.

HM-1 is defined as hazardous material (including but not limited to hazardous waste) that requires removal and disposal pursuant to federal or state law, whether it is disturbed by PROJECT or not.

HM-2 is defined as hazardous material (including but not limited to hazardous waste) that may require removal and disposal pursuant to federal or state law, only if disturbed by PROJECT.
14. STATE, independent of PROJECT, is responsible for any HM-1 found within existing SHS right of way. STATE will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.

AUTHORITY, independent of PROJECT, is responsible for any HM-1 found outside existing SHS right of way. AUTHORITY will undertake HM-1 management activities with minimum impact to PROJECT schedule and will pay all costs for HM-1 management activities.
15. If HM-2 is found within the limits of PROJECT, the public agency responsible for advertisement, award, and administration (AAA) of the PROJECT construction contract will be responsible for HM-2 management activities.

Any management activity cost related to HM-2 is a PROJECT construction cost.
16. Management activities related to either HM-1 or HM-2 include, without limitation, any necessary manifest requirements and designation of disposal facility.
17. STATE's acquisition or acceptance of title to any property on which any hazardous material is found will proceed in accordance with STATE's policy on such acquisition.
18. A separate Cooperative Agreement(s) will be required to address development of Plans, Specifications and Estimate, Landscape Maintenance, and to cover responsibilities and funding for the construction phase of PROJECT.
19. All administrative reports, studies, materials, and documentation, including, but not limited to, all administrative drafts and administrative finals, relied upon, produced, created or utilized for PROJECT will be held in confidence pursuant to Government Code section 6254.5(e). The parties agree that said material will not be distributed, released or shared with any other

organization, person or group other than the parties' employees, agents and consultants whose work requires that access without the prior written approval of the party with the authority to authorize said release and except as required or authorized by statute or pursuant to the terms of this Agreement.

20. Nothing within the provisions of this Agreement is intended to create duties or obligations to third parties not parties to this Agreement or to affect the legal liability of either party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation or maintenance of SHS and public facilities different from the standard of care imposed by law.
21. Neither STATE nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by AUTHORITY under or in connection with any work, authority or jurisdiction conferred upon AUTHORITY and arising under this agreement. It is understood and agreed AUTHORITY will fully defend, indemnify and hold harmless STATE and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reasons of anything done or omitted to be done by AUTHORITY under this agreement.
22. Neither AUTHORITY nor any officer or employee thereof is responsible for any injury, damage or liability occurring by reason of anything done or omitted to be done by STATE under or in connection with any work, authority or jurisdiction conferred upon STATE and arising under this agreement. It is understood and agreed that STATE will fully defend, indemnify and hold harmless AUTHORITY and all its officers and employees from all claims, suits or actions of every name, kind and description brought forth under, including, but not limited to, tortuous, contractual, inverse condemnation or other theories or assertions of liability occurring by reason of anything done or omitted to be done by STATE under this agreement.
23. Prior to the commencement of any work pursuant to this Agreement, either STATE or AUTHORITY may terminate this Agreement by written notice to the other party.
24. No alteration or variation of the terms of this Agreement shall be valid unless made by a formal amendment executed by the parties hereto and no oral understanding or Agreement not incorporated herein shall be binding on any of the parties hereto.
25. This Agreement shall terminate upon the satisfactory completion of all post-FROJECT construction obligations of AUTHORITY and the delivery of required PROJECT construction documents, with concurrence of STATE, or on December 30, 2011, whichever is earlier in time, except that the ownership, operation, maintenance, indemnification, environmental commitments, legal challenges, and claims articles shall remain in effect until terminated or modified, in writing, by mutual agreement. Should any construction related or other claims arising out of PROJECT be asserted against one of the parties, the parties agree to extend the fixed termination date of this Agreement, until such time as the construction related or other claims are settled, dismissed or paid.

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

ORANGE COUNTY
TRANSPORTATION AUTHORITY

Will Kempton
Director

By: _____
Arthur T. Leahy
Chief Executive Officer

By: _____
Jim Beil
Deputy District Director
Capital Outlay Program

APPROVED AS TO FORM AND
PROCEDURE:

APPROVED AS TO FORM AND
PROCEDURE:

By: _____
Attorney
Department of Transportation

By: _____
Kennard R. Smart, Jr.
General Counsel

CERTIFIED AS TO FUNDS:

By: _____
District Budget Manager

CERTIFIED AS TO FINANCIAL TERMS
AND POLICIES:

By: _____
Accounting Administrator

KIA MORTAZAVI
Executive Director, Development

SCOPE OF WORK

This Scope of Work outlines the specific areas of responsibility for various project development activities for the proposed improvements on Interstate 5 (I-5) from 0.1 mile south of Avenida Pico UC (PM 3.30) to 0.1 mile south of San Juan Creek Rd UC (PM 8.70) in the cities of San Clemente, Dana Point and San Juan Capistrano.

1. STATE will be the Lead Agency for CEQA and AUTHORITY will be a Responsible Agency for CEQA. STATE will also be the Lead Agency for NEPA, under the authority of the NEPA delegation. AUTHORITY will assess impacts of PROJECT on the environment and AUTHORITY will prepare the ED and supporting technical studies to meet the requirements of CEQA and NEPA. The draft and final ED will require STATE's review and approval prior to public circulation. AUTHORITY will provide all data for and prepare the Draft Project Report (DPR) and the Project Report (PR). STATE will review, process, and approve the PROJECT and ED under the authority of the NEPA delegation.
2. AUTHORITY and STATE concur that the proposal is a Category 4A as defined in STATE's Project Development Procedures Manual.
3. AUTHORITY will submit drafts of the environmental technical reports and individual sections of the draft environmental documents to STATE, as they are developed, for review and comment. Traffic counts and projections to be used in the various reports shall be supplied by STATE if available, or by AUTHORITY. Existing traffic data shall be furnished by AUTHORITY.
4. STATE will review, monitor, and approve all project development reports, studies, and plans.
5. STATE will prepare the revised freeway Agreement and obtain approval of any new public road connection(s) from the California Transportation Commission.
6. All phases of PROJECT, from inception through construction, whether implemented by AUTHORITY or STATE, will be developed in accordance with all policies, procedures, practices, and standards that STATE would normally follow.
7. Detailed steps in the project development process are attached to this Scope of Work. These Attachments are intended as a guide to STATE's and AUTHORITY's staff.

**ATTACHMENT 1
PLANNING PHASE ACTIVITIES**

PROJECT ACTIVITY	RESPONSIBILITY	
	STATE	AUTHORITY
1. ENVIRONMENTAL ANALYSIS & DOCUMENT PREPARATION		
Establish Project Development Team (PDT)		X
Approve PDT	X	X
Project Category Determination	X	
Identify Preliminary Alternatives and Costs		X
Prepare and Submit Environmental Studies and Draft PR		X
Review and Approve Environmental Studies and Draft PR	X	
Prepare and Submit Draft Environmental Document (DED)		X
District Review of DED & Draft PR	X	
Circulate DED		X
Issue Notice of Availability of DED		X
Hold Public Meetings		X
Prepare and Submit Final ED		X
District Review and Approve Final ED and Final PR	X	
2. PROJECT GEOMETRICS DEVELOPMENT		
Prepare Existing Traffic Analysis		X
Prepare Future Traffic Volumes for Alternatives		X
Prepare Project Geometrics and Profiles		X
Prepare Layouts and Estimates for Alternatives		X
Prepare Operational Analysis for Alternatives		X
Review and Approve Project Geometrics and Operational Analysis	X	
3. PROJECT APPROVAL		
Lead Agency for Environmental Compliance Certifies ED in Accordance with its Procedures	X	
Finalize and Submit PR with Certified ED for Approval		X
Approve Project Report	X	

ATTACHMENT 2
EXISTING CONDITIONS & BACKGROUND

I-5 is the major north-south route that is used for inter-regional, interstate, and international travel and goods movement. It connects San Diego County from the south, to the Los Angeles County to the north, traverses through various cities including the cities of Orange County.

I-5 was originally designated as Route 2 from the Mexican border to Santa Ana in 1909. The current segment between Santa Ana and downtown Los Angeles was defined as part of the highway system in 1933. This segment was originally signed as US-101. State Highway Commission named the segment between San Diego County line and I-405/I-5 junction as "San Diego" Freeway in 1957. The segment from the I-405/I-5 junction to I-5/Route10/Route60/US-101 interchange was named the "Santa Ana" Freeway. I-5 was added to the State Freeway and Expressway System in 1959.

In 1988 a major improvement project began on I-5. This included adding mixed flow lanes, HOV lanes/Transitway, HOV drop ramps, HOV/Transitway direct connectors from SR-1 interchange (PM 6.69) to Los Angeles County line (PM 44.38), with the exception of a segment of the southbound I-5 HOV/Transitway between SR-1 (PM 6.69) and Camino Capistrano (PM 7.54). The improvement project between SR-1 (PM 6.69) and SR-22/57 (PM 34.00) interchange was completed in March of 1997.

Existing freeway configuration is as follows:

- From Pico on-ramp to Vista Hermosa off-ramp in both directions is ten (10) lanes including the auxiliary lanes (four GP lanes and one auxiliary lane each way).
- From Vista Hermosa on-ramp to Camino De Estralla off-ramp in both directions is eight (8) lanes (four GP lanes only).
- From Camino De Estralla on-ramp to PCH/Las Ramblas off-ramp in NB direction is six lanes (four GP and two auxiliary lanes) and SB is five lanes (four GP and one auxiliary lane).
- From PCH/Las Ramblas on-ramp to Stone Hill off-ramp in NB direction is four lanes (four GP lanes) and SB is five lanes (four GP and one auxiliary lane).
- From Stone Hill on-ramp to Camino Capistrano off-ramp in NB direction is four lanes (four GP lanes) and SB is five lanes (five GP lanes).



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: Cooperative Agreement with California Department of Transportation for the Construction and Construction Administration of the Garden Grove Freeway (State Route 22) Additional Soundwalls

Highways Committee Meeting of April 6, 2009

Present: Directors Amante, Cavecche, Dixon, Glaab, Green, Mansoor, Norby, and Pringle
Absent: None

Committee Vote

This item was passed by all Committee Members present.

Directors Dixon and Mansoor were not present to vote on this item.


Committee Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0320 between the Orange County Transportation Authority and the California Department of Transportation for the construction and construction administration for the additional soundwalls along the Garden Grove Freeway (State Route 22), in an amount not to exceed \$2.92 million.



April 6, 2009

To: Highways Committee

From:  James S. Kenan, Interim Chief Executive Officer

Subject: Cooperative Agreement with California Department of Transportation for the Construction and Construction Administration of the Garden Grove Freeway (State Route 22) Additional Soundwalls

Overview

The Orange County Transportation Authority proposes to enter into a cooperative agreement with the California Department of Transportation to establish roles and responsibilities for the construction and construction administration for the additional soundwalls along the Garden Grove Freeway (State Route 22).

Recommendation

Authorize the Chief Executive Officer to execute Cooperative Agreement No. C-9-0320 between the Orange County Transportation Authority and the California Department of Transportation for the construction and construction administration for the additional soundwalls along the Garden Grove Freeway (State Route 22), in an amount not to exceed \$2.92 million.

Background

On April 10, 2006, the Board of Directors (Board) approved additional studies of sound barriers along the Garden Grove Freeway (State Route 22) to address community concerns about existing and future freeway noise. Upon study and review, it was determined that added or extended soundwalls were justified at four different locations in order to achieve noise mitigation regulatory and technical compliance. The locations of the additional soundwalls along State Route 22 are:

Cooperative Agreement with California Department of Transportation for the Construction and Construction Administration of the Garden Grove Freeway (State Route 22) Additional Soundwalls

Page 2

- The eastbound Beach Boulevard on-ramp
- A portion of The City Drive eastbound off-ramp
- A portion of the westbound State Route 22 between Tustin Avenue and Cambridge Street
- A section along the westbound State Route 22 at Devon Road

On October 22, 2007, the Board approved adding the design work for these four additional soundwalls to existing consulting contracts with RMC, Inc., and PBS&J, Inc., firms selected earlier to design the San Clemente soundwalls.

The project's design and right-of-way (ROW) acquisition phases are now complete and ready for the construction phase.

Discussion

During the design and ROW acquisition phase, the property owner of four rental units at the proposed location of The City Drive eastbound off-ramp raised objections to the construction of a 16-foot high soundwall along the backyards and demanded that the Orange County Transportation Authority (Authority) consider other viable noise attenuation measures. The Authority negotiated an agreement with the property owner to mitigate noise impacts by replacing existing single-pane windows with the double-pane type, and to install new air conditioning units for the four properties. The agreement also stipulates that these mitigation measures are sufficient, and the property owner will not seek other mitigation measures in the future.

To carry out the work on the three remaining soundwalls, the Authority requires a cooperative agreement with the California Department of Transportation (Caltrans) which defines roles and responsibilities during the construction phase of project. Major responsibilities for each party are as follows:

The Authority will:

- Fund 100 percent of construction capital cost
- Fund 100 percent of construction administration
- Make available and reimburse the design consultants for the project for the duration of project's construction and closeout phase

**Cooperative Agreement with California Department of
Transportation for the Construction and Construction
Administration of the Garden Grove Freeway (State Route 22)
Additional Soundwalls**

Page 3

The cooperative agreement requires Caltrans to:

- Advertise and award the construction contract
- Perform construction administration for project

Project estimated construction phase costs are:

Construction	\$ 2,500,000
Construction Management	<u>\$ 420,000</u>
Total Project Cost	\$ 2,920,000

Construction phase is scheduled to start in summer 2009 and is estimated to last six to eight months.

Fiscal Impact

This project is included in the Authority's Fiscal Year 2008-09 Budget, in Account 0010-9084-F7100-KHM for construction capital, and in Account 0010-9085-100-KHM for construction administration, and is funded through Measure M .

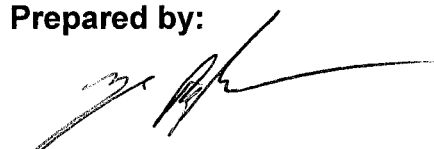
Summary

Staff requests Board approval to enter into a cooperative agreement between the Authority and Caltrans to establish roles, responsibilities, and funding terms for the construction and construction administration for the State Route 22 additional soundwalls project.

Attachment

- A. Draft Cooperative Agreement No. C-9-0320

Prepared by:


George B. Saba, P.E.
Project Manager, Development
(714) 560-5432

Approved by:


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

DRAFT
COOPERATIVE AGREEMENT NO. C-9-0320

DRAFT

COOPERATIVE AGREEMENT

This agreement, effective on _____, is between the State of California, acting through its Department of Transportation, referred to as CALTRANS, and:

Orange County Transportation Authority, a political subdivision of the State of California, referred to as OCTA.

RECITALS

1. CALTRANS and OCTA, collectively referred to as PARTNERS, are authorized to enter into a cooperative agreement for improvements within the SHS right of way per Streets and Highways Code sections 114 and/or 130.
2. WORK completed under this agreement contributes toward the construction of three soundwalls at various locations on State Route 22 (SR-22), referred to as PROJECT.
3. PARTNERS will cooperate to prepare the contract documents and advertise, award, and administer the construction contract for PROJECT.
4. This agreement is separate from and does not modify or supersede prior Cooperative Agreement No. 12-593 .
5. Prior to this agreement, OCTA developed the Project Initiation Document; OCTA developed the Project Study Report-Project Report; OCTA developed the Plans, Specifications and Estimate; and OCTA developed the Right of Way Certification.
6. OCTA prepared the environmental documentation for PROJECT.
7. The estimated date for COMPLETION OF WORK is June 30, 2012.
8. PARTNERS now define in this agreement the terms and conditions under which they will accomplish WORK.

DEFINITIONS

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

CALTRANS STANDARDS – CALTRANS policies and procedures, including, but not limited to, the guidance provided in the *Guide to Capital Project Delivery Workplan Standards* (previously known as WBS Guide) available at <http://dot.ca.gov>.

CEQA – The California Environmental Quality Act (California Public Resources Code, sections 21000 et seq.) that requires State and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those significant impacts, if feasible.

COMPLETION OF WORK – All PARTNERS have met all scope, cost, and schedule commitments included in this agreement and have signed a COOPERATIVE AGREEMENT CLOSURE STATEMENT.

CONSTRUCTION – The project component that includes the activities involved in the administration, acceptance, and final documentation of a construction contract for PROJECT.

COOPERATIVE AGREEMENT CLOSURE STATEMENT – A document signed by PARTNERS that verifies the completion of all scope, cost, and schedule commitments included in this agreement.

FHWA – Federal Highway Administration.

FHWA STANDARDS – FHWA regulations, policies and procedures, including, but not limited to, the guidance provided at <http://www.fhwa.dot.gov/programs.html>.

FUNDING PARTNER – A partner who commits a defined dollar amount to WORK.

FUNDING SUMMARY - The table in which PARTNERS designate funding sources, types of funds, and the project components in which the funds are to be spent. Funds listed on the FUNDING SUMMARY are “not-to-exceed” amounts for each FUNDING PARTNER.

HM-1 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law whether it is disturbed by PROJECT or not.

HM-2 – Hazardous material (including, but not limited to, hazardous waste) that may require removal and disposal pursuant to federal or state law only if disturbed by PROJECT.

HM MANAGEMENT ACTIVITIES – Management activities related to either HM-1 or HM-2 including, without limitation, any necessary manifest requirements, and disposal facility designations.

IMPLEMENTING AGENCY – The partner responsible for managing the scope, cost, and schedule of a project component to ensure the completion of that component.

IQA – Independent Quality Assurance – Ensuring that IMPLEMENTING AGENCY’S quality assurance activities result in WORK being developed in accordance with the applicable standards and within an established Quality Management Plan. IQA does not include any work necessary to actually develop or deliver WORK or any validation by verifying or rechecking work performed by another partner.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

PARTNERS – The term that collectively references all of the signatory agencies to this agreement. This term only describes the relationship between these agencies to work together to achieve a mutually beneficial goal. It is not used in the traditional legal sense in which one partner’s individual actions legally bind the other partners.

PROJECT MANAGEMENT PLAN – A group of documents used to guide a project’s execution and control throughout the project’s lifecycle.

RESIDENT ENGINEER – A civil engineer licensed in the State of California who is responsible for construction contract administration activities. Said engineer shall be independent of the design engineering company and the construction contractor.

SCOPE SUMMARY – The table in which PARTNERS designate their commitment to specific scope activities within each project component as outlined by the *Guide to Capital Project Delivery Workplan Standards* (previously known as WBS Guide) available at <http://dot.ca.gov>.

SHS – State Highway System.

SPONSOR(S) – The partner that accepts the obligation to secure financial resources to fully fund WORK. This includes any additional funds beyond those committed in this agreement necessary to complete the full scope of WORK defined in this agreement or settle claims.

STATE-FURNISHED MATERIAL – Any materials or equipment supplied by CALTRANS.

WORK – All scope and cost commitments included in this agreement.

RESPONSIBILITIES

9. OCTA is SPONSOR for all WORK.
10. OCTA is the only FUNDING PARTNER for this agreement. OCTA’s funding commitment is defined in the FUNDING SUMMARY.
11. CALTRANS is the CEQA lead agency for PROJECT.
12. CALTRANS is IMPLEMENTING AGENCY for CONSTRUCTION.

SCOPE

Scope: General

13. All WORK will be performed in accordance with federal and California laws, regulations, and standards.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

All WORK will be performed in accordance with FHWA STANDARDS and CALTRANS STANDARDS.

14. CALTRANS retains the right to reject noncompliant WORK, protect public safety, preserve property rights, and ensure that all WORK is in the best interest of the SHS.
15. PARTNERS may, at their own expense, have a representative observe any scope, cost, or schedule commitments performed by another partner. Observation does not constitute authority over those commitments.
16. Each partner will ensure that all of their personnel participating in WORK are appropriately qualified to perform the tasks assigned to them.
17. PARTNERS will conform to sections 1720 – 1815 of the California Labor Code and all applicable regulations and coverage determinations issued by the Director of Industrial Relations if PROJECT work is done under contract (not completed by a partner's own employees) and is governed by the Labor Code's definition of a "public work" (section 1720(a)(1)).

PARTNERS will include wage requirements in all contracts for "public work" and will require their contractors and consultants to include prevailing wage requirements in all agreement-funded subcontracts for "public work".

18. IMPLEMENTING AGENCY for this PROJECT CONSTRUCTION component included in this agreement will be available to help resolve WORK-related problems generated by that component for the entire duration of PROJECT.
19. CALTRANS will issue, upon proper application, at no cost, the encroachment permits required for WORK within SHS right of way.

Contractors and/or agents, and utility owners will not perform WORK without an encroachment permit issued in their name.

20. If unanticipated cultural, archaeological, paleontological, or other protected resources are discovered during WORK, all work in that area will stop until a qualified professional can evaluate the nature and significance of the discovery and a plan is approved for its removal or protection.
21. All administrative draft and administrative final reports, studies, materials, and documentation relied upon, produced, created, or utilized for PROJECT will be held in confidence pursuant to Government Code section 6254.5(e).

