

# REQUEST FOR COUNCIL ACTION



CITY COUNCIL MEETING DATE:

SEPTEMBER 21, 2009

TITLE

COOPERATIVE AGREEMENT WITH OCTA TO DEVELOP THE SARTC MASTER SITE PLAN AND TO CONDUCT THE SANTA ANA BOULEVARD GRADE SEPARATION STUDY

*[Signature]*  
CITY MANAGER

CLERK OF COUNCIL USE ONLY:

APPROVED

- As Recommended
- As Amended
- Ordinance on 1<sup>st</sup> Reading
- Ordinance on 2<sup>nd</sup> Reading
- Implementing Resolution
- Set Public Hearing For \_\_\_\_\_

CONTINUED TO \_\_\_\_\_  
FILE NUMBER \_\_\_\_\_

## RECOMMENDED ACTION

Authorize the City Manager and Clerk of the Council to execute the attached cooperative agreement with the Orange County Transportation Authority (OCTA) subject to non-substantive changes approved by the City Manager and City Attorney to develop the Santa Ana Regional Transportation Center (SARTC) Master Site Plan and to conduct the Santa Ana Boulevard Grade Separation Study.

## DISCUSSION

On February 17, 2009, Council authorized staff to