PARTNERS will not distribute, release, or share said documents with anyone other than employees, agents, and consultants who require access to complete WORK without the written consent of the partner authorized to release them, unless required or authorized to do so by law.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

22. If any partner receives a public records request, pertaining to WORK under this agreement, that partner will notify PARTNERS within five (5) working days of receipt and make PARTNERS aware of any transferred public documents.
23. If HM-1 or HM-2 is found during WORK, IMPLEMENTING AGENCY for the project component during which it is found will immediately notify PARTNERS.
24. CALTRANS, independent of PROJECT, is responsible for any HM-1 found within existing SHS right of way. CALTRANS will undertake HM-1 MANAGEMENT ACTIVITIES with minimum impact to PROJECT schedule.
25. OCTA, as part of PROJECT, is responsible for any HM-1 found within the Project limits outside existing SHS right of way. OCTA will undertake or cause to be undertaken HM-1 MANAGEMENT ACTIVITIES with minimum impacts to PROJECT schedule.
26. CALTRANS' acquisition or acceptance of title to any property on which any HM-1 or HM-2 is found will proceed in accordance with CALTRANS' policy on such acquisition.
27. PARTNERS will comply with all of the commitments and conditions set forth in the environmental documentation, environmental permits, approvals, and applicable agreements as those commitments and conditions apply to each partner's responsibilities in this agreement.
28. IMPLEMENTING AGENCY for each project component will furnish PARTNERS with written monthly progress reports during the implementation of WORK in that component.
29. PARTNERS will prepare and agree to general content of monthly status report within 30 days of award of contract.
30. Upon COMPLETION OF WORK, ownership and title to all materials and equipment constructed or installed as part of WORK within SHS right of way become the property of CALTRANS.
31. IMPLEMENTING AGENCY for the PROJECT CONSTRUCTION component may accept, reject, compromise, settle, or litigate claims of any non-agreement parties hired to do WORK in that component.
32. PARTNERS will confer on any claim that may affect WORK or PARTNERS' liability or responsibility under this agreement in order to retain resolution possibilities for potential future claims. No partner shall prejudice the rights of another partner until after PARTNERS confer on claim.
33. CALTRANS only maintains all WORK-related documents, including financial data, for five (5) years from the date of award.
34. PARTNERS have the right to audit each other in accordance with generally accepted governmental audit standards. The audit must be completed within one year after processing of Final Estimate. The audit shall be limited to information available from CALTRANS at the time of audit.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

CALTRANS, the State auditor, FHWA, and OCTA will have access to all WORK-related records of each partner for audit, examination, excerpt, or transaction.

The examination of any records will take place in the offices and locations where said records are generated and/or stored and will be accomplished during reasonable hours of operation.

The audited partner will review the preliminary audit, findings, and recommendations, and provide written comments within 60 calendar days of receipt.

Any audit dispute not resolved by PARTNERS is subject to dispute resolution. Any costs arising out of the dispute resolution process will be paid within 30 calendar days of the final audit or dispute resolution findings.

35. PARTNERS consent to service of process by mailing copies by registered or certified mail, postage prepaid. Such service becomes effective 30 calendar days after mailing. However, nothing in this agreement affects PARTNERS' rights to serve process in any other matter permitted by law.
36. PARTNERS will not incur costs beyond the funding commitments in this agreement. If IMPLEMENTING AGENCY anticipates that funding for WORK will be insufficient to complete WORK, SPONSOR(S) will seek out additional funds and PARTNERS will amend this agreement.
37. If WORK stops for any reason, IMPLEMENTING AGENCY will place all facilities impacted by WORK in a safe and operable condition acceptable to CALTRANS.
38. If WORK stops for any reason, PARTNERS are still obligated to implement all applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, or approvals that are in effect at the time that WORK stops, as they apply to each partner's responsibilities in this agreement, in order to keep PROJECT in environmental compliance until WORK resumes.
39. Each partner accepts responsibility to complete the activities that they selected on the SCOPE SUMMARY. Activities marked with "N/A" on the SCOPE SUMMARY are not included in the scope of this agreement.

Scope: CONSTRUCTION

40. CALTRANS will advertise, open bids, award, and approve the construction contract in accordance with the Public Contract Code and the California Labor Code.

CALTRANS will not advertise the construction contract until CALTRANS completes or accepts the final plans, specifications, and estimates package; CALTRANS approves the Right of Way Certification; and FUNDING PARTNERS fully fund WORK.

By accepting responsibility to advertise and award the construction contract, CALTRANS also accepts responsibility to administer the construction contract.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

41. CALTRANS will provide a RESIDENT ENGINEER and construction support staff who are independent of the design engineering company and construction contractor.
42. PARTNERS will implement changes to the construction contract through contract change orders (CCOs). PARTNERS will review and concur on all CCOs over \$25,000. All CCOs affecting public safety or the preservation of property, all design and specification changes, and all major changes as defined in the CALTRANS *Construction Manual* will be approved by CALTRANS in advance of the CCO work to be performed.
43. If there is a dispute of contract change order concurrence between PARTNERS, those specific issues will be resolved or elevated to avoid impact on the PROJECT through an Issue Resolution Plan. The Issue Resolution Plan shall be prepared and agreed on by PARTNERS within 30 days of award of contract.
44. If the lowest responsible construction contract bid (plus estimated contingencies, supplemental costs and State Furnished Material costs) is equal to or less than the amount shown on the FUNDING SUMMARY for CONSTRUCTION Capital, the IMPLEMENTING AGENCY may award the contract. If the lowest responsible construction contract bid is greater than the amount shown on the FUNDING SUMMARY for CONSTRUCTION Capital, all PARTNERS must be involved in determining how to proceed. If PARTNERS do not agree in writing on a course of action within 15 working days, this agreement will terminate.
45. CALTRANS will require the construction contractor to furnish payment and performance bonds naming CALTRANS as obligee and to carry liability insurance in accordance with CALTRANS specifications.
46. OCTA will renew, extend, and/or amend all resource agency permits as necessary.
47. PROJECT CONSTRUCTION will provide maintenance for WORK limits until COMPLETION OF WORK, after which, maintenance will be handled through an existing maintenance agreement for the SHS.

COST

Cost: General

48. SPONSOR(S) will secure funds for all WORK including any additional funds beyond the FUNDING PARTNERS' existing commitments in this agreement. Any change to the funding commitments outlined in this agreement requires an amendment to this agreement.
49. The cost of any awards, judgments, or settlements generated by WORK is a WORK cost.
50. CALTRANS, independent of PROJECT, will pay all costs for HM MANAGEMENT ACTIVITIES related to HM-1 found within existing SHS right of way.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

51. HM MANAGEMENT ACTIVITIES costs related to HM-2 are a PROJECT CONSTRUCTION cost.
52. The cost of coordinating, obtaining, complying with, implementing, and if necessary renewing and amending resource agency permits, agreements, and/or approvals is a WORK cost.
53. The cost to comply with and implement the commitments set forth in the environmental documentation is a WORK cost.
54. The cost to ensure that PROJECT remains in environmental compliance is a WORK cost.
55. The cost of any legal challenges to the CEQA environmental process or documentation is a WORK cost.
56. Independent of WORK costs, CALTRANS will fund the cost of its own IQA for WORK done within existing or proposed future SHS right of way.
57. Independent of WORK costs, OCTA will fund the cost of its own IQA for WORK done outside existing or proposed future SHS right of way.
58. Fines, interest, or penalties levied against any partner will be paid, independent of WORK costs, by the partner whose actions or lack of action caused the levy. That partner will indemnify and defend all other partners.
59. The cost to place PROJECT right of way in a safe and operable condition and meet all environmental commitments is a WORK cost.
60. Because IMPLEMENTING AGENCY is responsible for managing the scope, cost, and schedule of a project component, if there are insufficient funds available in this agreement to place the right of way in a safe and operable condition, the appropriate IMPLEMENTING AGENCY accepts responsibility to fund these activities until such time as PARTNERS amend this agreement.

That IMPLEMENTING AGENCY may request reimbursement for these costs during the amendment process.

61. If there are insufficient funds in this agreement to implement applicable commitments and conditions included in the PROJECT environmental documentation, permits, agreements, and/or approvals that are in effect at a time that WORK stops, the partner implementing the commitments or conditions accepts responsibility to fund these activities until such time as PARTNERS amend this agreement.

That partner may request reimbursement for these costs during the amendment process.

62. PARTNERS will pay invoices within 30 calendar days of receipt of invoice.
63. FUNDING PARTNERS accept responsibility to provide the funds identified on the FUNDING SUMMARY.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

64. SPONSOR(S) accepts responsibility to ensure full funding for the identified scope of work.

Cost: CONSTRUCTION Support

65. The cost to maintain the SHS within WORK limits is a PROJECT WORK cost until COMPLETION OF WORK, after which, the cost of maintenance will be handled through an existing maintenance agreement.
66. OCTA will be responsible for the cost of CONSTRUCTION Support as shown on the FUNDING SUMMARY.
67. Costs for CALTRANS CONSTRUCTION Support costs are estimated to be \$420,000. CALTRANS shall invoice OCTA for reimbursement of CONSTRUCTION Support costs in monthly installments.

If IMPLEMENTING AGENCY anticipates that funding for WORK will be insufficient to complete WORK, SPONSOR(S) will seek out additional funds and PARTNERS will amend this agreement.

The IMPLEMENTING AGENCY accepts the responsibility to fund these activities until such time as PARTNERS amend this agreement. That IMPLEMENTING AGENCY will request additional CONSTRUCTION Support funds for these costs during the amendment process.

68. The following partners will submit invoices for CONSTRUCTION Support:
- CALTRANS will invoice OCTA
69. PARTNERS will exchange funds for actual costs.
70. CALTRANS will invoice OCTA for a \$200,000 initial deposit 30 working days prior to the construction contract award date. This deposit represents two (2) months' estimated support costs.

Thereafter, CALTRANS will submit to OCTA monthly invoices for estimated monthly costs based on the prior month's actual expenditures. Detailed supporting information will be provided within seven (7) working days of invoice.

OCTA will electronically transfer (wire) funds to CALTRANS within three (3) to five (5) working days of receipt of invoice. OCTA's transfer of funds will not be construed as acceptance of said charges.

If OCTA does not transfer the money within three (3) to five (5) working days, CALTRANS may require OCTA to make all subsequent payments as deposits in advance of WORK.

OCTA will notify CALTRANS of a disputed invoice in writing no later than 30 days of receipt of the detailed supporting information.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

Upon receipt of a claim, CALTRANS has seven (7) working days to contest said claim. Upon resolution, CALTRANS will make the appropriate credit or debit to OCTA, reflected on the next invoice.

After PARTNERS agree that all Scope activities are complete, CALTRANS will submit a final accounting for all WORK costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the obligation of this agreement.

Cost: CONSTRUCTION Capital

71. CALTRANS will invoice OCTA for the actual cost of any STATE-FURNISHED MATERIAL as a CONSTRUCTION capital cost.

OCTA will pay CALTRANS within 15 calendar days of receipt of invoice.

72. OCTA will be responsible for the cost of CONSTRUCTION Capital as shown on the FUNDING SUMMARY.

73. The following partners will submit invoices for CONSTRUCTION Capital:
- CALTRANS will invoice OCTA

74. PARTNERS will exchange funds for actual costs to be invoiced in installments.

CALTRANS will invoice OCTA for a \$1,00,000 initial deposit 30 working days prior to the construction contract award date.

CALTRANS will submit to OCTA 1 additional invoice for \$1,500,000 on July, 1, 2010.

After PARTNERS agree that all Scope activities are complete, CALTRANS will submit a final accounting for all WORK costs. Based on the final accounting, PARTNERS will refund or invoice as necessary in order to satisfy the obligation of this agreement.

SCHEDULE

75. Partners will manage the schedule for WORK through the Baseline Critical Path Method (CPM) Schedule. .

GENERAL CONDITIONS

76. This agreement will be understood in accordance with and governed by the Constitution and laws of the State of California. This agreement will be enforceable in the State of California. Any legal action arising from this agreement will be filed and maintained in the Superior Court of the county in which the CALTRANS district office signatory to this agreement resides.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

77. All obligations of CALTRANS under the terms of this agreement are subject to the appropriation of resources by the Legislature, the State Budget Act authority, and the allocation of funds by the California Transportation Commission.
78. Any PARTNER who performs IQA does so for its own benefit, further, that PARTNER cannot be assigned liability due to its IQA activities.
79. Neither OCTA nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by CALTRANS under or in connection with any work, authority, or jurisdiction conferred upon CALTRANS or arising under this agreement.

It is understood and agreed that CALTRANS will fully defend, indemnify, and save harmless OCTA and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by CALTRANS under this agreement.

80. Neither CALTRANS nor any officer or employee thereof is responsible for any injury, damage, or liability occurring by reason of anything done or omitted to be done by OCTA under or in connection with any work, authority, or jurisdiction conferred upon OCTA or arising under this agreement.

It is understood and agreed that OCTA will fully defend, indemnify, and save harmless CALTRANS and all of its officers and employees from all claims, suits, or actions of every name, kind, and description brought forth under, but not limited to, tortious, contractual, inverse condemnation, or other theories or assertions of liability occurring by reason of anything done or omitted to be done by OCTA under this agreement.

81. This agreement is not intended to create a third party beneficiary or define duties, obligations, or rights in parties not signatory to this agreement. This agreement is not intended to affect the legal liability of PARTNERS by imposing any standard of care for completing WORK different from the standards imposed by law.
82. PARTNERS will not assign or attempt to assign agreement obligations to parties not signatory to this agreement.
83. Any ambiguity contained in this agreement will not be interpreted against PARTNERS. PARTNERS waive the provisions of California Civil Code section 1654.
84. A waiver of a partner's performance under this agreement will not constitute a continuous waiver of any other provision. An amendment made to any article or section of this agreement does not constitute an amendment to or negate all other articles or sections of this agreement.
85. A delay or omission to exercise a right or power due to a default does not negate the use of that right or power in the future when deemed necessary.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

86. If any partner defaults in their agreement obligations, the non-defaulting partner(s) will request in writing that the default be remedied within 30 calendar days. If the defaulting partner fails to do so, the non-defaulting partner(s) may initiate dispute resolution.
87. PARTNERS will first attempt to resolve agreement disputes at the PROJECT team level. If they cannot resolve the dispute themselves, the CALTRANS district director and the executive officer of OCTA will attempt to negotiate a resolution. If no resolution is reached, PARTNERS' legal counsel will initiate mediation. PARTNERS agree to participate in mediation in good faith and will share equally in its costs.

Neither the dispute nor the mediation process relieves PARTNERS from full and timely performance of WORK in accordance with the terms of this agreement. However, if any partner stops WORK, the other partner(s) may seek equitable relief to ensure that WORK continues.

Except for equitable relief, no partner may file a civil complaint until after mediation, or 45 calendar days after filing the written mediation request, whichever occurs first.

Any civil complaints will be filed in the Superior Court of the county in which the CALTRANS district office signatory to this agreement resides. The prevailing partner will be entitled to an award of all costs, fees, and expenses, including reasonable attorney fees as a result of litigating a dispute under this agreement or to enforce the provisions of this article including equitable relief.

88. PARTNERS maintain the ability to pursue alternative or additional dispute remedies if a previously selected remedy does not achieve resolution.
89. If any provisions in this agreement are deemed to be, or are in fact, illegal, inoperative, or unenforceable, those provisions do not render any or all other agreement provisions invalid, inoperative, or unenforceable, and those provisions will be automatically severed from this agreement.
90. This agreement is intended to be PARTNERS' final expression and supersedes all prior oral understanding or writings pertaining to WORK.
91. If during performance of WORK additional activities or environmental documentation is necessary to keep PROJECT in environmental compliance, PARTNERS will amend this agreement to include completion of those additional tasks.
92. PARTNERS will execute a formal written amendment if there are any changes to the commitments made in this agreement.
93. This agreement will terminate upon COMPLETION OF WORK or upon 30 calendar days' written notification to terminate and acceptance between PARTNERS, whichever occurs first.

However, all indemnification, document retention, audit, claims, environmental commitment, legal challenge, and ownership articles will remain in effect until terminated or modified in writing by mutual agreement.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

94. The following documents are attached to, and made an express part of this agreement: SCOPE SUMMARY, FUNDING SUMMARY, CONSTRUCTION SUPPORT COST SUMMARY.
95. Signatories may execute this agreement through individual signature pages provided that each signature is an original. This agreement is not fully executed until all original signatures are attached.

CONTACT INFORMATION

The information provided below indicates the primary contact data for each partner to this agreement. PARTNERS will notify each other in writing of any personnel or location changes. These changes do not require an amendment to this agreement.

The primary agreement contact person for CALTRANS is:
Ahmad Hindiyeh, Project Manager
3337 Michelson Drive, Suite 380
Irvine, California 92612
Office Phone: (949) 724-2465
Mobile Phone: (949) 279-8845
Fax Number:
Email: Ahmad_Hindiyeh@dot.ca.gov

The primary agreement contact person for OCTA is:
George Saba, Project Manager
550 South Main Street
Orange, California 92863
Office Phone: (714) 560-5432
Mobile Phone:
Fax Number:
Email: gsaba@octa.net

SIGNATURES

PARTNERS declare that:

1. Each partner is an authorized legal entity under California state law.
2. Each partner has the authority to enter into this agreement.
3. The people signing this agreement have the authority to do so on behalf of their public agencies.

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION

ORANGE COUNTY TRANSPORTATION
AUTHORITY

By: _____
Jim Beil
Deputy District Director
Capital Outlay Program

By: _____
Arthur T. Leahy
Chief Executive Officer

CERTIFIED AS TO FUNDS:

By: _____
Kia Mortzavi
Executive Director, Development

By: _____
Neda Saber
District Budgets Manager

APPROVED AS TO FORM AND
PROCEDURE

By: _____
Kenneth R. Smart, Jr.
General Counsel

This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.

SCOPE SUMMARY

4	5	6	7	8	Description	CALTRANS	OCTA	N/A
5					Construction (CON) - 270, 285, 290, 295	X	X	
	270				Construction Engineering and General Contract Administration	X	X	
		10			Construction Staking Package and Control	X		
		15			Construction Stakes	X		
		20			Construction Engineering Work	X		
		25			Construction Contract Administration Work	X		
			05		Secured Lease for Resident Engineer Office Space or Trailer	X		
			10		Set Up Construction Project Files	X		
			15		Pre-Construction Meeting	X		
			20		Progress Pay Estimates	X		
			25		Weekly Statement of Working Days	X		
			30		Construction Project Files and General Field Office Clerical Work	X		
			35		Labor Compliance Activities	X		
			40		Approved Subcontractor Substitutions	X		
			45		Coordination	X	X	
			50		Civil Rights Contract Compliance	X		
			99		Other Construction Contract Administration Products	X		
		30			Contract Item Work Inspection	X		
		35			Construction Material Sampling and Testing	X		
		40			Safety and Maintenance Reviews	X		
		45			Relief From Maintenance Process	X		
		55			Final Inspection and Acceptance Recommendation	X		
		60			Plant Establishment Administration			X
		65			Transportation Management Plan Implementation During Construction	X		
		75			Resource Agency Permit Renewal and Extension Requests		X	
		80			Long-Term Environmental Mitigation/Mitigation Monitoring During Construction Contract	X		
		99			Other Construction Engineering and General Contract Administration	X		
	285				Contract Change Order Administration	X	X	
		05			Contract Change Order Process	X	X	
			05		Need for Contract Change Order Determination	X		
			10		Draft Contract Change Order	X		
			15		Contract Change Order Approval	X		
			20		Payments for Contract Change Order Work	X		
		10			Functional Support	X		

**This agreement is not approvable.
It must be sent to the HQ Office of Cooperative Agreements for review.**

		05		Field Surveys for Contract Change Order	X		
		10		Staking for Contract Change Order	X		
		15		Other Functional Support	X		
	290			Resolve Contract Claims	X	X	
		05		Analysis of Notices of Potential Claims	X		
		10		Supporting Documentation and Responses to Notices of Potential Claims	X		
		15		Reviewed and Approved Claim Report	X		
		20		District Claim Meeting or Board of Review	X		
		25		Arbitration Hearing	X		
		30		Negotiated Claim Settlement	X		
		35		Technical Support	X		
	295			Accept Contract, Prepare Final Construction Estimate, and Final Report	X		
		99		Other Accept Contract/ Prepare Final Construction Estimate and Final Report	X		

**This agreement is not approvable.
 It must be sent to the HQ Office of Cooperative Agreements for review.**

FUNDING SUMMARY

Funding Source	Funding Partner	Fund Type	CON Capital	CON Support	Subtotal Support	Subtotal Capital	Subtotal Funds Type
LOCAL	OCTA	Measure	\$2,500,000.00	\$420,000.00	\$420,000.00	\$2,500,000.00	\$2,920,000.00
		Subtotals by Component	\$2,500,000.00	\$420,000.00	\$420,000.00	\$2,500,000.00	\$2,920,000.00



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: Agreement for Measure M Taxpayers' Oversight Committee Recruitment

Finance and Administration Committee meeting of March 25, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Authorize the Chief Executive Officer to execute Agreement No. C-9-0301 between the Orange County Transportation Authority and the Grand Jurors' Association of Orange County, in an amount not to exceed \$50,000, for five years for managing the Taxpayers' Oversight Committee recruitment process.



March 25, 2009

To: Finance and Administration Committee
From: Arthur T. Leahy, Chief Executive Officer
Subject: Agreement for Measure M Taxpayers Oversight Committee Recruitment

Overview

The Measure M ordinances call for the establishment of a Taxpayers Oversight Committee to ensure fidelity with the expenditure plan outlined in the Traffic Improvement and Growth Management Plan and the investment summary presented in the Renewed Measure M Transportation Ordinance. Eleven members serve staggered three-year terms and each year the Grand Jurors Association of Orange County, as mandated by the ordinances, conducts a recruitment to replace outgoing members. Board of Directors' approval is requested to execute a new agreement with the Grand Jurors Association of Orange County.

Recommendation

Authorize the Chief Executive Officer to execute Agreement No. C-9-0301 between the Orange County Transportation Authority and the Grand Jurors Association of Orange County, in amount not to exceed \$50,000 for five years, for managing the annual Taxpayers Oversight Committee recruitment process.

Background

The Measure M Taxpayers Oversight Committee (TOC) is required by the Traffic Improvement and Growth Management Plan Ordinance No. 2 and the Renewed Measure M Transportation Ordinance No. 3 and Investment Plan. The TOC is an independent committee representing all five supervisorial districts in the County. Committee members serve three-year terms. The TOC is responsible for ensuring the transportation projects in Measure M are implemented according to the Expenditure Plan approved by the voters in 1990 and the Investment Plan in 2006. Currently, the TOC meets bimonthly to review progress on the Measure M program.

To ensure a neutral selection process, the recruitment of new members has been undertaken by the Grand Jurors Association of Orange County (GJAOC), as required by the Measure M ordinances. The GJAOC, a neutral body serving in the interests of the citizens of Orange County, performed the recruitment function for the formation of the initial Measure M Oversight Committee (formerly the Citizens Oversight Committee) in 1990 and has conducted the annual recruitment for new members since that time.

Discussion

On July 1, 2009, the TOC will have four open positions and recruitment is occurring this spring to fill vacancies from the First, Second, Fourth and Fifth Supervisorial districts. A lottery of potential TOC members is chosen by the GJAOC five-member selection panel which conducts the recruitment program. The panel screens all applications, interviews qualified individuals and recommends candidates for membership on the committee.

In May 2004, the Orange County Transportation Authority (OCTA) Board of Directors (Board) authorized the Chief Executive Officer to execute Agreement No. C-4-0403 with the GJAOC for five years. Staff is requesting a new contract be executed for the next five years through June 30, 2014.

As in the past, the agreement calls for an annual fee for managing the Taxpayers Oversight Committee application process and selecting the finalists. The annual fee of \$6,000 is paid to the GJAOC upon completion of services under the scope of work to conduct the application and selection process for the year. In addition, selection panelists are paid \$75 per meeting for review of applications and interviews and are reimbursed for actual mileage. These expenses are anticipated to be approximately \$4,000 per year. The total cost per year of the time and expense contract, including the annual fee and expenses, is \$10,000. The five-year total for the contract would be \$50,000.

The formal recruitment process begins on April 1, 2009 and concludes on June 22, 2009. The panel's recommended finalists (the ordinances allow five from each district) will be presented at the regular OCTA Board Meeting on June 22, 2009. The Orange County Transportation Authority's Chairman will select the new members of the TOC by lottery at that meeting.

Fiscal Impact

This project was approved in the OCTA's Fiscal Year 2008-2009 Budget, External Affairs, Public Communications, Account 0010-7519-M0001-JR6, and is funded through Measure M.

Summary

The annual recruitment to fill four positions on the Measure M Taxpayers Oversight Committee is beginning on April 1, 2009. Staff recommends award of Agreement No. C-9-0301 to the Grand Jurors Association of Orange County, as required by the Measure M ordinances, in an amount not to exceed \$50,000 for five years, for managing the TOC new member recruitment process.

Attachment

- A. Agreement No. C-9-0301 between Orange County Transportation Authority and Grand Jurors Association of Orange County

Prepared by:

Alice T. Rogan

Alice T. Rogan
Community Relations Officer
(714) 560-5577

Approved by:

Ellen S. Burton

Ellen S. Burton
Director, External Affairs
(714) 560-5923

AGREEMENT NO. C-9-0301

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

GRAND JURORS ASSOCIATION OF ORANGE COUNTY

THIS AGREEMENT is made and entered into this ____ day of _____, 2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the state of California (hereinafter referred to as "AUTHORITY") and the Grand Jurors Association of Orange County, 12672 Kona Lane, Garden Grove, California 92841 (hereinafter referred to as "ASSOCIATION").

WITNESSETH:

WHEREAS, AUTHORITY requires ASSOCIATION to manage the selection of the members of the Citizens Committee which oversees compliance with Measure M as mandated by the Revised Orange County Traffic Improvement and Growth Management Ordinance as referenced in Attachment A and the Renewed Measure M Transportation Ordinance and Investment Plan in Attachment B; and

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

WHEREAS, ASSOCIATION has represented that it has the requisite personnel and experience, and is capable of performing such services; and

WHEREAS, ASSOCIATION wishes to perform these services; and

WHEREAS, AUTHORITY's Board of Directors has reviewed and approved this Agreement No. C-9-0301 on April 13, 2009;

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

ARTICLE 1. COMPLETE AGREEMENT

This Agreement, including all exhibits and documents incorporated herein or cited by reference, constitutes the complete and exclusive statement of the terms and conditions of the

1 agreement between AUTHORITY and ASSOCIATION and it supersedes all prior representations,
2 understandings and communications. The invalidity in whole or in part of any term or condition of the
3 Agreement shall not affect the validity of other terms or conditions. AUTHORITY's failure to insist in
4 any one or more instances upon ASSOCIATION's performance of any term(s) or condition(s) of this
5 Agreement shall not be construed as a waiver or relinquishment of AUTHORITY's right to such
6 performance or to future performance of such term(s) or conditions(s) and ASSOCIATION's obligation
7 in respect thereto shall continue in full force and effect. Changes hereto shall not be binding upon
8 AUTHORITY except when specifically confirmed in writing by an authorized representative of
9 AUTHORITY and issued in accordance with Article 10, Changes, hereof.

10 **ARTICLE 2. AUTHORITY DESIGNEE**

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

13 **ARTICLE 3. STATEMENT OF WORK**

14 ASSOCIATION shall maintain five (5) active member panelists during the term of this
15 Agreement to perform the services set forth in Attachment A, entitled "Policy Resolution No. 1: Citizens
16 Oversight Committee," subsection III A. Membership Recommendation Panel, and Attachment C,
17 entitled "Taxpayer Oversight Committee," subsection III A. Membership Recommendation Panel,
18 attached to and, by this reference, incorporated in and made a part of this Agreement.

19 **ARTICLE 4. TERM OF AGREEMENT**

20 This Agreement shall commence upon execution by both parties and shall continue in full force
21 and effect through June 30, 2014 unless earlier terminated as provided in this Agreement.

22 **ARTICLE 5. PAYMENT**

23 A. For ASSOCIATION's full and complete performance of its obligations under this
24 Agreement, AUTHORITY shall pay ASSOCIATION a Six Thousand Dollar (\$6,000.00) fee annually
25 ("Annual Fee"), and a per meeting fee of Seventy Five Dollars (\$75.00) plus approved expenses for
26 each ASSOCIATION member panelist in accordance with the provisions of this Article, and subject to

1 the maximum cumulative payment obligation specified in Article 6 of this Agreement.

2 B. AUTHORITY shall pay ASSOCIATION one annual fee of Six Thousand Dollars
3 (\$6,000.00) each calendar year, not to exceed Thirty Thousand Dollars (\$30,000.00) during the
4 maximum term of this Agreement, or until terminated as provided in Article 12, Termination. Each
5 annual fee shall be paid in two equal installments as follows: The first installment of Three Thousand
6 Dollars (\$3,000.00) shall be paid within sixty (60) days after this Agreement is fully executed. The
7 second installment of Three Thousand Dollars (\$3,000.00) shall be paid upon completion of
8 ASSOCIATION's recruitment. Thereafter, subsequent installments of each annual fee will be paid
9 One Hundred Eighty (180) days after the previous installment.

10 C. AUTHORITY shall pay each ASSOCIATION's member panelist, Seventy Five Dollars
11 (\$75.00) for each meeting attended. Furthermore, AUTHORITY shall not reimburse ASSOCIATION's
12 member panelists for any other expenses directly incurred by its members in the performance of work
13 under this Agreement, except reimbursement for (i) ground transportation which shall be reimbursed at
14 the IRS unit rate per mile, and (ii) printing and duplicating costs, which shall be reimbursed at actual
15 costs. Reimbursement for actual costs shall not exceed Four Thousand (\$4,000) per year. All rates
16 specified above shall remain fixed for the maximum term of this Agreement and shall not exceed
17 Twenty Thousand Dollars (\$20,000.00) during the maximum term of this Agreement.

18 D. ASSOCIATION shall appropriately invoice AUTHORITY on a monthly basis for the
19 payments due in reference to paragraph C in this Article. ASSOCIATION shall furnish such
20 information as may be requested by AUTHORITY to substantiate the validity of an invoice. At its sole
21 discretion, AUTHORITY may decline to make full payment for any work described in Exhibit A until
22 such time as ASSOCIATION has documented, to AUTHORITY's satisfaction, that ASSOCIATION has
23 fully completed all work required.

24 E. Invoices shall be submitted by ASSOCIATION in duplicate to AUTHORITY's Accounts
25 Payable office. AUTHORITY shall remit payment within thirty (30) calendar days of the receipt and
26 approval of each invoice.

1 1. Each ASSOCIATION member panelist's invoice shall include the following
2 information:

- 3 a. Agreement No. C-9-0301;
- 4 b. Meetings held during the billing period;
- 5 c. Itemized expenses incurred during the billing period;
- 6 d. Total monthly invoice; and
- 7 e. Such other information as requested by AUTHORITY.

8 2. Each annual fee installment invoice shall include the Agreement No. C-9-0301,
9 and other information as requested by AUTHORITY.

10 **ARTICLE 6. MAXIMUM OBLIGATION**

11 Notwithstanding any provisions of this Agreement to the contrary, AUTHORITY and
12 ASSOCIATION mutually agree that AUTHORITY's maximum cumulative payment obligation under
13 this Agreement shall be Fifty Thousand Dollars (\$50,000.00), including all amounts payable to
14 ASSOCIATION for its subcontracts, leases, materials and costs arising from, or due to termination of,
15 this Agreement.

16 **ARTICLE 7. NOTICES**

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

- 21 /
- 22 /
- 23 /
- 24 /
- 25 /
- 26 /

To ASSOCIATION:
Grand Jurors Association of Orange County
12672 Kona Lane
Garden Grove, CA 92841

To AUTHORITY:
Orange County Transportation Authority
550 Main Street
Orange, CA 92863

ATTENTION: Carlos N. Olvera
President
(949) 240 - 2490

ATTENTION: Pia Veesapen
Contract Administrator
(714) 560 - 5619

ARTICLE 8. INDEPENDENT CONTRACTOR

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

ARTICLE 9. PRECEDENCE

Except as provided in Article 3, conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, including Attachment A; and (2) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 10. CHANGES

By written notice or order, AUTHORITY may, from time to time, order work suspension or make changes in the general scope of this Agreement including, but not limited to, the services furnished to AUTHORITY by ASSOCIATION. If any such change causes an increase or decrease in the price of this Agreement or in the time required for its performance, ASSOCIATION shall promptly notify AUTHORITY thereof and assert its claim for adjustment within ten (10) days after the change is ordered, and an equitable adjustment shall be negotiated. However, nothing in this clause shall

1 excuse ASSOCIATION from proceeding immediately with the Agreement as changed.

2 **ARTICLE 11. DISPUTES**

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

8 B. The provisions of this Article shall not be pleaded in any suit involving a question of fact
9 arising under this Agreement as limiting judicial review of any such decision to cases where fraud by
10 such official or his representative or board is alleged, provided, however, that any such decision shall
11 be final and conclusive unless the same is fraudulent or capricious or arbitrary or so grossly erroneous
12 as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any
13 appeal proceeding under this Article, ASSOCIATION shall be afforded an opportunity to be heard and
14 to offer evidence in support of its appeal.

15 C. Pending final decision of a dispute hereunder, ASSOCIATION shall proceed diligently with
16 the performance of this Agreement and in accordance with the decision of AUTHORITY's Director,
17 CAMM. This Disputes clause does not preclude consideration of questions of law in connection with
18 decisions provided for above. Nothing in this Agreement, however, shall be construed as making final
19 the decision of any AUTHORITY official or representative on a question of law, which questions shall be
20 settled in accordance with the laws of the state of California.

21 **ARTICLE 12. TERMINATION**

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

1 B. AUTHORITY may terminate this Agreement for ASSOCIATION's default if a federal or
2 state proceeding for the relief of debtors is undertaken by or against ASSOCIATION, or if
3 ASSOCIATION makes an assignment for the benefit of creditors, or if ASSOCIATION breaches any
4 term(s) or violates any provision(s) of this Agreement and does not cure such breach or violation within
5 ten (10) days after written notice thereof by AUTHORITY. ASSOCIATION shall be liable for any and
6 all reasonable costs incurred by AUTHORITY as a result of such default, including but not limited to
7 procurement costs of the same or similar services defaulted by ASSOCIATION under this
8 Agreement.

9 **ARTICLE 13. DISCLAIMER**

10 Any public notice, press release, or reference to ASSOCIATION, shall include a disclaimer
11 such as, "The Grand Jurors Association of Orange County is a neutral body serving only in the
12 interests of the citizens of Orange County." ASSOCIATION shall not be held legally liable for
13 participation in the Citizens Oversight Committee membership selection process.

14 **ARTICLE 14. INDEMNIFICATION**

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

21 **ARTICLE 15. ASSIGNMENTS AND SUBCONTRACTING**

22 Neither this Agreement nor any interest herein nor claim hereunder may be assigned by
23 ASSOCIATION either voluntarily or by operation of law, nor may all or any part of this Agreement be
24 subcontracted by ASSOCIATION, without the prior written consent of AUTHORITY. Consent by
25 AUTHORITY shall not be deemed to relieve ASSOCIATION of its obligations to comply fully with all
26 terms and conditions of this Agreement.

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

2 After receipt of reasonable notice and during the regular business hours of ASSOCIATION,
3 ASSOCIATION shall provide AUTHORITY, or other agents of AUTHORITY, such access to
4 ASSOCIATION's books, records, payroll documents and facilities as AUTHORITY deems necessary
5 to examine, audit and inspect all accounting books, records, work data, documents and activities
6 directly related hereto. ASSOCIATION shall maintain such books, records, data and documents in
7 accordance with generally accepted accounting principles and shall clearly identify and make such
8 items readily accessible to such parties during ASSOCIATION's performance hereunder and for a
9 period of four (4) years from the date of final payment by AUTHORITY hereunder.

10 **ARTICLE 17. FEDERAL, STATE AND LOCAL LAWS**

11 ASSOCIATION warrants that in the performance of this Agreement, it shall comply with all
12 applicable federal, state and local laws, statutes and ordinances and all lawful orders, rules and
13 regulations promulgated thereunder.

14 **ARTICLE 18. EQUAL EMPLOYMENT OPPORTUNITY**

15 In connection with its performance under this Agreement, ASSOCIATION shall not discriminate
16 against any employee or applicant for employment because of race, religion, color, sex, age or
17 national origin. ASSOCIATION shall take affirmative action to ensure that applicants are employed,
18 and that employees are treated during their employment, without regard to their race, religion, color,
19 sex, age or national origin. Such actions shall include, but not be limited to, the following:
20 employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or
21 termination; rates of pay or other forms of compensation; and selection for training, including
22 apprenticeship.

23 **ARTICLE 19. PROHIBITED INTERESTS**

24 ASSOCIATION covenants that, for the term of this Agreement, no director, member, officer or
25 employee of AUTHORITY during his/her tenure in office or for one (1) year thereafter shall have any
26 interest, direct or indirect, in this Agreement or the proceeds thereof.

1 **ARTICLE 20. OWNERSHIP OF REPORTS AND DOCUMENTS**

2 The originals of all letters, documents, reports and other products and data produced under
3 this Agreement shall be delivered to, and become the property of AUTHORITY. Copies may be made
4 for ASSOCIATION's records but shall not be furnished to others without written authorization from
5 AUTHORITY. Such deliverables shall be deemed works made for hire and all rights in copyright
6 therein shall be retained by AUTHORITY. Standard ASSOCIATION handout materials used in
7 workshops are proprietary materials of ASSOCIATION. Copyrights for the standard ASSOCIATION
8 handout materials shall remain with the ASSOCIATION.

9 **ARTICLE 21. FORCE MAJURE**

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

17 /

18 /

19 /

20 /

21 /

22 /

23 /

24 /

25 /

26 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. C-9-0301 to be executed on the date first above written.

**GRAND JURORS ASSOCIATION OF
ORANGE COUNTY**

ORANGE COUNTY TRANSPORTATION AUTHORITY

By _____

By _____

Carlos N. Olvera
President

Arthur T. Leahy
Chief Executive Officer

APPROVED AS TO FORM:

By _____

Kennard R. Smart, Jr.
General Counsel

APPROVED:

By _____

Ellen S. Burton
Executive Director, External Affairs

Date _____

POLICY RESOLUTION NO. 1
CITIZENS OVERSIGHT COMMITTEE

This Policy Resolution No. 1 is adopted by the Orange County Local Transportation Authority pursuant to Section 8 of the Revised Orange County Traffic Improvement and Growth Management Ordinance (the "Ordinance"). Except as otherwise defined herein, all capitalized terms contained herein shall have the same meaning as in the Ordinance.

I. PURPOSE AND ORGANIZATION. A citizens committee is hereby established for the purpose of overseeing compliance with the Plan, specifically the duties and responsibilities set forth in Section V hereof (the "Citizens Committee"). The Citizens Committee shall be organized and convened before any Retail Tax Revenues are collected pursuant to the Ordinance.

II. COMMITTEE MEMBERSHIP REQUIREMENTS AND RESTRICTIONS. The Citizens Committee shall consist of nine (9) members. The composition of the Citizens Committee membership shall be subject to the following requirements and/or restrictions:

A. Geographic Balance. The membership of the Citizens Committee shall be geographically balanced at all times as follows:

1. There shall be at least one (1) member of the Citizens Committee appointed from each of the County's supervisorial districts (individually, a "District"); and

2. There shall be no more than two (2) members of the Citizens Committee appointed from any one District.

3. The elected Orange County Auditor-Controller (the "Auditor-Controller") shall be a member and chairman of the Citizens Committee.

B. Reappointment: Maximum Term.

1. Citizens Committee members who have resigned, been removed, or whose terms have expired may be reappointed; provided, however, that no person other than the

1
2
3 c. Lack of conflicts of interest with respect to the allocation of Retail
4 Tax Revenues.

5 4. The Panel shall recommend to the Authority at least three (3), and no
6 more than five (5) candidates from each District for initial membership on the Citizens Committee.
7 Thereafter, the Panel shall recommend to the Authority at least three (3) and no more than five (5)
8 candidates for filling each vacancy on the Citizens Committee.
9

10 B. Initial Members.

11 1. Membership Term. Three (3) of the initial Citizens Committee members
12 shall be appointed for a term of three (3) years; three (3) of the initial Citizens Committee members
13 shall be appointed for a term of two (2) years; and two (2) of the initial Citizens Committee members
14 shall be appointed for a term of one (1) year.
15

16 2. Appointment. The initial members of the Citizens Committee shall be
17 appointed by the Authority in the following manner. The Authority shall place the names of the
18 candidates recommended by the Panel on equally-sized cards which shall be deposited randomly in a
19 container. In public session, the chairman of the Authority will draw a sufficient number of names from
20 said container to allocate Citizens Committee membership in accordance with the membership
21 requirements and restrictions set forth in Section II hereof and otherwise in the order of the names
22 drawn as follows:
23

24 a. The first person whose name is drawn from each District shall be
25 appointed to serve a three (3) year term until all three (3) year terms have been allocated. Thereafter,
26 the first person whose name is drawn from each District shall be appointed to serve a two (2) year term.
27

28 b. After one (1) candidate from each of the five (5) Districts is
29 appointed to serve as a Citizens Committee member pursuant to subsection (i) above, the remaining
30 members of the Citizens Committee shall be appointed in the order of names already drawn, but not
31 previously assigned a term and thereafter in the order of names drawn by the chairman of the

1 any special circumstances existing with respect to such absence; and (ii) a majority of the other
2 Citizens Committee members have agreed to excuse such absence.

3
4 C. Acceptance of any public office as referred to in Section IIIA3 hereof or the filing
5 of an intent to seek public office by a member of the Citizens Committee, including a filing under
6 California Government Code Section 85200, shall constitute such member's automatic resignation
7 from the Citizens Committee.

8
9 V. DUTIES AND RESPONSIBILITIES. The Citizens Committee is hereby charged with
10 the following duties and responsibilities:

11 A. Promptly after being appointed to the Citizens Committee, the initial members
12 shall convene to adopt such procedural rules and regulations as are necessary to govern the conduct
13 of Citizens Committee meetings, including, but not limited to, those governing the calling, noticing and
14 location of Citizens Committee meetings, as well as Citizens Committee quorum requirements and
15 voting procedures. The Citizens Committee may select its own officers, including, but not limited to, a
16 Citizens Committee co-chairman who will be the primary spokesman for the Citizens Committee.

17
18 B. The Citizens Committee shall approve, by a 2/3 vote, any material amendments
19 to the Expenditure Plan or any portions of the Plan proposed by the Authority which change the funding
20 categories, programs or projects identified on page 18 of the Plan.

21
22 C. The Citizens Committee shall review the growth management plan for each
23 jurisdiction solely to determine if the plan prepared and certified by each includes the elements
24 specified in the countywide Growth Management Program.

25 1. The Citizens Committee shall use a checklist to determine if the Growth
26 Management Element of each jurisdiction, if and when required by the Growth Management Program;
27 has:

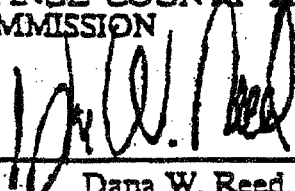
- 28
29 a. Specified traffic level of service standards;
30 b. Adopted planning standards for fire, police, library, flood control,
31 parks and open space, and other locally determined needs;

1 jurisdiction's seven-year capital improvement program conform with the transportation purposes
2 identified in Policy Resolution No. 3.
3

4 E. Except as otherwise provided by the Ordinance, the Citizen's Committee may
5 contract, through the Authority, for independent analysis or examination of issues within the Citizens
6 Committee's purview, including a performance audit of the Authority. The Citizens Committee may
7 also, through the Authority, hire staff to assist the Citizens Committee in discharging its duties
8 hereunder.
9

10 F. The Citizens Committee may submit a written request to the Authority to explain
11 any perceived deviations from the Plan. The Authority's chairman must respond to such request, in
12 writing, within sixty (60) days after receipt of the same.
13
14
15
16
17
18
19
20

21 **ORANGE COUNTY TRANSPORTATION**
22 **COMMISSION**

23
24 By: 
25 Dana W. Reed, Chairman

26 Date: 8-2-90
27

28 Approved as to form:
29 Parker and Covert

30 By: 
31 Attorneys for Orange County
Transportation Commission

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Ordinance No. 3

Renewed Measure M Transportation Ordinance and Investment Plan

PREAMBLE

A. Pursuant to California Public Utilities Code Section 180050, the Orange County Transportation Authority ("Authority") has been designated as the Orange County Local Transportation Authority by the Orange County Board of Supervisors.

B. There has been adopted a countywide transportation expenditure plan, referred to as the Orange County Transportation Investment Plan, dated July 24, 2006, pursuant to California Public Utilities Code Section 180206 ("Plan"), which will be administered by the Authority.

C. The Plan provides for needed countywide transportation facility and service improvements which will be funded, in part, by a transactions and use tax of one-half of one percent (1/2%).

D. Local Transportation Ordinance Number 2 ("Ordinance No. 2") funds transportation facility and service improvements through a transactions and use tax of one-half of one percent (1/2%) that will be imposed through March 31, 2011.

E. Ordinance No. 3 ("Ordinance") provides for the continuation of the existing Ordinance No. 2 transactions and use tax of one-half of one percent (1/2%) for an additional period of thirty (30) years to fund transportation facility and service improvements.

SECTION 1. TITLE

The Ordinance shall be known and may be cited as the Renewed Measure M Transportation Ordinance and Investment Plan. The word "Ordinance," as used in the Ordinance, shall mean and include Attachment A entitled "Renewed Measure M Transportation Investment Plan," Attachment B entitled "Allocation of Net Revenues," and Attachment C entitled "Taxpayer Oversight Committee," which Attachments A, B and C are attached hereto and incorporated by reference as if fully set forth herein.

1 ATTACHMENT C

2 TAXPAYER OVERSIGHT COMMITTEE

3
4 I. PURPOSE AND ORGANIZATION. A Taxpayer Oversight Committee
5 ("Committee") is hereby established for the purpose of overseeing compliance with the
6 Ordinance as specified in Section IV hereof. The Committee shall be organized and
7 convened before any Revenues are collected or spent pursuant to the Ordinance.

8 II. COMMITTEE MEMBERSHIP. The Committee shall be governed by eleven
9 members ("Member"). The composition of the Committee membership shall be subject to
10 the following provisions.

11 A. Geographic Balance. The membership of the Committee shall be
12 geographically balanced at all times as follows:

13 1. There shall be two Members appointed from each of the
14 County's supervisorial districts (individually, "District"); and

15 2. The Auditor-Controller shall be a Member and chairman
16 ("Chair") of the Committee.

17 B. Member Term. Each Member, except the Auditor-Controller and
18 as provided in Section III B 2 below, shall be appointed for a term of three years; provided,
19 however, that any Member appointed to replace a Member who has resigned or been
20 removed shall serve only the balance of such Member's unexpired term, and no person
21 shall serve as a Member for a period in excess of six consecutive years.

22 C. Resignation. Any Member may, at any time, resign from the
23 Committee upon written notice delivered to the Auditor-Controller. Acceptance of any
24 public office, the filing of an intent to seek public office, including a filing under California
25 Government Code Section 85200, or change of residence to outside the District shall
26 constitute a Member's automatic resignation.

27 D. Removal. Any Member who has three consecutive unexcused
28 absences from meetings of the Committee shall be removed as a Member. An absence

1 from a Committee meeting shall be considered unexcused unless, prior to or after such
2 absence (i) the Member submits to each of the other Members a written request to excuse
3 such absence, which request shall state the reason for such absence and any special
4 circumstances existing with respect to such absence; and (ii) a majority of the other
5 Members agree to excuse such absence.

6 E. Reappointment. Any former Member may be reappointed.

7 III. APPOINTMENT OF MEMBERS.

8 A. Membership Recommendation Panel.

9 1. The Authority shall contract with the Orange County Grand
10 Jurors' Association for the formation of a committee membership recommendation panel
11 ("Panel") to perform the duties set forth in this subsection III A. If the Orange County Grand
12 Jurors' Association refuses or fails to act in such capacity, the Authority shall contract with
13 another independent organization selected by the Authority for the formation of the Panel.

14 2. The Panel shall have five members who shall screen and
15 recommend potential candidates for Committee membership.

16 3. The Panel shall solicit, collect and review applications from
17 potential candidates for membership on the Committee. No currently elected or appointed
18 officer of any public entity will be eligible to serve as a Member, except the Auditor-
19 Controller. A Member shall reside within the District the Member is appointed to represent.
20 Subject to the foregoing restrictions, the Panel shall evaluate each potential candidate on
21 the basis of the following criteria:

22 a. Commitment and ability to participate in Committee
23 meetings;

24 b. Demonstrated interest and history of participation in
25 community activities, with special emphasis on transportation-related activities; and

26 c. Lack of conflicts of interest with respect to the allocation
27 of Revenues.

28 4. For initial membership on the Committee, the Panel shall

1 recommend to the Authority at least five candidates from each of the two Districts that are
2 represented by one member on the Ordinance No. 2, Citizens Oversight Committee
3 ("COC") as of the date the Authority appoints the initial Members. Thereafter, the Panel
4 shall recommend to the Authority at least five candidates for filing each vacancy on the
5 Committee.

6 B. Initial Members.

7 1. The COC members, as of the date the Authority appoints the
8 initial Members of the Committee, shall be appointed as initial Members of the Committee.
9 These Members shall each serve until each of their respective terms as a member of the
10 COC expires.

11 2. Two additional initial Members shall be appointed. The
12 Authority shall place the names of the candidates recommended by the Panel on equally-
13 sized cards which shall be deposited randomly in a container. In public session, the
14 Chairman of the Authority will draw a sufficient number of names from said container to
15 allocate Committee membership in accordance with the membership requirements and
16 restrictions set forth in Section II hereof. The first person whose name is drawn shall be
17 appointed to serve a term of three years. Thereafter, the person whose name is drawn
18 who is not from the same District as the first person whose name is drawn shall be
19 appointed to serve a term of two years.

20 C. Member Vacancy. A member vacancy, however caused, shall be
21 filled by the Authority. A Member shall be appointed on or about July 1 to replace a
22 Member whose term has expired. A Member may be appointed at any time as necessary
23 to replace a Member who has resigned or been removed. The Authority shall place the
24 names of the candidates recommended by the Panel for the appointment on equally-sized
25 cards which shall be deposited randomly in a container. In a public session, the Chairman
26 of the Authority will draw one name from said container for each vacancy on the
27 Committee. The person whose name is so drawn shall be appointed by the Authority to fill
28 the vacancy.

1 IV. DUTIES AND RESPONSIBILITIES. The Committee is hereby charged
2 with the following duties and responsibilities:

3 A. The initial Members shall convene to adopt such procedural rules and
4 regulations as are necessary to govern the conduct of Committee meetings, including, but
5 not limited to, those governing the calling, noticing and location of Committee meetings, as
6 well as Committee quorum requirements and voting procedures. The Committee may
7 select its own officers, including, but not limited to, a Committee co-chair who will be the
8 primary spokesperson for the Committee.

9 B. The Committee shall approve, by a vote of not less than two thirds of
10 all Committee members, any amendment to the Plan proposed by the Authority which
11 changes the funding categories, programs or projects identified on page 31 of the Plan.

12 C. The Committee shall receive and review the following documents
13 submitted by each Eligible Jurisdiction:

- 14 1. Congestion Management Program;
- 15 2. Mitigation Fee Program;
- 16 3. Expenditure Report;
- 17 4. Local Traffic Signal Synchronization Plan; and
- 18 5. Pavement Management Plan.

19 D. The Committee shall review yearly audits and hold an annual public
20 hearing to determine whether the Authority is proceeding in accordance with the Plan. The
21 Chair shall annually certify whether the Revenues have been spent in compliance with the
22 Plan. In addition, the Committee may issue reports, from time to time, on the progress of
23 the transportation projects described in the Plan.

24 E. The Committee shall receive and review the performance assessment
25 conducted by the Authority at least once every three years to review the performance of the
26 Authority in carrying out the purposes of the Ordinance.

27 F. Except as otherwise provided by the Ordinance, the Committee may
28 contract, through the Authority, for independent analysis or examination of issues within the

1 Committee's purview or for other assistance as it determines to be necessary.

2 G. The Committee may submit a written request to the Authority to explain
3 any perceived deviations from the Plan. The Authority's Chair must respond to such
4 request, in writing, within sixty days after receipt of the same.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Planning Agency Schedule of Revenues, Expenses, and Change in Net Assets, Year Ended June 30, 2008

Finance and Administration Committee meeting of March 25, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Receive and file the Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service enhancement Account Planning Agency Schedule of Revenues, Expenses, and Changes in Net Assets, Year Ended June 30, 2008.



March 25, 2009

To: Finance and Administration Committee
ATL/ep

From: Arthur T. Leahy, Chief Executive Officer

Subject: Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Planning Agency Schedule of Revenues, Expenses, and Change in Net Assets, Year Ended June 30, 2008

Overview

The Orange County Transportation Authority is required to obtain an independent auditor's opinion on compliance for funding allocations under the Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account. Mayer Hoffman McCann P.C., an independent accounting firm, has completed its audit for the fiscal year ended June 30, 2008.

Recommendation

Receive and file the Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account Planning Agency Schedule of Revenues, Expenses, and Changes in Net Assets, Year Ended June 30, 2008.

Background

Proposition 1B, approved by the voters of California in November 2006, authorized \$19.9 billion of state general obligation bonds for various transportation and port security purposes. Included among the programs is the Public Transportation Modernization, Improvement, and Service Enhancement Account (PTMISEA) with total available statewide allocations of \$3.6 billion. For fiscal year 2007-08, the Orange County Transportation Authority (OCTA) received allocations of \$25 million for four projects, including three compressed natural gas fueling facilities and paratransit revenue vehicles. During the fiscal year, OCTA expended \$925,508 of the funds.

Discussion

Government Code (Code) Section 8879.55 provides that public transportation operators receiving bond funds from the PTMISEA account be subject to audit to verify receipt and appropriate expenditure of the funds. According to the Code, the audit required under the Transportation Development Act (TDA), pursuant to section 99245 of the Public Utilities Code, shall be expanded to include audit procedures specific to PTMISEA funding.

OCTA accounts for its PTMISEA in the Orange County Transit District (OCTD) fund which is included in OCTA's basic financial statements. The basic financial statements were audited by Mayer Hoffman McCann P.C (MHM) for the year ended June 30, 2008, including audit of 100 percent of the cash receipts and over 90 percent of the expenses for the PTMISEA program. However, PTMISEA revenues, expenses, and net assets were not detailed in the financial statements or related footnotes. In addition, MHM's report on internal control over financial reporting and compliance with the TDA did not specifically mention PTMISEA funding or expenses.

The California Department of Transportation requested that OCTA provide an audit report specific to PTMISEA transactions and funds. As such, a schedule of revenues, expenses, and change in net assets for the year ended June 30, 2008, for the PTMISEA has been prepared by OCTA and audited by MHM.

The audit report has been provided to the California Department of Transportation. In future fiscal years, and consistent with emerging practices by other California transit agencies, OCTA will include a separate schedule of PTMISEA revenues, expenses, and changes in net assets in its TDA internal control and compliance audit report rather than within a stand-alone audit report, as has been prepared and audited for fiscal year 2007-08.

Summary

MHM, an independent accounting firm, has issued its report on the Orange County Transportation Authority Proposition 1B Public Transportation Modernization, Improvement, and Service Enhancement Account for the fiscal year ended June 30, 2008, as required by Government Code 8879.55.

**Orange County Transportation Authority Proposition 1B
Public Transportation Modernization, Improvement, and
Service Enhancement Account Planning Agency Schedule of
Revenues, Expenses, and Change in Net Assets, Year Ended
June 30, 2008**

Page 3

Attachment

- A. Orange County Transportation Authority Proposition 1B PTMISEA
Planning Agency Schedule of Revenues, Expenses and Change in Net
Assets Year Ended June 30, 2008

Prepared by:



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

**ORANGE COUNTY TRANSPORTATION AUTHORITY
Proposition 1B PTMISEA Planning Agency**

Schedule of Revenues, Expenses and Change in Net Assets

Year Ended June 30, 2008

**ORANGE COUNTY TRANSPORTATION AUTHORITY
Proposition 1B PTMISEA Planning Agency**

Schedule of Revenues, Expenses and Change in Net Assets

Year Ended June 30, 2008

TABLE OF CONTENTS

	Page
Independent Auditors' Report on Internal Control over Financial Reporting and on Compliance and Other Matters Based on an Audit of Financial Statements Performed in Accordance with <i>Government Auditing Standards</i> and California Government Code §8879.50	1
Schedule of Revenues, Expenses and Change in Net Assets	3
Notes to Schedule of Revenues, Expenses and Change in Net Assets	4



Mayer Hoffman McCann P.C.

An Independent CPA Firm

2301 Dupont Drive, Suite 200
Irvine, California 92612
949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

Board of Directors
Orange County Transportation Authority
Orange, California

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS AND CALIFORNIA GOVERNMENT CODE §8879.50

We have audited the financial statements of the governmental activities, business-type activities, each major fund, and the aggregate remaining fund information of the Orange County Transportation Authority (OCTA), as of and for the year ended June 30, 2008, which collectively comprise OCTA's basic financial statements, and have issued our report thereon dated October 24, 2008. Included in OCTA's basic financial statements is the Orange County Transit District (OCTD), which includes the Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA). We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

In planning and performing our audit of the PTMISEA, we considered OCTA's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing an opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of OCTA's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of OCTA's internal control over financial reporting.

A control deficiency exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A significant deficiency is a control deficiency, or combination of control deficiencies, that adversely affects OCTA's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of OCTA's financial statements that is more than inconsequential will not be prevented or detected by OCTA's internal control.

A material weakness is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by OCTA's internal control.



Board of Directors
Orange County Transportation Authority
Orange, California

Our consideration of the internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all the deficiencies in the internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether OCTA's PTMISEA financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements including the applicable provisions of California Government Code §8879.50 et seq., noncompliance with which could have a direct and material effect on the determination of financial statement amounts. Our audit was further made to determine that PTMISEA funds allocated to and received by OCTD were expended in conformance with the applicable statutes, rules and regulations of the California Government Code. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

Schedule of Revenues, Expenses and Change in Net Assets

We have audited the basic financial statements of OCTA as of and for the year ended June 30, 2008, and have issued our report thereon dated October 24, 2008. Our audit was performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying Schedule of Revenues, Expenses and Change in Net Assets is presented for purposes of additional analysis and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

We noted certain other matters we reported to management of OCTA in a separate letter dated October 24, 2008.

This report is intended solely for the information and use of the Board of Directors, management of the Orange County Transportation Authority and the California Department of Transportation and is not intended to be and should not be used by anyone other than these specified parties.

Mayer Hoffman McCann P.C.

Irvine, California
October 24, 2008

ORANGE COUNTY TRANSPORTATION AUTHORITY
Proposition 1B PTMISEA Planning Agency

Schedule of Revenues, Expenses and Change in Net Assets

Year Ended June 30, 2008

	<u>PTMISEA</u>
Revenues:	
Proposition 1B	<u>\$25,230,526</u>
Total revenues	<u>25,230,526</u>
Expenses:	
Modernization, improvement and service enhancement	<u>925,508</u>
Total expenses	<u>925,508</u>
Change in net assets	24,305,018
Net assets - beginning of year	<u>-</u>
Net assets - end of year	<u>\$24,305,018</u>

See Notes to Schedule of Revenues, Expenses and Change in Net Assets

ORANGE COUNTY TRANSPORTATION AUTHORITY
Proposition 1B PTMISEA Planning Agency

Notes to Schedule of Revenues, Expenses and Change in Net Assets

Year Ended June 30, 2008

(1) Proposition 1B PTMISEA

The Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA) Fund is a part of the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006 (Bond Act), approved by California voters as Proposition 1B on November 7, 2006. A total of \$4 billion is deposited to the State of California's PTMISEA, \$3.6 billion of which is made available to project sponsors in California for allocation to eligible public transportation projects over a 10-year period. The fund is to be distributed by formula, based on population and fare box revenue to transit operators. This fund is intended to protect the environment and public health, conserve energy, reduce congestion, and provide alternative mobility and access choices for Californians. For fiscal year 2008, of the total state PTMISEA appropriation of \$600 million, \$25 million is available to OCTA.

(2) Basis of Accounting

The PTMISEA uses the accrual basis of accounting as required by generally accepted accounting principles. Under this basis of accounting, revenues are recognized when earned, and expenses are recognized when incurred.



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors

From: Wendy Knowles, Clerk of the Board

Subject: Amendment to Agreement for the Provision of Special Agency Transportation Service

Transit Committee meeting of March 26, 2009

Present: Directors Brown, Dalton, Dixon, Nguyen, Pulido, and Winterbottom

Absent: Director Green

Committee Vote

This item was passed by all Committee Members present.

Director Pulido was not present to vote on this item.

Committee Recommendation

Authorize the Chief Executive Officer to execute Amendment No. 4 to Agreement No. C-3-1284 between the Orange County Transportation Authority and American Logistics, Inc., to extend the term of the agreement, in an amount not to exceed \$754,000, for the provision of special agency transportation service through June 30, 2011, bringing the total contract value to \$2,815,142.



March 26, 2009

To: Transit Committee
From: Arthur T. Leahy, Chief Executive Officer
Subject: Amendment to Agreement for the Provision of Special Agency Transportation Service

Overview

On April 12, 2004, the Board of Directors approved an agreement with American Logistics, Inc., doing business as California Yellow Cab, in the amount of \$450,335, to provide special agency transportation service. An amendment is requested to extend the agreement through June 30, 2011.

Recommendation

Authorize the Chief Executive Officer to execute Amendment No. 4 to Agreement No. C-3-1284 between the Orange County Transportation Authority and American Logistics, Inc., to extend the term of the agreement, in an amount not to exceed \$754,000, for the provision of special agency transportation service through June 30, 2011, bringing the total contract value to \$2,815,142.

Background

The Orange County Transportation Authority (Authority) provides special agency transportation (SAT) under contract to the Orange County Office on Aging (OoA) to take seniors to and from congregate meal programs throughout Orange County. SAT is provided to various senior centers and social service agencies through cooperative cost-sharing agreements with the OoA and ten participating cities: Cypress, Dana Point, Fullerton, Garden Grove, Los Alamitos, Mission Viejo, Orange, San Juan Capistrano, Stanton, and Tustin. Approximately 37,000 trips were provided in fiscal year 2007-08.

The original agreement was awarded on a competitive basis in 2004 to American Logistics, Inc. (American Logistics), doing business as California Yellow Cab. Prior to July 2004, SAT service had been provided through the

ACCESS program. Utilizing a taxi contractor for the SAT program has been a cost-effective and efficient alternative to ACCESS.

Discussion

The agreement was awarded in 2004 for an initial term of three years with two one-year options. The current agreement is scheduled to expire June 30, 2009. The SAT program is currently funded by the OoA and the ten participating cities. The Authority also contributes approximately 38 percent of the program cost.

Due to budget constraints and the availability of alternative funding resources through the Authority's Senior Mobility Program, Authority funding of the SAT program will be discontinued as of June 2011. Cities currently participating in the SAT program can elect to transition into the Senior Mobility Program which will be funded by Measure M funds beginning in 2011. As a result, the number of participating cities and service hours included in this contract will continue to be reduced and potentially eliminated altogether before June 2011, making it difficult to issue a request for proposals and hire a new contractor to provide service from July 2009 through June 2011. Establishing service with a new contractor can take several months and be disruptive for the participating cities and senior clients. Extending the existing agreement with American Logistics helps maintain service continuity and integrity during this transition. Due to these extenuating circumstances, an amendment is requested to extend the contract term through June 30, 2011.

Fiscal Impact

Amendment No. 4 to Agreement No. C-3-1284 is included in the proposed Authority's Fiscal Year 2009-10 Budget, Transit Division, Community Transportation Services, Account 2131-7312-D1211-8LK, and is funded through the Local Transportation Fund.

Summary

Staff recommends approval of Amendment No. 4, in the amount of \$754,000, to Agreement No. C-3-1284 with American Logistics, Inc., for the provision of special agency transportation services, bringing the total contract value to \$2,815,142.


Attachment

- A. American Logistics, Inc. Agreement No. C-3-1284 Fact Sheet

Prepared by:


Dana Wiemiller
Community Transportation Coordinator
(714) 560-5718

Approved by:


Beth McCormick
General Manager, Transit
(714) 560-5964

ATTACHMENT A

**AMERICAN LOGISTICS, INC.
Agreement No. C-3-1284 Fact Sheet**

1. April 12, 2004, Agreement No. C-3-1284, \$450,335, approved by Board of Directors.
 - Agreement for the provision of special agency transportation services to take seniors to and from congregate meal programs throughout Orange County.
2. January 23, 2006, Amendment No. 1 to Agreement No. C-3-1284, \$636,440, approved by Board of Directors.
 - Amendment to increase the cumulative maximum obligation by \$636,440.
3. April 9, 2007, Amendment No. 2 to Agreement No. C-3-1284, \$475,761, approved by Board of Directors.
 - Amendment to exercise the first option term and extend the agreement through June 30, 2008.
4. April 14, 2008, Amendment No. 3 to Agreement No. C-3-1284, \$498,606, approved by Board of Directors.
 - Amendment to exercise the second option term and extend the agreement through June 30, 2009.
5. April 13, 2009, Amendment No. 4 to Agreement No. C-3-1284, \$754,000, pending approval by Board of Directors.
 - Amendment to increase the maximum obligation and extend the agreement through June 30, 2011.

Total committed to American Logistics, Inc., Agreement No. C-3-1284: \$2,815,142.



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: Amendment to Cooperative Agreements for Provision of Senior Transportation to Congregate Meal Sites

Transit Committee meeting of March 26, 2009

Present: Directors Brown, Dalton, Dixon, Nguyen, Pulido, and Winterbottom
Absent: Director Green

Committee Vote

This item was passed by all Committee Members present.

Director Pulido was not present to vote on this item.

Committee Recommendations

- A. Authorize the Chief Executive Officer to execute Amendment No. 1 to Cooperative Agreement No. C-8-0224 between the Orange County Transportation Authority and the Orange County Office on Aging for its share of the program expense for the provision of senior transportation to congregate meal sites, in an amount not to exceed \$330,952, through June 30, 2010.
- B. Authorize the Chief Executive Officer to execute amendments to agreements with ten participating cities for the cities' share of the program expense through June 30, 2010, based on the Orange County Office on Aging allocation, for a total amount not to exceed \$83,000.



March 26, 2009

To: Transit Committee
ATL/RS

From: Arthur T. Leahy, Chief Executive Officer

Subject: Amendment to Cooperative Agreements for Provision of Senior Transportation to Congregate Meal Sites

Overview

On April 12, 2008, the Board of Directors approved cooperative agreements with the Orange County Office on Aging and ten cities participating in the Special Agency Transportation program to provide senior transportation to congregate meal sites. Amendments are requested to extend these agreements through June 30, 2010.

Recommendations

- A. Authorize the Chief Executive Officer to execute Amendment No. 1 to Cooperative Agreement No. C-8-0224 between the Orange County Transportation Authority and the Orange County Office on Aging for its share of the program expense for the provision of senior transportation to congregate meal sites, in an amount not to exceed \$330,952, through June 30, 2010.
- B. Authorize the Chief Executive Officer to execute amendments to agreements with ten participating cities for the cities' share of the program expense through June 30, 2010, based on the Orange County Office on Aging allocation, for a total amount not to exceed \$83,000.

Background

The Orange County Transportation Authority (Authority) provides approximately 37,000 trips annually to seniors traveling to and from congregate meal sites throughout the County under contract to the Orange County Office on Aging (OoA). This program is referred to internally as the Special Agency Transportation (SAT) program (Attachment A).

The SAT program is a service initiated by the OoA to support its congregate meal program and is partially funded by the Older Americans Act. The OoA

contracts with the Authority to provide transportation to meal sites selected by the OoA, and the Authority has subcontracted with American Logistics, Inc., to provide transportation service under this agreement. Through an arrangement established in the early 1990s, the OoA, the Authority, and the cities/centers receiving this service all contribute toward the cost of the program. The cities/centers contribute 20 percent of the program funds, the OoA contributes a portion of the amount available through the Older Americans Act, Title III B funds, and the Authority contributes the balance of funds necessary to operate the program using Article 4.5 Transportation Development Act (TDA) funds (Attachment B). A total of 20 cities/centers are included in the OoA allocation for the SAT program. The allocation of funds to support nutrition transportation services in these 20 locations is determined by the OoA.

The Authority provides transportation services to 10 of the 20 cities/centers. The remaining 10 cities/centers provide approximately 66,000 nutrition trips directly under the Authority's Senior Mobility Program (SMP). Under the SMP, the Authority provides an operating subsidy to the city/center which includes the contribution from the Authority and the OoA.

Discussion

Board of Directors' approval of this item will allow the execution of amendments to agreements with the OoA and the 10 cities participating in the SAT program to continue the provision of these transportation services (Attachment C). The Authority's total contribution for the program during fiscal year 2009-10 is projected to be \$825,532 or 57 percent. Of this amount, \$148,034 or 18 percent funds the SAT program. The remaining \$677,498 funds cities providing nutrition and other senior transportation services under the SMP.

During the term of these agreements, the cities participating in the SAT program have the option of transitioning to the SMP, under which the cities would assume direct responsibility for provision of these trips and receive additional funds. Due to budget constraints and the availability of alternative funding resources through the SMP, the Authority contribution to the SAT program with TDA funds will be discontinued as of June 30, 2011. Authority staff will work with participating cities to transition into the SMP on or before July 1, 2011.

Fiscal Impact

Funds to operate this program are in the proposed Authority's Fiscal Year 2009-10 Budget. Similarly, revenues from the OoA and the participating cities have been estimated and are included in the proposed Authority's Fiscal Year 2009-10 Budget as a reimbursement from other agencies.

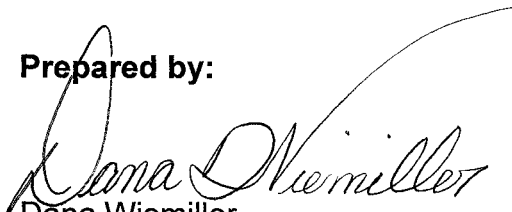
Summary

Staff recommends approval of Amendment No. 1 to Cooperative Agreement No. C-8-0224, a revenue agreement issued by the Orange County Office on Aging, and related amendments with participating cities and centers to extend the Special Agency Transportation program through June 30, 2010.


Attachments

- A. Special Agency Transportation Program Outline
- B. Office on Aging Nutrition Transportation Program Funding Allocations by City, June 2009 – June 2010
- C. Special Agency Transportation Program Cooperative Agreements Fact Sheet

Prepared by:


Dana Wiemiller
Community Transportation Coordinator
(714) 560-5718

Approved by:


Beth McCormick
General Manager, Transit
(714) 560-5964

Special Agency Transportation Program Outline

- The nutrition transportation program is a service initiated by the Orange County Office on Aging (OoA) to support its congregate meal program. The OoA contracts with the Orange County Transportation Authority (Authority) to provide transportation to selected centers within the cities participating in the congregate meal program.
- While 20 cities/centers are included in the OoA allocation for senior nutrition transportation, the Authority only provides service for ten of these cities/centers, providing approximately 37,000 annual trips. These cities include: Cypress, Dana Point, Fullerton, Garden Grove, Los Alamitos, Mission Viejo, Orange, San Juan Capistrano, Stanton, and Tustin.
- The remaining 10 cities participate in the Authority's Senior Mobility Program (SMP) and account for an estimated 66,000 trips provided annually for seniors traveling to congregate meal sites. These cities include: Anaheim, Brea, Buena Park, Huntington Beach, La Habra, Laguna Niguel, San Clemente, Seal Beach, Westminster, and the Vietnamese Community of Orange County, located in Santa Ana.
- The Office on Aging, the Authority, and the participating cities all contribute toward the cost of the program.
 - The OoA contributes approximately 23 percent of the cost of the program using Older Americans Act, Title III B funds, which are earmarked for senior supportive services including OoA transportation.
 - Each city or center participating in the program contributes 20 percent of the cost.
 - The Authority contributes approximately 57 percent of the cost of the program using Article 4.5 Transportation Development Act funds.
 - Of the Authority's contribution, 18 percent supports the 10 participating SAT cities and the remaining allocation supports nutrition and other senior transportation services under the SMP.
- The Authority currently has a contract with American Logistics, Inc., doing business as California Yellow Cab, Agreement No. C-3-1284, to provide nutrition transportation services for the ten cities/centers participating in the congregate meal program.
- The OoA determines the level of funding for each city included in the nutrition program. SMP cities receive additional funds under the SMP program directly from the Authority. Funding from the Authority is used by SMP cities for nutrition transportation and may also be used for additional senior transportation services, including shopping, medical, and other trips.
- The funds requested for approval in this report represent the full 12-month commitment for this program in fiscal year 2009-10.

**Office on Aging Nutrition Transportation Program
Funding Allocations by City
July 2009 - June 2010**

Participating Special Agency Transportation Program Cities	City Contribution (\$9.31)	OoA Contribution (\$17.60)	OCTA Contribution (\$16.77)
City of Cypress	\$ 3,956.75	\$ 7,482.35	\$ 7,129.15
City of Dana Point	\$ 5,120.50	\$ 9,683.10	\$ 9,225.90
City of Fullerton	\$ 5,818.75	\$ 11,003.45	\$ 10,484.00
City of Garden Grove	\$ 15,827.00	\$ 29,929.35	\$ 28,516.65
City of Los Alamitos	\$ 3,491.25	\$ 6,602.20	\$ 6,290.00
City of Mission Viejo	\$ 7,448.00	\$ 14,084.40	\$ 13,419.60
City of Orange	\$ 25,137.00	\$ 47,534.85	\$ 45,291.15
City of San Juan Capistrano	\$ 6,866.13	\$ 12,984.10	\$ 12,371.30
City of Stanton	\$ 3,491.25	\$ 6,602.20	\$ 6,290.30
City of Tustin	\$ 5,004.13	\$ 9,463.00	\$ 9,016.30
Subtotals	\$ 82,160.75	\$ 155,369.00	\$ 148,034.35

Participating Senior Mobility Program Cities	City Contribution	OoA Contribution	OCTA Contribution
Vietnamese Community of OC	\$ 14,851.00	\$ 14,738.00	\$ 44,666.00
City of Anaheim	\$ 53,316.40	\$ 47,900.00	\$ 165,365.60
City of Brea	\$ 12,481.80	\$ 13,380.00	\$ 34,547.20
City of Buena Park	\$ 14,543.00	\$ 16,581.00	\$ 41,591.00
City of Huntington Beach	\$ 39,138.00	\$ 13,097.00	\$ 143,455.00
City of Laguna Niguel	\$ 10,940.80	\$ 3,146.00	\$ 40,617.20
City of La Habra	\$ 17,331.60	\$ 21,373.00	\$ 47,953.40
City of San Clemente	\$ 13,006.40	\$ 8,364.00	\$ 43,661.60
City of Seal Beach	\$ 18,059.20	\$ 12,896.00	\$ 59,340.80
City of Westminster	\$ 19,602.00	\$ 22,108.00	\$ 56,300.00
Subtotals	\$ 213,270.20	\$ 173,583.00	\$ 677,497.80
Totals	\$ 295,430.95	\$ 330,952.00	\$ 825,532.15
TOTAL PROGRAM ALLOCATION			\$ 1,451,915.10

**SPECIAL AGENCY TRANSPORTATION PROGRAM
Cooperative Agreements Fact Sheet**

1. April 28, 2008, Cooperative Agreement No. C-8-0224, \$340,000, and amendments with ten participating cities/centers approved by Board of Directors.
 - Revenue agreement with Orange County Office on Aging for its share of the program expense for provision of senior transportation to congregate meal sites through June 30, 2009.
 - Revenue agreements with participating cities for the cities' share of the program expense for the provision of senior transportation to congregate meal sites through June 30, 2009.
 - C-8-0189 with City of Cypress
 - C-8-0370 with City of Dana Point
 - C-8-0367 with City of Fullerton
 - C-8-0369 with City of Garden Grove
 - C-8-0192 with City of Los Alamitos
 - C-8-0193 with City of Mission Viejo
 - C-8-0194 with City of Orange
 - C-8-0196 with City of San Juan Capistrano
 - C-8-0200 with City of Stanton
 - C-2-0163 with City of Tustin

2. April 13, 2009, Amendment No. 1 to Cooperative Agreement No. C-8-0224, \$330,952, with Orange County Office on Aging and amendments to agreements with ten participating cities/centers pending approval by Board of Directors.
 - Amendments to extend revenue agreements with the Orange County Office on Aging and ten participating cities through June 30, 2010, for the provision of transportation service to congregate meal sites.



MEMO

April 8, 2009


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

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

Thank you.



April 9, 2009

To: Transit Committee
From:  James S. Kenan, Interim Chief Executive Officer
Subject: Customer Information Center Update

Overview

The Orange County Transportation Authority Customer Information Center assists customers with trip planning by providing travel itineraries and general information to bus riders seven days a week, 365 days a year. This report provides an update on the Customer Information Center including the tracking of the call volume and the status of the Alta Resources contract.

Recommendation

Receive and file an update on the Customer Information Center.

Background

The Orange County Transportation Authority (OCTA) Board of Directors (Board) awarded a contract to Alta Resources (Alta) on September 18, 2006, to operate the Customer Information Center (CIC). This is the fifth in a series of reports to the OCTA Board on the CIC. The first report detailed the increasing call volume and noted Alta's exceptional performance. The second pointed out the increasing growth rate in calls. The report also pointed out a projected 10 percent increase in call volume for fiscal year (FY) 2006-07. After the third report, the Board directed staff to conduct a six-month pilot program reducing the weekday operating hours. Following the fourth report, the Board approved the permanent change in operating hours and instructed staff to report on the technology enhancements to manage operating costs.

CIC staff also has been engaged to fulfill pass sales requests through the OCTA online website, by mail, and through telephone orders. They also process applications for Reduced Fare Identification cards (RFID) and issue the completed photo identification cards.

Discussion

The initial term for the Alta contract spans a four and one-half year period, January 1, 2007 through June 30, 2011. There are three one-year option terms, which continue through June 2014. Call volumes have increased each month over the previous FY totals with the exception of three months: July, December, and February. July 2008 was the single highest monthly call volume with the exception of July 2007, which recorded an abnormally high call volume due to the coach operator work stoppage.

Beginning in July 2008, the weekday hours of operation for the CIC were reduced by four hours a day, or 20 hours a week. In the last four months (November 2008 through February 2009), there has been a slight decrease (1.4 percent) in call volume compared to the same period of the previous year. The slowing in calls appears to be due to the cumulative effect from the decrease in fuel prices and the change in the call center hours of operation. The following chart shows the calls handled for the previous fiscal year, the current fiscal year, and the percentage variance. As a note, the March 2009 call volume is tracking high and is expected to reach 70,000 or more calls.

FY 2007-08 and FY 2008-09 Call Comparison

FY Actuals	FY 2007-08 Calls Handled	FY 2008-09 Calls Handled	Percentage Variance
July	* 85,673	73,385	-14.3%
August	62,601	69,780	11.5%
September	58,417	65,106	11.5%
October	59,331	63,876	7.7%
November	56,587	58,088	2.7%
December	58,129	56,132	-3.4%
January	60,086	60,864	1.3%
February	58,836	55,256	-6.1%
March	64,748		
April	64,087		
May	66,572		
June	74,060		
Total Calls	769,127		
Monthly Average	64,094	62,811 (to date)	

* Spike in calls due to coach operator work stoppage

Alta Contract Impact

The four and one-half year initial term of the Alta contract includes a cost-per-call of \$1.935 for operator-assisted calls during the first two and one-half years, \$0.13 for pre-recorded messages, and no charge for calls transferred to OCTA. During the third year of the contract (FY 2009-2010), the

contracted firm fixed cost per operator-handled call will increase to \$2.00; other costs will remain the same.

The initial term of Alta's contract is 48 percent complete to date. The contract cost to date has consumed 54 percent of the contract budget due to the increase in call volume. Depending on the success of cost savings measures, the contract expenditures may be in line with the maximum contract obligation in 2011.

Cost Saving Measures

Pass Sales

In March 2009, OCTA implemented the Microsoft Great Plains pass inventory system and Compass point-of-sale solution for the sale of prepaid fare media. The Customer Relations Department, along with Accounting Department and Marketing Department, assisted in the customization of the software to replace outdated software, reduce redundancy, and automate manual processes. The implementation of the new software has increased efficiencies and processing time has been significantly reduced. The tracking of inventory and reporting functions also will realize increased efficiencies by utilization of custom reports. These efficiencies will allow the pass sales and RFID functions to be processed exclusively by the Customer Relations Department using existing staff. Presently, Alta augments internal staff. OCTA will realize a cost savings of \$275,000 annually.

Regional 511 Integrated Voice Response

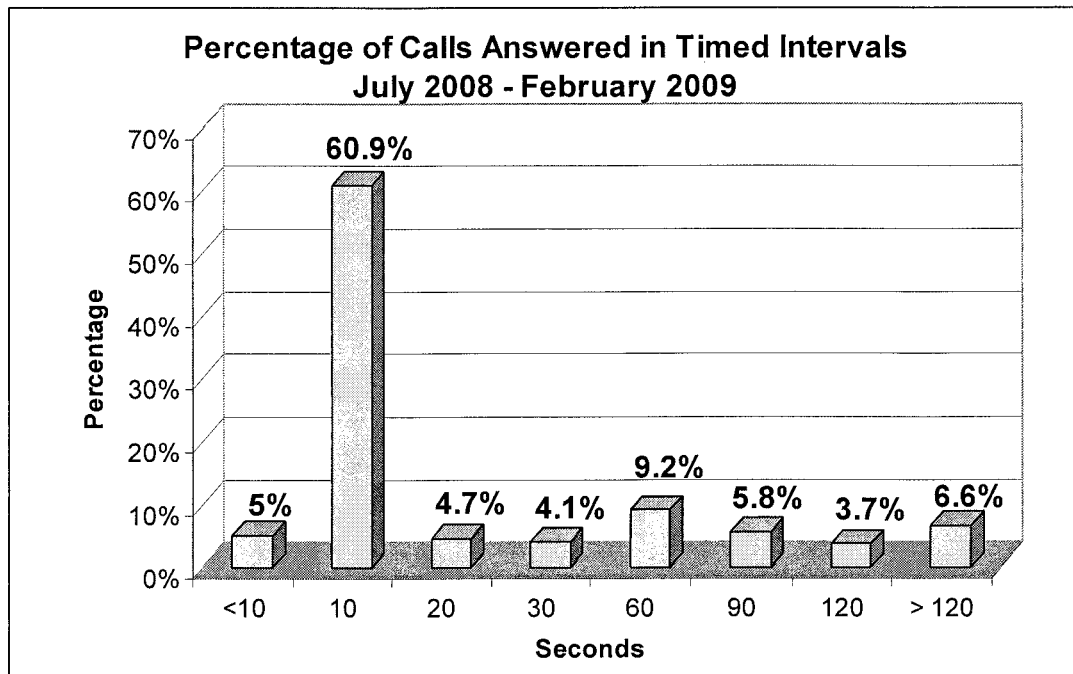
In FY 2009-10, OCTA will participate in a Regional 511 Integrated Voice Response (IVR) system. Customers requesting information on bus schedules, routes, fares, stops, and other transit information will have the option of calling 24 hours a day to obtain transit information. Staff is working with the Los Angeles County Metropolitan Transportation Authority staff on plans to generate and encourage usage of the 511 system by developing online communications, marketing materials, and on-board literature for bus riders.

The 511 IVR system is scheduled to be launched by the latter part of 2009. For budget purposes, a launch date of January 2010 is assumed and that about 10 percent of calls should be diverted to the IVR system. This represents 82,000 calls annually, 41,000 calls for a six-month period – a savings of \$163,000 annually, and \$81,500 for the six-month period of January through June 2010.

Performance Measures

The CIC costs continue to outpace the contractual budget due to the increased and sustained call volumes incurred from the start of the contract. The cost saving strategy of reducing the weekday operating hours has had a stabilizing effect, but given budget constraints, further strategies will be needed. The goal is to continue to offer riders ways to obtain transit information while reducing operating costs.

One method is to modify standards that would change the average speed of answer (ASA) from an average of about 30 seconds to an average of approximately 60 seconds per call. This is not a significant change; however, it could result in savings of about \$90,000 per year. The savings is a result of an increase in the abandonment rate. The chart below shows OCTA offers superior service to customers calling for transit information. Almost 84 percent of all calls are answered within one minute or less and 66 percent are answered within the first 10 seconds. The current abandonment rate is 4 percent; relaxing the standard could increase the rate to 10 percent. However, there are other options for callers to get information including online and printed publications.



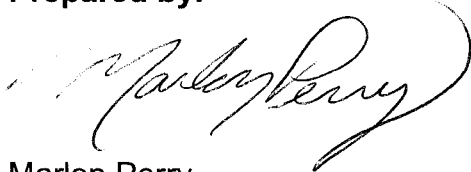
Summary

Alta's performance continues to meet or exceed contractual performance standards. OCTA staff will implement approved changes and oversee the implementation of the CIC portion of the 511 IVR. The Customer Relations Department will reorganize work processes to include the pass sales functions with existing staff. OCTA will also continue to meet monthly with Alta staff to review service performance to ensure contract requirements are being met and will provide future updates to the Board.

Attachments

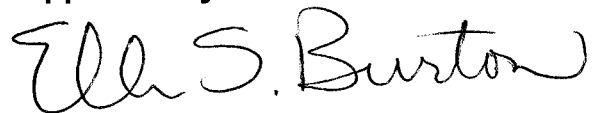
- A. CIC Monthly Contract Costs
- B. CIC Monthly Call Volumes FY 2007, 2008, 2009
- C. Total Monthly Calls Handled – Average Speed of Answer in Seconds

Prepared by:



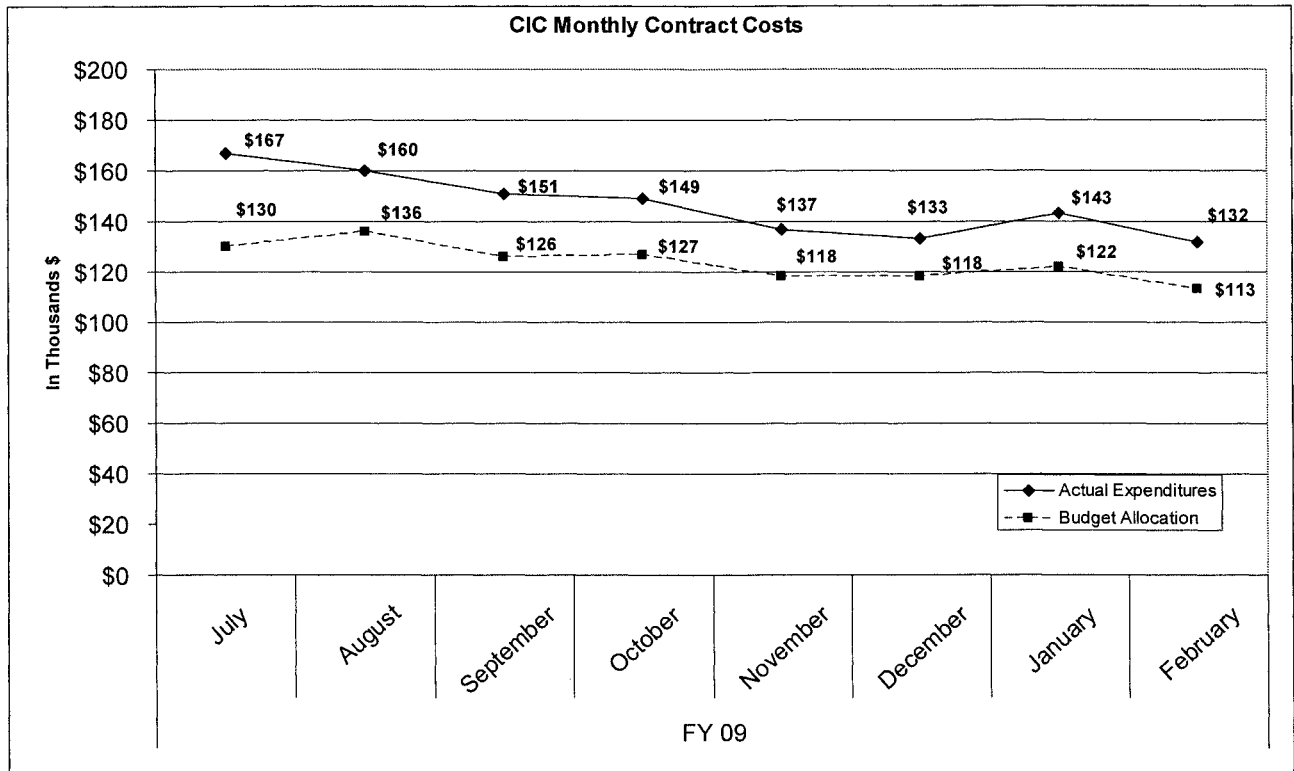
Marlon Perry
Section Manager, Customer Relations
(714) 560-5566

Approved by:

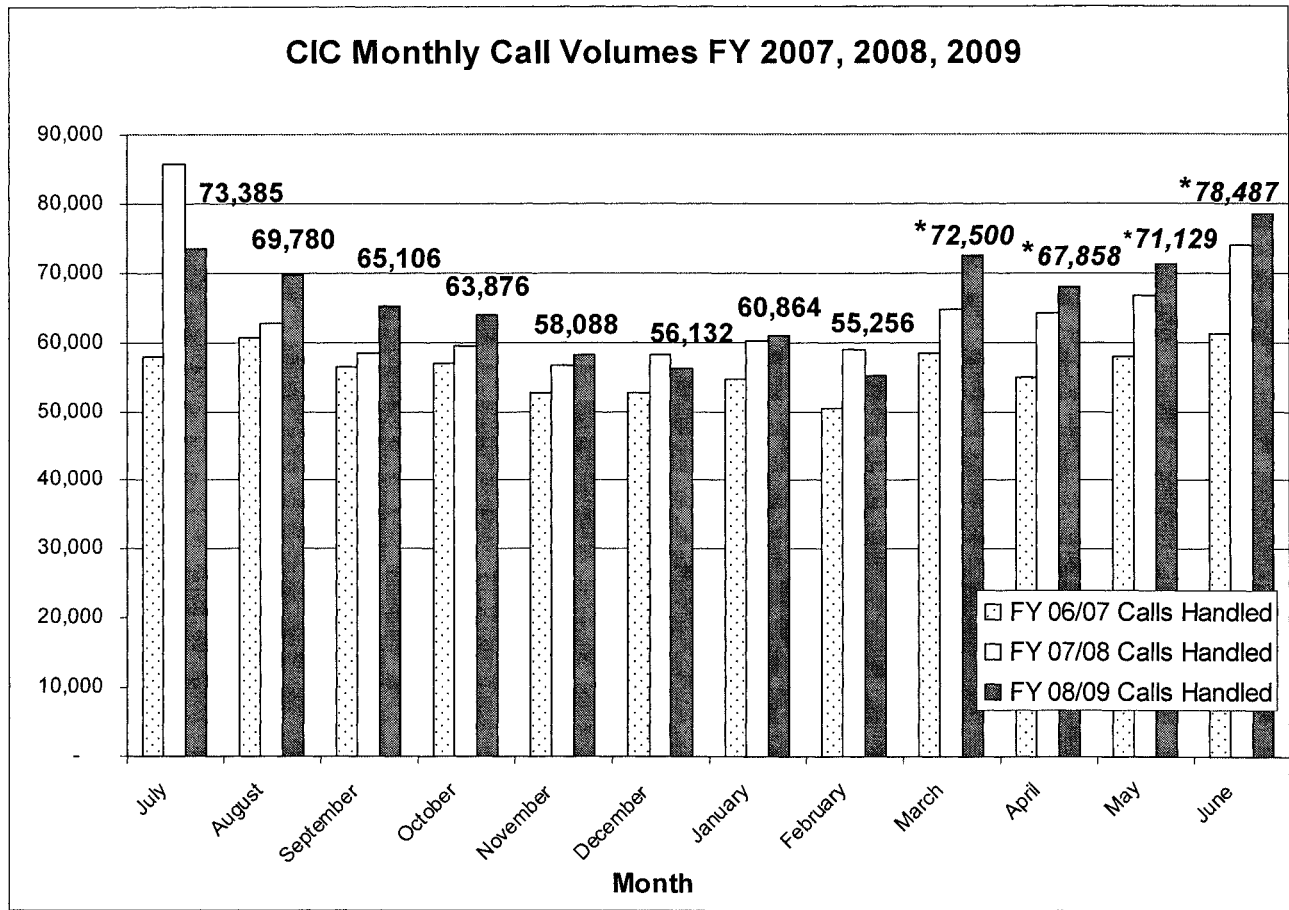


Ellen S. Burton
Executive Director, External Affairs
(714) 560-5923

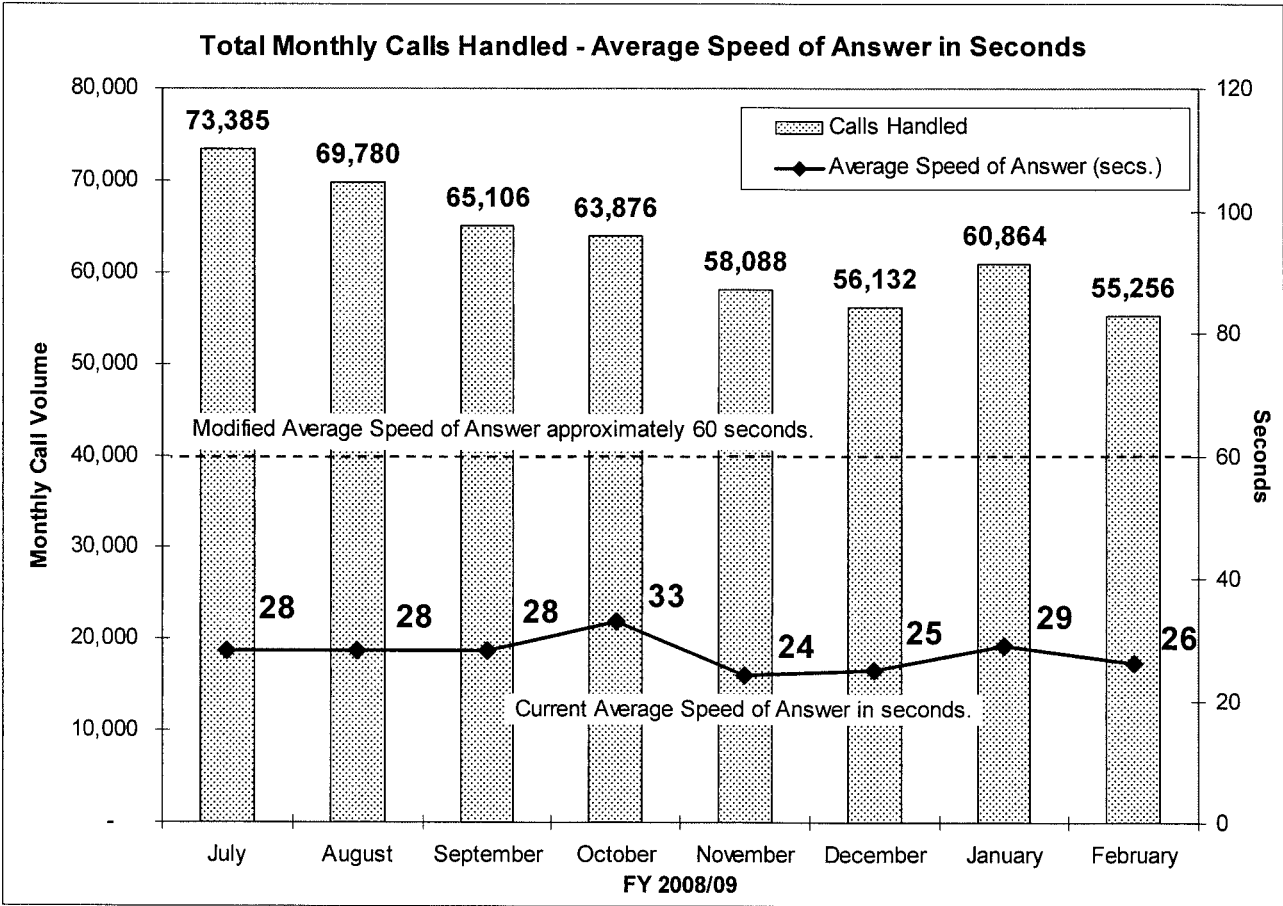
ATTACHMENT A



ATTACHMENT B



* March through June 2009 reflects projected call volumes.





BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: Wendy Knowles, Clerk of the Board
Subject: Amendment to Agreement for Bus Revenue-Generating Advertising Contract

Finance and Administration Committee meeting of March 11, 2009

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

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendation

Authorize the Chief Executive Officer to execute Amendment No. 3 to Agreement No. C-5-0127 between the Orange County Transportation Authority and Titan Outdoor, to modify the payment provisions and to exercise the second option term.



March 11, 2009

To: Finance and Administration Committee
From: Arthur T. Leahy, Chief Executive Officer
Subject: Amendment to Agreement for Bus Revenue-Generating Advertising Contract

Overview

On May 23, 2005, the Orange County Transportation Authority Board of Directors approved an agreement with Titan Outdoor to sell, place, and maintain advertisements on the interior and exterior of the buses. Due to the current economic downturn and a significant decrease in advertising sales revenue, Titan Outdoor is requesting the elimination of the minimum annual guarantee payment and adoption of a revenue-sharing payment arrangement.

Recommendation

Authorize the Chief Executive Officer to execute Amendment No. 3 to Agreement No. C-5-0127 between the Orange County Transportation Authority and Titan Outdoor, to modify the payment provisions and to exercise the second option term.

Background

The Orange County Transportation Authority (OCTA) has contracted with Titan Outdoor to sell, place, and maintain advertisements on the interior and exterior of the buses since September 2005. The initial term of the agreement was from September 1, 2005 to August 31, 2008, with two one-year options. Titan Outdoor offered an annual minimum guarantee, or 60 percent of the advertising sales revenue, whichever was higher. The annual minimum guarantee for each contract year, which ranged between \$3.8 million in year one to \$5.7 million in the last year, is outlined in the Titan Outdoor Agreement No. C-5-0127 Fact Sheet (Attachment A).

Discussion

Since the inception of the agreement in September 2005, Titan Outdoor has performed in accordance with the provisions in the agreement and provided timely payments of the minimum guarantee every month. However, the current economic downturn has significantly impacted advertising sales. Titan Outdoor's advertising sales revenue between September 2008 and February 2009 decreased approximately \$1.5 million or 47 percent from 2007 and Titan Outdoor indicates it is operating at a loss.

The following chart outlines Titan Outdoor's performance from contract commencement to February 2009. Historically, the minimum guarantee has represented between 68 and 72 percent of gross sales. Between September 2008 and February 2009, it was 139 percent, reflecting a substantial loss for Titan Outdoor.

Contract Year	Minimum Guarantee	Gross Revenue	60% of Revenue	Percentage Gross Paid
September '05 to August '06	\$3,800,000	\$5,575,850	\$3,345,510	68%
September '06 to August '07	\$4,200,000	\$6,118,292	\$3,670,975	69%
September '07 to August '08	\$4,700,000	\$6,491,974	\$3,895,184	72%
September '08 to February '09	\$2,600,000	\$1,865,331	\$1,119,199	139%

Titan Outdoor is seeking relief from OCTA and requests the elimination of the annual minimum guarantee. Titan Outdoor's proposed payment term will be based on a revenue-sharing arrangement whereby OCTA receives 67 percent of the gross advertising revenue. Titan Outdoor also agrees to reinstate the monthly minimum guarantee once the total sales reach \$3 million for a period of six consecutive months.

Based on Titan Outdoor's proposed payment provision of a 67 percent revenue-sharing arrangement, a modified revenue forecast for the remaining contract period has been prepared. For the entire period, March 2009 to August 2010, revenues are expected to be about \$4.7 million less than anticipated.

	Minimum Guarantee	Projected Gross Revenue*	67% of Revenue	Guarantee vs. 67% Gross Revenue
March '09 to August '09	\$2,600,000	\$1,710,000	\$1,145,700	(\$1,454,300)
September '09 to August '10	\$5,700,000	\$3,600,000	\$2,412,000	(\$3,288,000)
Total for 18 months	\$8,300,000	\$5,310,000	\$3,557,700	(\$4,742,300)

*Projections assume an approximate 45% decline in sales over prior year

If OCTA chooses to decline Titan Outdoor's request to eliminate the annual minimum guarantee and pursue other options, Titan Outdoor has indicated it would likely default. An estimated time period of three to six months would be required for procurement of a new contract.

Staff discussed the issues related to Titan Outdoor's bus advertising revenue contract with the Finance and Administrative Committee at its February 25, 2009 meeting. The committee consensus was to continue working with Titan Outdoor to sell bus advertising based on a revenue-sharing provision higher than 65 percent proposed by Titan Outdoor.

Fiscal Impact

Pending approval by the Board, OCTA will receive approximately \$1.1 million bus advertising revenue for the balance of the current contract period beginning with March 2009 sales through August 2009. Approximately \$2.4 million bus advertising revenue is projected for the second option term beginning September 1, 2009 through August 2010. This is approximately \$4.7 million less than anticipated for the same 18-month period.

Summary

It is recommended the Board of Directors approve Amendment No. 3 to Agreement No. C-5-0127 with Titan Outdoor to institute new payment provisions based on a 67 percent revenue sharing arrangement and to eliminate the annual minimum guarantee beginning April 1, 2009 and exercise the second option term from September 1, 2009 to August 31, 2010.

Attachment

- A. Titan Outdoor Agreement No. C-5-0127 Fact Sheet

Prepared by:



Stella Lin
Marketing Manager
(714) 560-5342

Approved by:



Ellen S. Burton
Executive Director, External Affairs
(714) 560-5923

ATTACHMENT A

**Titan Outdoor
Agreement No. C-5-0127 Fact Sheet**

1. May 23, 2005 – Agreement No. C-5-0127 was approved by the Board of Directors (Board).
 - The revenue-generating agreement was for three years with two one-year options. The minimum guarantees for those years are as follows:

Contract Term	Time Period	Minimum Guarantee
Initial Term	September 1, 2005 to August 31, 2006	\$3,800,000
Initial Term	September 1, 2006 to August 31, 2007	\$4,200,000
Initial Term	September 1, 2007 to August 31, 2008	\$4,700,000
First Option	September 1, 2008 to August 31, 2009	\$5,200,000
Second Option	September 1, 2009 to August 31, 2010	\$5,700,000
	Total:	\$23,600,000

The approved fleet inventory and advertising space are as follows:

Bus Type	Available Space	Quantity
30' and under mini/mid-size	1 tail	332
30' mid-size	None	12
40' diesel powered	2 king, 1 tail	282
40' liquefied natural gas powered	1 king, 1 tail	232
60' articulated	3 king, 1 tail	50

2. October 17, 2006 – Amendment No. 1 to Agreement No. C-5-0127 was approved by the contracts administrator.
 - To amend the agreement to define the term “Working Day” to mean Monday through Friday, except for the following holidays: New Year’s Day, Martin Luther King Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.

3. February 11, 2008 – Amendment to Agreement No. C-5-0127 was approved by the Board.
 - To amend the agreement to update the fleet inventory and allow advertising space on curbside ads on LNG powered buses and front bike rack displays on all buses equipped with bike racks as well as exercise the first option. The minimum guaranteed payment to OCTA would be \$5,200,000 for the first option year, September 1, 2008 to August 31, 2009.
4. March 23, 2009 – Amendment No. 3 to Agreement No. C-5-0127, pending approval by the Board.
 - To amend the current payment terms to eliminate the annual minimum guarantee and institute a 67 percent revenue-sharing payment term. The minimum annual guarantee will be reinstated once the monthly sales rebound to pre-existing sales levels of \$3 million dollars for a period of six consecutive months. The amendment also includes exercising of the second option term.

PowerPoint Presentation

**Amendment to Agreement for
Bus Revenue-Generating
Advertising Contract**

Finance and Administration Committee

March 11, 2009

Titan Outdoor Advertising Sales Contract

- Initial term: Sept 1, 2005 - Aug 30, 2008
- 1st option: Sept 1, 2008 - Aug 30, 2009
- 2nd option: Sept 1, 2009 - Aug 30, 2010

- Major contract provision:
 - Minimum guarantee
 - Or, 60% of gross revenue, whichever is greater

Performance

Time Period	Contract Minimum Guarantee	Gross Revenue	60% Gross Revenue	Guarantee vs. Gross Revenue
Sept '05 to Aug '06	\$3,800,000	\$5,575,850	\$3,345,510	68%
Sept '06 to Aug '07	\$4,200,000	\$6,118,292	\$3,670,975	69%
Sept '07 to Aug '08	\$4,700,000	\$6,491,974	\$3,895,184	72%
Sept '08 to Feb '09	\$2,600,000	\$1,865,331	\$1,119,199	139%

Current Situation

- Sales down 42% Sept '08 – Jan '09
- Titan Outdoor experiencing unsustainable losses due to unprecedented economic downturns
- Negotiated proposal:
 - No minimum guarantee
 - Titan Outdoor to pay OCTA 67% of gross revenue
 - Effective with March 1, 2009 sales

New Revenue Forecast*

Item 7 - Revised

Time Period	Contract Minimum Guarantee	Projected Gross Revenue*	67% of Projected Gross Revenue	Guarantee vs. 67% Gross Revenue
Mar '09 to Aug '09	\$2,600,000	\$1,710,000	\$1,145,700	(\$1,454,300)
Sept '09 to Aug '10	\$5,700,000	\$3,600,000	\$2,412,000	(\$3,288,000)
Total	\$8,300,000	\$5,310,000	\$3,557,700	(\$4,742,300)

* Projections represent an approximate 45% decline in sales over prior year



Recommendations

- Amend Titan Outdoor contract
 - Modify payment provisions
 - Pick up second option term
 - If sales return to prior levels, reinstate minimum guarantee



MEMO

April 8, 2009

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


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

Thank you.



April 9, 2009

To: Transit Committee

From:  James S. Kenan, Interim Chief Executive Officer

Subject: Fare Evasion Report

Overview

At the Orange County Transportation Authority Board of Directors' meeting on February 23, 2009, staff was requested to prepare a presentation on fare evasion, addressing how much revenue is lost and the practicality of enforcement by coach operators.

Recommendation

Receive and file as an information item.

Background

Fare evasion is ubiquitous in transit systems. While the existence of the problem is known, it is difficult to quantify its extent, particularly in an open system. This discussion will define the issues and review available enforcement measures.

Discussion

This discussion concerns three forms of fare evasion: evading the fare entirely, paying a partial (short) fare, and misuse of discount passes. In the first, an individual may board through the rear doors at a crowded stop, hoping not to be noticed by the coach operator, or may simply ask the coach operator for a "courtesy" ride. In the second, riders will typically tell the coach operator they only have partial fare—a dollar is common—and hope the coach operator will allow them on board. In the last case, fare abuse, a rider obtains a discount fare pass for which he or she is not qualified and uses that pass to obtain rides for less than the full fare that should have been paid. A variant of this abuse occurs when an adult claims a free child's fare for a child who is over the qualifying age.

In each of the above cases, the fare evader uses time as an enabling factor. The evader is well aware that the coach operator is on a tight schedule and cannot afford to delay other passengers while dealing with the evader. Pressure is always present to get passengers on board and move to the next stop.

The *Coach Operator Handbook* (2005 edition) states, "If customers do not pay the prescribed fare, politely inform them that unless they pay the fare, they will not be transported." The same section admonishes coach operators to avoid arguing with a customer and states, "If stating the fare policy and the expectation of payment does not convince the customer to pay the fare or leave the bus, request assistance from Central Communications." Coach operators are also asked to complete an incident report on the event. These instructions are reinforced in training (see Attachment A).

In a typical case where the exchange reaches this point, the coach operator will advise the evader that he or she is calling for Transit Police Services (TPS). At that point, the evader may exit the bus immediately or may exit at the next available stop. It is not common for the evader to remain on the bus until a deputy arrives.

In the six-year time frame from 2003 to 2008, TPS or local law enforcement (LE) agencies responded to 346 fare evasion incidents, resulting in citations issued in 69 cases.

Year	Incident Reports	TPS Not Requested	TPS Response	Other LE Response	Citations Issued
2003	65	33	28	4	10
2004	126	76	45	5	7
2005	138	82	51	5	11
2006	128	75	50	3	6
2007	173	91	78	4	17
2008	201	128	68	5	18
Totals	831	485	320	26	69

In another 485 reported incidents, TPS was not requested. In these cases, the offender had left the bus but the coach operator completed an incident report.

It is difficult to quantify the financial impact of fare evasion on revenues. A few transit agencies have attempted this task and have estimated losses in the range of 1 to 2 percent of potential fare revenue. The Orange County Transportation Authority (OCTA) Finance and Administration Division forecasts approximately \$56 million in fare revenue for this fiscal year, and \$63 million next fiscal year. Lost fare revenue at 1 to 2 percent would equate to \$560,000 to \$1.12 million this fiscal year and \$630,000 to \$1.26 million next fiscal year.

Under California law, fare evasion, a violation of Penal Code Section 640, is an infraction punishable by a fine not to exceed \$250 and community service of up to 48 hours. In Orange County, the base fine is \$50. If the cited party chooses to go to trial, the fine rises to \$246. None of this amount accrues to the OCTA.

A fare evasion court proceeding requires the presence of the coach operator and the deputy involved in the case. This means paying hourly wages (often overtime), a cost to OCTA that is not reimbursed.

Current efforts by TPS to combat fare evasion include:

- TPS placing uniformed deputies on-board buses
- "Zero tolerance days," during which plainclothes deputies ride targeted lines to interdict fare evaders
- Targeted enforcement of specific routes, where a patrol deputy remains in close proximity to the line to assure a rapid response time to any request for assistance

TPS also has a deputy specially assigned to investigate reports of fare evasion.

In other transit properties, efforts to combat fare evasion have included public information campaigns, targeted enforcement efforts like those described above, and the use of fare inspectors (sworn or non-sworn) (Attachment B). There are limitations on the applicability of two of these measures in regards to OCTA. First, public education campaigns essentially exhort honest people to remain honest; there is no evidence to indicate that money spent on such efforts actually result in any reduction in fare evasion. Second, fare inspections are not useful in a cash pay-on-boarding system that issues no fare receipts, such as that employed on OCTA buses. OCTA could institute a proof-of-payment system so that fare inspections become a viable enforcement tool.

OCTA will continue to reinforce instructions to coach operators to ask for valid ID from passengers boarding with discount passes. Staff will add signage onboard buses that specifies acceptable proof of eligibility; this will provide coach operators with additional support when asking for identification.

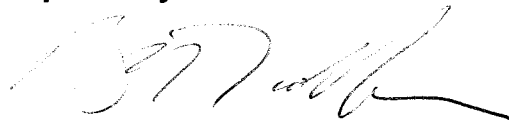
There are options available to the OCTA that may improve the deterrence of fare evasion and assist in fare enforcement. A series of roundtables can be held with Marketing, Security, Transit Police Services, Operations, and others to identify opportunities for reducing fare evasion. The potential for using existing staff of the OCTA to augment coach operators in checking riders' identification can also be explored.

Summary

While fare evasion is a known problem, the true impact on OCTA revenues is difficult to estimate. To minimize pass misuse, Marketing should continue their efforts to educate retail pass vendors on obtaining valid identification from purchasers of discount passes. Onboard, coach operators are the first line of fare enforcement; the OCTA's policy must be clear and coach operators must be supported when they challenge fare evaders. Aggressive response by Transit Police Services to assist coach operators in reported fare evasion attempts must continue.

Attachments

- A. Fixed Route Training Notice FTN 0707
- B. References

Prepared by:

Bruce Gadbois
Department Manager, Security
and Emergency Preparedness
(714) 560-5719

Approved by:

Beth McCormick
General Manager, Transit
(714) 560-5964



FIXED ROUTE TRAINING NOTICE

FTN 0707

September 7, 2007

SUBJECT: Fare Evasion Procedures

In a continuing effort to maintain a safe and clean transit system, the Transit Police Services division of the Orange County Sheriff's Department will be conducting a campaign on "Fare Evasion Procedures." From January to April 2007, there were 60 reported incidents, a 62% increase over the same period in 2006.

Fare Evasion: (California Penal Code, section 640-b) Evasion of the payment of any fare of the system or the misuse of any transfer, pass, ticket, or token with the intent to evade payment of fare.

Any of the acts described in subdivision (b) is an infraction punishable by a fine not to exceed two hundred and fifty dollars (\$250.00) and by community service for a total time not to exceed 48 hours over a period of 30 days.

Fare evasion procedures:

- Contact OCTA Central Communications to report a fare evasion in progress and request Transit Police Services response.
- Get the suspect's physical description, including clothing, height, weight, hair color, tattoos, etc.
- Do not become confrontational with the individual; continue in service until TPS arrives to remove the fare evader. If the fare evader exits prior to the arrival of a TPS officer, notify Central Communications immediately with a physical description and the person's direction of travel.
- Complete an Incident Report and ask the window dispatcher to forward it to the Fare Evasion Team, Transit Police Services.
- Contact any Transit Police Services Deputy if you have any questions, at 714-265-4380 or contact your Base Manager.

References

- Arrest of a Fare Evader*. Image. Retrieved March 12, 2009 from <http://history.powys.org.uk/ysgolion/machynlleth/dodger.shtml>.
- Bus Transit Fare Collection Practices*. Transit Cooperative Research Program Synthesis 26. National Research Council, Transportation Research Board. Washington, D.C.: National Academy Press, 1997. http://www.trb.org/news/blurb_detail.asp?id=2435.
- Chan, Sewell. "When the Bus Rider Won't Pay." Blog entry. *New York Times*, December 2, 2008. Retrieved March 9, 2009 from <http://cityroom.blogs.nytimes.com/2008/12/02/when-the-bus-rider-wont-pay/>.
- Eskenazi, Joe. "Is Muni Losing Millions on its Fare-Evasion Program?" *SF Weekly*, January 7, 2009. Retrieved March 2, 2009 from http://blogs.sfweekly.com/thesnitch/2009/01/muni_apparently_losing_million.php.
- Espinoza, Martin and Neuman, William. "City Bus Drivers Say That Fare Beaters Have the Upper Hand in Confrontations." *New York Times*, December 2, 2008. Retrieved March 9, 2009 from <http://www.nytimes.com/2008/12/03/nyregion/03drivers.html?ref=nyregion>.
- ETS Fare Evasion Review Follow Up*. City of Edmonton, Office of the City Auditor, November 1, 2007. Retrieved March 9, 2009 from www.edmonton.ca/city_government/documents/CityGov/07228_ETS_Fare_Evasion_Review_Follow_up.pdf.
- Fare Enforcement Plan*. RTD Bulletin TR-08-63. Denver Rapid Transit District, October 16, 2008. Retrieved March 16, 2009 from www2.rtd-denver.com/Bus_Bulletins/documents/TR-08-63.doc.
- Gordon, Rachel. "Muni catching 50 percent more fare evaders." *San Francisco Chronicle*, January 7, 2009. Retrieved March 9, 2009 from <http://www.sfgate.com/cgi-bin/article.cgi?f=/c/a/2009/01/07/BACC1540S6.DTL&tsp=1>.
- Hoffer, Jim. "Back door fare-beaters." *WABC-TV*, February 4, 2009. Retrieved March 16, 2009 from <http://abclocal.go.com/wabc/story?section=news/investigators&id=6558803>.

Liu, Caitlin. "MTA Looks at Turnstiles to Snag Scofflaws." *Los Angeles Times*, February 25, 2006. Retrieved March 9, 2009 from www.thetransitcoalition.us/newspdf/lat20060225b.pdf.

Metro Fare Checking Plan. Staff report to Executive Management and Audit Committee, Metropolitan Transit Authority, September 20, 2007. Retrieved March 9, 2009 from metro.net/board/Items/2007/09_September/20070920EMACItem29.pdf.

MTA Security Policy. Metropolitan Transit Authority, 2002. Retrieved March 16, 2009 from www.metro.net/about_us/library/images/Security.pdf.

Neuman, William. "Driving the Bus, What Would Gandhi Do?" Blog entry. *New York Times*, December 3, 2008. Retrieved March 9, 2009 from <http://cityroom.blogs.nytimes.com/2008/12/03/act-like-gandhi-but-push-back-mta-tells-drivers/>.

Ortiz, Lou. "Miami-Dade County Transit's \$72.9 million system to curb fare evasion." *Miami Today*, April 24, 2008. Retrieved March 9, 2009 from <http://www.miamitodaynews.com/news/080424/story6.shtml>.

Quibria, Nasreen. *The Contactless Wave: A Case Study in Transit Payments*. Boston: Federal Reserve Bank of Boston, June 2008. Retrieved March 19, 2009 from www.bos.frb.org/economic/eprg/papers/briefings/transit.pdf.

Rabin, Jeffrey. "Unpaid fares may cost MTA millions." *Los Angeles Times*, October 26, 2007. Retrieved March 16, 2009 from <http://articles.latimes.com/2007/oct/26/local/me-evade26>.

"SF Muni fare evasion rate, cost-estimates vary wildly." Posted to San Francisco Bay Area Transportation News (BATN), March 1, 2005. Retrieved March 9, 2009 from <http://groups.yahoo.com/group/BATN/message/23071>.

Stanger, Richard. "Comments on Metro's Draft Faregating Analysis Report." Letter posted as blog entry. *StreetHeat*, January 15, 2008. Retrieved March 9, 2009 from <http://streetheatla.blogspot.com/2008/01/turnstile-plan-delayed.html>.

TransLink Fare Evasion Internal Audit. PricewaterhouseCoopers, September 2007.

Wilcox, Alexandra. "Officials Voice Concerns About Class Pass Resales, Fraud." *The Daily Californian*, February 25, 2009. Retrieved March 11, 2009 from http://www.dailycal.org/article/104525/officials_voice_concerns_about_class_pass_resales.

**POWERPOINT
PRESENTATION**



Fare Evasion



Board of Directors' Meeting
April 13, 2009

Defining the Problem

- Fare evasion
- Short fares
- Misuse of passes



".....without having previously paid his fare
and with intent to avoid the payment thereof."

Wales, 1869

How Big Is the Problem?

- Difficult to quantify in an open system
- Other major metro systems have cited varying fare evasion rates
 - 0.5% (NYC)
 - 1.31% (Sacramento, light rail)
 - 1.87% (Portland)
 - 2.06% (Denver, light rail)
 - 2.1% (Boston)

California Penal Code § 640

- (a) Any of the acts described in subdivision (b) is an infraction punishable by a fine not to exceed two hundred fifty dollars (\$250) and by community service for a total time not to exceed 48 hours over a period not to exceed 30 days, during a time other than during his or her hours of school attendance or employment, when committed on or in any of the following:
 - (1) A facility or vehicle of a public transportation system as defined by Section 99211 of the Public Utilities Code.
- (b) (1) Evasion of the payment of a fare of the system.
- (b) (2) Misuse of a transfer, pass, ticket, or token with the intent to evade the payment of a fare.

OCTA's Policy

- *Coach Operator Handbook, 2005 ed.*
 - “If customers do not pay the prescribed fare, politely inform them that unless they pay the fare, they will not be transported...”
 - “Avoid arguing with a customer...”
 - “If stating the fare policy and the expectation of payment does not convince the customer to pay the fare or leave the bus, request assistance from Central Communications.”

Coach Operator Incident Reports of Fare Evasion, 2003 - 2008

Year	Incident Reports	Transit Police Services Not Requested	Transit Police Services Responded	Other Law Enforcement Responded	Citations Issued
2003	65	33	28	4	10
2004	126	76	45	5	7
2005	138	82	51	5	11
2006	128	75	50	3	6
2007	173	91	78	4	17
2008	201	128	68	5	18

Marketing Efforts

- Instructions to vendors stress the need to verify eligibility for discount passes.
- Vendor visits reinforce this requirement.
- On-board public education

Fare Evasion Poster on Buses



Letter to Pass Vendors

As a Reminder...

It is your responsibility to make sure the pass you provide to a bus rider is a pass that may be used by the customer. Passengers purchasing Senior/Disabled passes or youth passes are routinely asked to show their identification used to purchase the discounted pass when boarding the bus. When a pass is sold to a customer who does not have acceptable ID, that customer will not be able to use the pass and will be asked to pay the full fare on the bus to ride.

As detailed in the Bus Pass Sellers and Distributors Policy and Procedure you received with your Pass Sellers Agreement, the following rules apply:

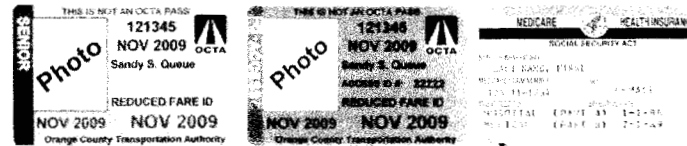
Youth Pass

Children under 7 years old may ride free when accompanied by an adult. Children ages 7 to 18 may use a Youth Pass or a Summer Youth Pass.

Senior/Disabled Pass

If the patron is 65 years or older, one of the following documenting age is required:

- DMV Driver License or Senior ID card
- Red, white and blue Medicare card
- An OCTA reduced fare photo identification card



Persons with disabilities must provide verification of their disability. Acceptable verification includes:

- Red, white and blue Medicare card
- OCTA reduced fare photo identification card from another transit agency
- Service-connected Veteran identification card
- Braille Institute identification card
- DMV Disabled Placard
- Customer Receipt Copy
- ACCESS eligible OCTA reduced fare photo / identification card

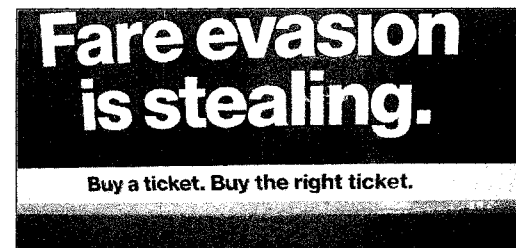
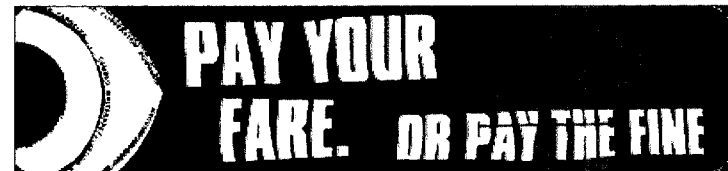
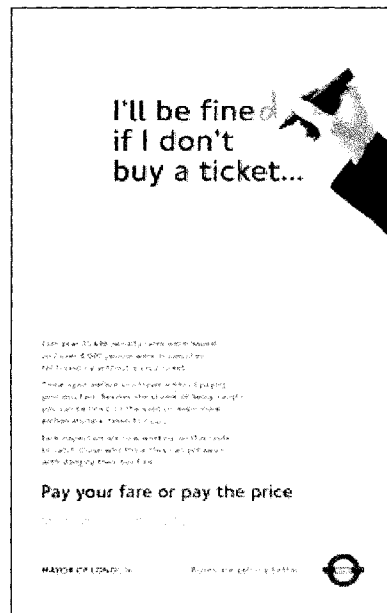


Enforcement Efforts by Transit Police Services

- Risk-based allocation of resources
 - Uniformed deputies on buses
 - “Zero Tolerance” days
 - Route or grid targeted enforcement

What Are Others Doing?

- Fare inspectors
 - Non-sworn
 - May be employees or contracted
- Public information campaigns



What Are Others Doing?

SF Muni fare inspectors wrote 26,737 fare evasion citations in 2008.

- Amount recovered: \$492,232
- Cost of enforcement: \$2,712,000

Rachel Gordon, "Muni catching 50 percent more fare evaders."
Chronicle, January 7, 2009.

Joe Eskenazi, "Is Muni Losing Millions on its Fare-Evasion Program?",
SF Weekly, January 7, 2009.



Limitations on Enforcement

- In OCTA's pay-on-entry system, cash riders have no receipt. Blanket fare inspections are impossible.
- Uniformed deputies on buses certainly discourage fare evasion. But deputies so deployed are unable to respond to calls for service anywhere else in the system.

Limitations on Enforcement, cont.

- Criminal prosecution
 - Base fine: \$50
 - Trial fine: \$246
 - OCTA receives no portion of fine/penalties.
 - Trial requires appearance by coach operator and the citing deputy.

Continuing Efforts

- Marketing: continue education efforts with bus pass vendors
- Operations: reinforce training for coach operators to check IDs to validate discount passes
- TPS: continue aggressive response to coach operator requests for assistance

Options to Explore

- Initiate a fare evasion survey to attempt to identify actual losses.
 - Cost of survey?
 - Validity of information obtained?
- Investigate using OCTA staff to augment coach operators checking IDs.
- Roundtables with Marketing, Security, TPS, Operations and others

Questions and Discussion



BOARD COMMITTEE TRANSMITTAL

April 13, 2009

To: Members of the Board of Directors
From: ^{WK} Wendy Knowles, Clerk of the Board
Subject: Bus Stop Maintenance Program

Transit Committee meeting of March 26, 2009

Present: Directors Brown, Dalton, Dixon, Nguyen, Pulido, and Winterbottom
Absent: Director Green

Committee Vote

This item was passed by all Committee Members present.

Committee Recommendations (reflects change from staff recommendation)

- A. Approve a revised scope of work for bus stop maintenance.
- B. Direct staff to meet with representatives from each city on the bus stop maintenance program to discuss challenges and possible solutions.



March 26, 2009

To: Transit Committee
ATL/pt
From: Arthur T. Leahy, Chief Executive Officer
Subject: Bus Stop Maintenance Program

Overview

As part of the Orange County Transportation Authority's Fiscal Year 2008-09 Budget, the Board of Directors approved the continuation of the bus stop maintenance program. This program involves servicing each bus stop location on a pre-determined schedule along assigned routes. Prior to establishing a new bus stop maintenance agreement, the Board of Directors asked staff to conduct a survey of the cities. The objectives of the survey were to determine how each city currently handles bus stop maintenance, the number of bus stop amenities in each city, and the impact if the Orange County Transportation Authority were to reduce or eliminate the bus stop maintenance program.

Recommendation

Approve a revised scope of work for bus stop maintenance.

Background

It has been the Orange County Transportation Authority's (Authority) goal for many years to provide a clean and safe bus stop at all of the Authority's 6,575 bus stop locations. To achieve this goal, the Bus Stop Maintenance Program has evolved to include three tasks:

1. servicing every bus stop once per month to check the bus stop sign, post, and route information
2. routine scheduled service at high-usage bus stops, i.e. "trash hot spots", on a more frequent basis
3. miscellaneous as-needed services such as placing bus stop information cassette inserts during service changes and on-call responses to complaints received

The “trash hot spot” program started in the late 1980s and has slowly grown over time to include more stops that were identified as requiring increased maintenance. The decision to service these locations more frequently was generally made due to increased complaints from the public or from the cities. The number of stops serviced under this portion of the program on a weekly basis has been 2,500 bus stops for the last two to three years.

On June 9, 2008, the Board of Directors (Board) approved the release of the Request for Proposals (RFP) 8-0728 for the Bus Stop Maintenance Program for maintenance at each of the Authority’s 6,575 bus stop locations. On October 27, 2008, staff recommended award of Agreement No. C-8-0728 to ShelterCLEAN, Inc., for a maximum obligation of \$3,566,532, to provide maintenance at each of the existing 6,575 bus stops located within the Authority’s service area for a three-year term, with two one-year option terms. The agreement included provisions to perform preventive maintenance at all Authority bus stops on a monthly basis, more frequent service at 2,500 high-usage bus stops, and on-call service as needed.

The Board expressed concerns about the equity of services provided by the Authority to the various cities, what level of service the Authority should provide on city-owned property, and what level of service is justified based on the cost. The Board requested additional information and directed staff to perform a survey of the cities and report the results. To ensure staff had the time needed to gather the requested information and, if necessary, re-procure the services, the Board approved an amendment to the existing agreement, extending the expiration by one year to November 30, 2009.

The “trash hot spot” portion of the bus stop maintenance program generated the greatest discussion at the Board meeting regarding equitable service for all cities. In addition, the question of whether or not the Authority should even provide this service was raised.

On March 1, 2009, the Authority reduced the frequency of “trash hot spot” service from every week to every other week, effectively cutting the cost of this service in half. Within 10 days of the program reduction, the Authority received over 10 complaints for excessive trash at bus stops.

Discussion

A “Bus Stop Amenities and Maintenance Survey” (Attachment A) was developed with 22 questions that covered a variety of topics. Those topics included the types of bus stop amenities within each city and who owned such amenities, details regarding the maintenance performed on bus stops within each city, information

about advertising revenue within each city, and the impact it would have on the city if the Authority reduced or eliminated maintenance services at the bus stops.

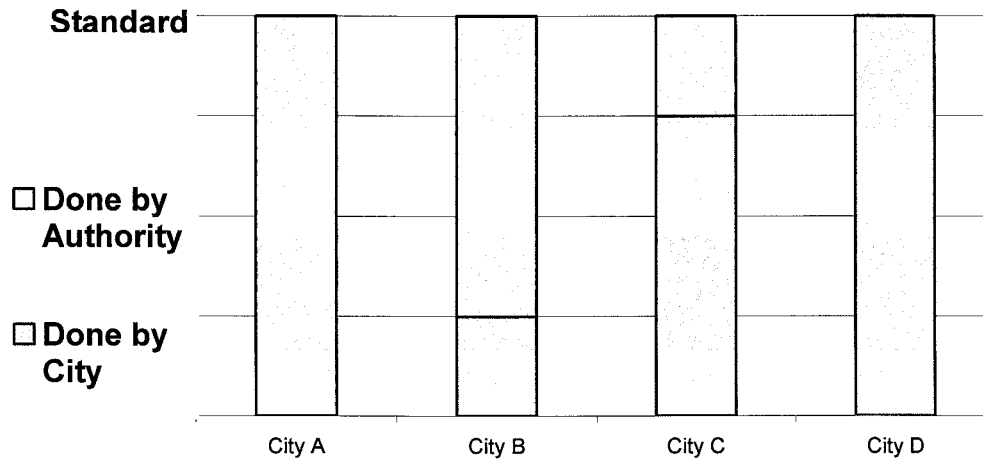
The survey was sent to all 34 Orange County cities as well as to the County of Orange on December 10, 2008. Staff worked with the cities for the next two months and received responses from all but three cities. The survey results were tabulated and summarized into a comprehensive matrix. The complete matrix is available on the Authority website (OCTA.net; Board of Directors; Agendas).

Key findings of the survey that impact this issue are as follows:

- In most cases, cities were not completely aware of the types of bus stop amenities in their city.
- Approximately half of the cities have a maintenance program for the bus stops and almost all of these cities receive revenue from advertising at the bus stops.
- Most of those cities that have maintenance programs for bus stops indicated that the service provided did not include all bus stops.
- Approximately one-third of the cities indicated there would be minimal or no impact on the city if the Authority no longer provided bus stop maintenance at the bus stops in their city.
- Approximately half of the cities indicated there would be a significant impact on the city or the quality of the bus stop if the Authority no longer provided bus stop maintenance.

As demonstrated by the survey results, each city has a different policy regarding maintenance of the bus stops. In addition, bus stops are utilized at varying rates in each city. In the Authority's effort to maintain a single standard for the quality of the bus stops, the Authority began providing supplemental service depending on what the city was providing at each individual bus stop. This program came to be known as the "trash hot spot" program.

For example, City A as shown on the graph below represents a city that does no bus stop maintenance. In this case, the Authority may need to do more maintenance to ensure that the bus stops meet standards. City B is depicted as a city that provides some level of maintenance, but still requiring some supplemental service; City C is depicted providing a much higher level of maintenance so that the Authority has to provide very little supplemental service. Lastly, City D is depicted as providing enough maintenance, so that the Authority does not have to provide any supplemental service. In most cases, the cities that provide the greatest level of maintenance use a revenue generating, outdoor advertising company.



Based on all the information provided, staff believes it is necessary to continue a bus stop maintenance program. Two of the three tasks of the current program are not discretionary: the monthly service at each bus stop to check the signs, post, and route information and the distribution of materials for service changes. Staff believes that the previous scope of work with 2,500 high maintenance bus stops being maintained on a weekly basis is not required based on the current economic conditions. However, staff believes that some supplemental service is necessary and has determined that an appropriate reduction would be to cut the “trash hot spot” service in half with a corresponding reduction in cost. Based on Board approval of a revised scope of work, staff will continue to monitor and determine which bus stops should be designated as requiring high levels of maintenance in order to best provide all bus stops in Orange County meet the Authority’s standards. Staff will return to the Board with a recommended agreement for the approved bus stop maintenance scope of work.

Summary

Staff recommends approval of the revised scope of work for bus stop maintenance.

Attachments


- A. Bus Stop Amenities and Maintenance Survey
- B. Summary of Scope of Work Bus Stop Maintenance Program

Prepared by:



Ryan Erickson
Section Manager,
Facilities Maintenance
714-560-5897

Approved by:



Beth McCormick
General Manager, Transit
714-560-5964

Bus Stop Amenities and Maintenance Survey

Name: _____ **Date:** _____
Title: _____
Address: _____ **Ph No.:** _____
 _____ **Fax No.:** _____
City: _____ **E-Mail:** _____

Please return completed form to:

Bill Batory
 Orange County Transportation Authority
 Stops and Zones Section
 P.O. Box 14184
 Orange, CA 92863-1584
 Ph No.: 714.560.5912
 E-mail: bbatory@octa.net

1) Are there **city owned** passenger amenities currently located at existing bus stops within your city?

a) Yes b) No If yes, what type and how many:
 c) Trash receptacles _____ d) Benches _____ e) Shelters _____ f) Bike Racks _____
 g) Remarks: _____

2) Do you currently permit **privately owned** passenger amenities to be placed at existing bus stops?

a) Yes b) No If yes, what type and how many?
 c) Trash receptacles _____ d) Benches _____ e) Shelters _____ f) Bike Racks _____
 g) Remarks: _____

3) Will the city be purchasing bus stop passenger amenities in the near future?

a) Yes b) No If yes, what type and how many?
 c) Trash receptacles _____ d) Benches _____ e) Shelters _____ f) Bike Racks _____
 g) Other _____ h) Estimated Purchase Date _____
 i) Remarks: _____

4) Who currently maintains the trash receptacles within your city?

a) City personnel b) Maintenance Contractor c) Other _____
 d) Remarks: _____

5) If city personnel maintain the existing trash receptacles, how often are they serviced?

a) 1x per week b) 2x per week c) More than 3x per week d) Daily e) As-Needed
 f) Total No. of locations maintained _____
 g) Remarks: _____

Bus Stop Amenities and Maintenance Survey

6) Has your city entered into an agreement with a private vendor to maintain bus stops and/or passenger amenities within your city?

a) Yes b) No If yes, which company? _____

c) Maintenance Company/Contact Person _____

d) Length of Contract _____ yrs e) Starting Date _____ f) Ending Date _____

g) Yearly maintenance cost \$ _____ h) No. of bus stops maintained under current contract _____

i) Remarks: _____

7) How often are bus stops and/or passenger amenities serviced under the city's current maintenance contract?

a) 1x per week b) 2x per week c) More than 3x per week d) Daily e) As-Needed

f) Remarks: _____

8) In addition to emptying trash receptacles, is the Maintenance Contractor required to perform any other services at a bus stop?

a) Yes b) No If yes, what additional maintenance is required? _____

c) Remove graffiti d) Sweep sidewalk e) Minor tree trims f) Remove weeds

g) Steam Clean sidewalk h) Steam clean benches i) Steam clean Shelters

j) Remove shopping carts k) Remove trash around bus zone l) Remove trash in street along bus zone

m) Trim bushes around benches/shelters n) Inspect stop for safety issues o) Other _____

p) Remarks: _____

9) If using a maintenance contractor, how would you rate their overall performance?

a) Very good b) Good c) Fair d) Below Average e) Poor

f) Remarks: _____

10) If you receive a complaint about trash at a bus stop, how is that handled?

a) City personnel are dispatched b) Contractor is notified c) Other _____

d) Remarks: _____

11) After receiving a trash complaint, how long on average does it take the city to respond?

a) Within 24 hrs. b) 24 to 48 hrs. c) When resources become available d) Other _____

e) Remarks: _____

12) If you receive a complaint about graffiti, how is that handled?

a) City personnel are dispatched b) Contractor is notified c) Other _____

d) Remarks: _____

Bus Stop Amenities and Maintenance Survey

13) After receiving a complaint about graffiti, how long on average does it take the city to respond?
a) Within 24 hrs. b) 24 to 48 hrs. c) When resources become available d) Other _____
e) Remarks: _____

14) Do you currently use the "Tracking Automated Graffiti Reporting System" (TAGRS) as a way to curtail graffiti in your city?
a) Yes b) No
c) If yes, have you noticed a reduction in graffiti? Yes No

15) If you receive a request to have a tree trimmed within a bus zone, how long on average does it take the city to respond?
a) Within 24 hrs. b) 24 to 48 hrs. c) When resources become available d) Other _____
e) Remarks: _____

16) What is the total yearly revenue generated from advertising at bus stops?
a) Total yearly revenue \$ _____ b) Revenue used to off-set maintenance cost \$ _____
c) Total number of "AD" shelters? _____ d) Revenue from shelters \$ _____
e) Total number of "AD" benches? _____ f) Revenue from benches \$ _____
g) Remarks: _____

17) Are there plans to expand and place additional "AD" benches and/or shelters within your city?
a) Yes b) No If yes, reason why?
c) Meet customers needs d) Off-set bus stop maintenance costs
e) Generate revenue for misc. maintenance costs f) Generate revenue for general fund
g) Other: _____

18) Are you aware OCTA has an on-going bus stop maintenance program?
a) Yes b) No If yes, see question 18 otherwise skip down to question 20

19) Indicate the various types of maintenance you believe OCTA performs at each bus stop location?
a) Remove graffiti b) Sweep off sidewalks c) Perform minor tree trims d) Remove weeds
e) Steam clean sidewalks f) Steam clean benches g) Steam clean Shelters
h) Repair damaged benches/shelters i) Repair bus stop signs/posts j) Repair city signs/posts
k) Paint red curb/place R26 signs l) Trim bushes in bus zone m) Empty trash receptacles
n) Remove trash around bus zone o) Remove trash in gutter/street p) Remove shopping carts

Bus Stop Amenities and Maintenance Survey

q) Inspect stop and report safety issues r) Other: _____

20) How would you rate OCTA's overall performance when it comes to maintaining bus stop locations?

a) Very good b) Good c) Fair d) Below Average e) Poor

f) Remarks: _____

21) If OCTA no longer serviced bus stops, what impact would that have on city?

Please explain: _____

22) Miscellaneous Comments/Remarks: _____

Summary of Scope of Work
Bus Stop Maintenance Program

Task 1 – Bus Stop Preventive Maintenance:

The contractor will be responsible for performing preventive maintenance at each of the 6,575 bus stop locations within the Authority’s service area. Each bus stop will be inspected and serviced once every four (4) weeks, for a total of 13 times per contract year. While at a bus stop location, the Contractor will perform the following:

- 1) Empty all trash receptacles.
- 2) Remove all trash and debris in and around the stop bus/boarding area.
- 3) Wipe down or clean off all dirt on the bus stop sign, post, solar light, cassette, cassette shield, transit tube, or maintenance signage.
- 4) Remove all graffiti and/or unauthorized items attached to OCTA’s equipment and simple graffiti on city or privately owned property (i.e. benches, shelters, trash receptacles, signs, newsstands, etc...)
- 5) Remove any shopping carts found at the bus stop.
- 6) Inspect the sidewalk/boarding area and the roadway in the approach and departure side of the bus zone for potential safety issues or hazards.
- 7) Repair or replace damaged or missing OCTA informational or directional signage, bus stop signs, posts, cassettes, transit tubes, post anchors, anchor sleeves, or mounting hardware.
- 8) Clean or replace any route schedules (cassette inserts) that are discolored, damaged, or otherwise unreadable.
- 9) Inspect and test each solar light.
- 10) Trim tree branches or other vegetation obstructing the full view of the bus stop sign and solar light, and any vegetation that could interfere with OCTA passengers or buses in the bus zone.
- 11) Remove all weeds in the bus zone.

TASK 2 - Trash Hot Spot Maintenance:

The Contractor will also be required to inspect and service the bus stops designated by OCTA as those requiring frequent maintenance, “Trash Hot Spots”. The frequency of this service will be the equivalent of 1,250 bus stop locations every week. When servicing a “Trash Hot Spot” location, the contractor will perform items 1 through 6 from TASK 1.

Task 3 - Maintenance Work Orders:

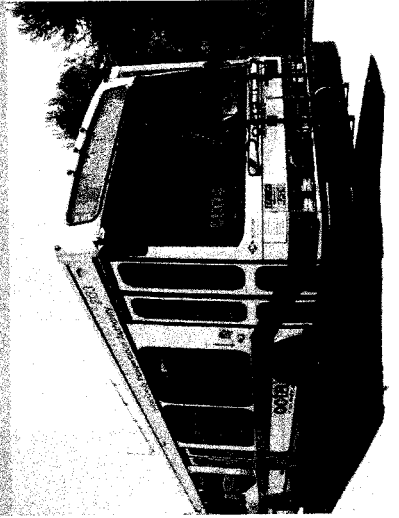
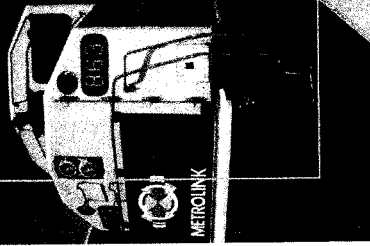
Miscellaneous work orders are issued on an “as-needed” basis and can cover a variety of issues from removing graffiti, replacing damaged signs/posts, trimming trees, repairing solar lights, etc... Some of these are “emergency” or “priority” work orders when a hazardous condition has developed at a bus stop and immediate attention is

required. The Contractor must respond on-site within two hours of notification. On average, the Authority issues approximately 1,100 miscellaneous work orders per year.

In addition to the miscellaneous work orders mentioned above, the Contractor will receive work orders associated with the Authority's quarterly Service Changes to replace bus stop route information. The Contractor can expect to receive 3,000 to 4,000 work orders during an average Service Change.

**POWERPOINT
PRESENTATION**

Bus Stop Maintenance Program



Board of Directors' Meeting
April 13, 2009

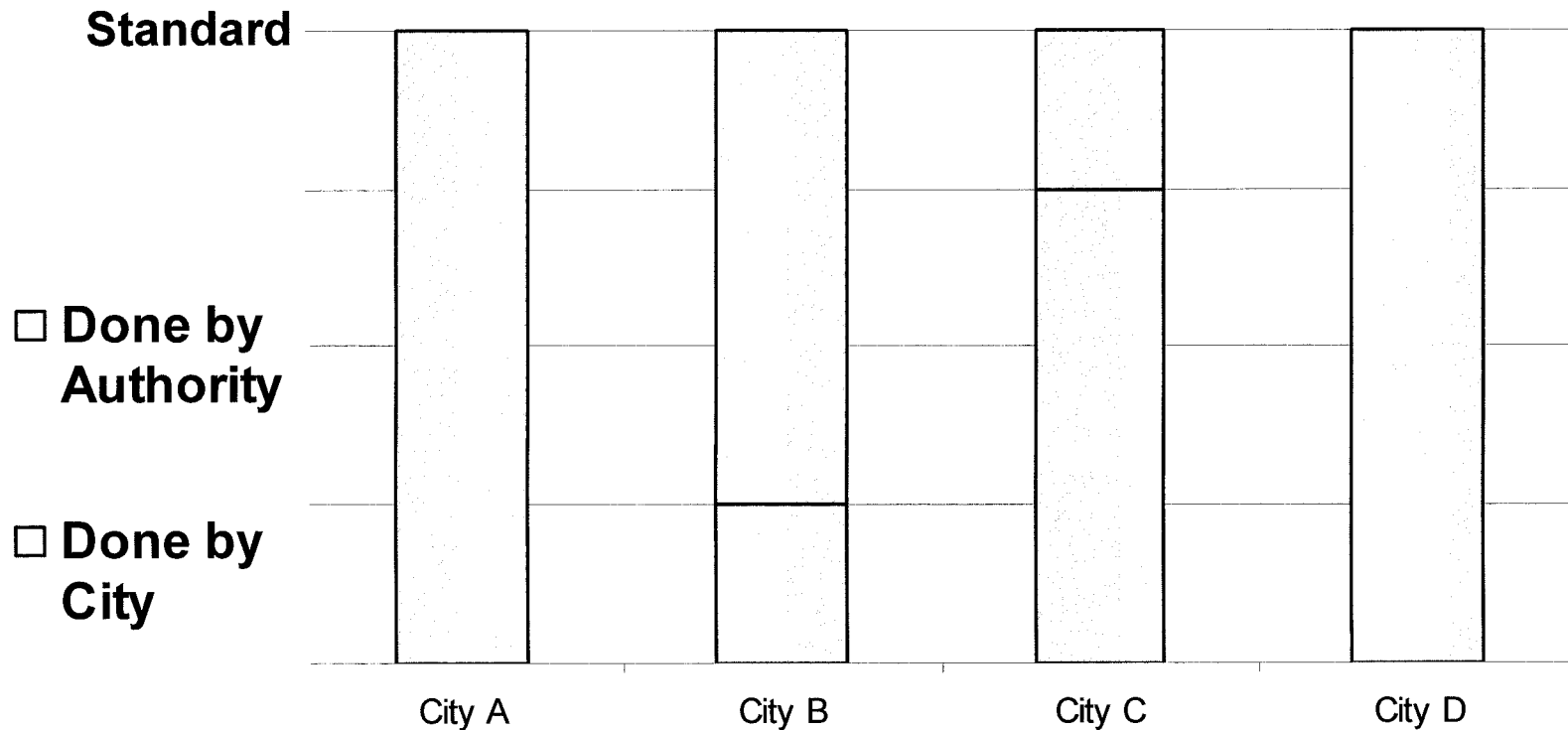
Background

- Procurement for Bus Stop Maintenance conducted during the fall of 2008
- October 27, 2008, Board of Directors requested a survey of cities regarding bus stop maintenance
- December 12, 2008, survey released to all cities
- March 1, 2009, trial program reducing frequency of trash hot spot service in half

Scope of Work - Bus Stop Maintenance Tasks

Task 1	Monthly service of all bus stops	\$400,000 annually
Task 2	Trash hot spots	\$300,000 annually
Task 3	Service changes and on-call	\$100,000 annually

OCTA Supplements Service to Maintain Standards



Survey Key Findings – Cities Maintenance of Bus Stops

Cities with some level of bus stop maintenance service	21
How many of those cities receive revenue from advertising	17
Approximate number of stops serviced by cities	3,000
Total number of bus stops in those cities with maintenance service	5,200
Total number of OCTA bus stops	6,575

Survey Key Findings - Impact if OCTA doesn't provide maintenance

- 10 cities indicated no or minimal impact if OCTA did not provide bus stop maintenance
 - Typically cities with the most complete maintenance program or those with very few, low-usage bus stops
- 18 cities indicated significant impact if OCTA did not provide bus stop maintenance
 - Most indicated increase in expenses, increase in trash, and reduced safety
 - One city indicated possible removal of bus stops

Scope of Work - Bus Stop Maintenance Tasks

Task 1	Monthly service of all bus stops	\$400,000 annually
Task 2	Trash hot spots	\$300,000 annually
Task 3	Service changes and on-call	\$100,000 annually

Recommendation and Next Steps

- Work with ShelterCLEAN, the recommended vendor from October 27, 2008, Board of Directors' meeting to negotiate pricing based on revised scope of work
- Return to Board of Directors with a new Agreement

Economic Stimulus Update

Program Delivery Progress Report As presented to Executive and Highways Committees on April 6, 2009

The American Recovery and Reinvestment Act of 2009 (ARRA) provides \$212.4 million in transportation funding for Orange County and will be distributed to projects according to a plan approved by the Orange County Transportation Authority (OCTA). ARRA includes \$130.4 million for highway, \$76.8 million for transit, \$1.2 million for rail modernization, and \$4.0 million for transportation enhancement projects. Governor Schwarzenegger signed ABX3 20 (Bass, D-Los Angeles) into law on March 27, 2008. The bill streamlines the allocation process for the ARRA funds and sets an initial (or establishes an) obligation deadline of June 1, 2009, for a portion of the funds.

Project Activities

- State Route 91 is Orange County's candidate project for the June 1, 2009, obligation deadline.
 - Caltrans is leading this project and expects to meet the federal obligation deadline by May 15, 2009.
 - Right-of-way acquisition is the critical path activity and approval of a Resolution of Necessity for the one remaining parcel will be on the California Transportation Commission agenda on May 14, 2009 (see attached letter to Caltrans Director, Will Kempton).
- \$33 million is targeted for local agency projects.
 - Local agency project nominations being added to the federal planning documents.
 - OCTA has set September 30, 2009, as the obligation date for local agency projects.
- West Orange County Connectors Project will receive \$26.4 million of ARRA funding. This project will be advertised for construction in late 2009.
- OCTA is preparing Federal Transit Administration grants for obligation of transit operations and maintenance funds by July 1, 2009.
- OCTA has executed an initial federal certification to ensure receipt of the funds.
- Regional Transportation Improvement Program (RTIP) amendments which program the ARRA funds to the Board-approved regional projects are in process.
- OCTA is closely monitoring the development of the federal High-Speed Rail (HSR) Strategic Plan due April 17, 2009. OCTA is also participating in a statewide task force for the development of California applications for the federal HSR funding.

Communications & Reporting

- OCTA has issued a letter to local agencies delineating allocation amounts and delivery responsibilities.
- External Affairs Division will be scheduling a series of meetings with local agencies as well as communicate online and at city manager's meetings.



BOARD OF DIRECTORS

Peter Buife
Chairman

Jerry Amante
Vice Chairman

Patricia Bates
Director

Art Brown
Director

Bill Campbell
Director

Carolyn V. Cavecche
Director

William J. Dalton
Director

Richard Dixon
Director

Paul G. Glaab
Director

Cathy Green
Director

Allan Mansoor
Director

John Moorlach
Director

Janet Nguyen
Director

Chris Norby
Director

Curt Pringie
Director

Miguel Pulido
Director

Gregory T. Winterbottom
Director

Cindy Quon
Governor's
Ex-Officio Member

CHIEF EXECUTIVE OFFICE

Arthur T. Leahy
Chief Executive Officer

March 27, 2009

Mr. Will Kempton
Director
California Department of Transportation
1120 N Street
P.O. Box 942873
Sacramento, CA 95814

Subject: Federal Funding Authorization for Riverside Freeway
(State Route 91) Project - Eastern Transportation Corridor
(State Route 241) to Corona Expressway (State Route 71)

Dear Mr. Kempton:

The Orange County Transportation Authority (OCTA) has designated the Riverside Freeway (State Route 91) project between the Eastern Transportation Corridor (State Route 241) and Corona Expressway (State Route 71) as Orange County's key project for the initial allocation of federal stimulus funding. As you know, this initial allocation is required to be approved by June 1, 2009, to meet the 120-day deadline under the federal and state guidelines.

The California Department of Transportation (Caltrans) District 12 is the implementing agency for the project and has been preparing the required final design and right-of-way (ROW) acquisition for the past two years. The target date for completion of design and certification of the ROW was March 1, 2009. This date was not met due to ROW issues. A resolution regarding the ROW was planned for the California Transportation Commission (CTC) action in April 2009; however, much to our alarm, we have learned that Caltrans is now planning to seek CTC action in May 2009. OCTA is concerned that this schedule leaves little time to approve the funding by the June 1, 2009, deadline and places an increased risk that Caltrans may miss the target date. In light of this risk, I ask that you consider requesting the CTC approval at their April meeting.

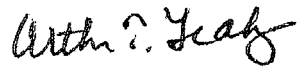
We have met with Caltrans District 12 Director, Cindy Quon, and her senior staff to discuss the steps required to meet the federal authorization date. Director Quon has a plan to work with the CTC, Caltrans headquarters staff, and the Federal Highway Administration (FHWA) to reduce the risk of missing the date. In addition, I have asked Cindy Quon to develop a contingency plan to protect

Mr. Will Kempton
March 27, 2009
Page 2

Orange County's share of stimulus funds should Caltrans not be able to meet the required deadlines. We are hopeful that all of her efforts are successful.

I request that you and the entire Caltrans organization help support Director Quon and her staff's efforts with the CTC commissioners and FHWA staff to assure the successful authorization of the stimulus funding. As you know, we have no option to fail in this effort and to lose up to \$71 million in funding for Orange County. Please let me know what more we can do to assure our success in this effort.

Sincerely,



Arthur T. Leahy
Chief Executive Officer

ATL:tb

c: OCTA Board of Directors
Cindy Quon, Caltrans
Paul Taylor, OCTA
Kia Mortazavi, OCTA
Tom Bogard, OCTA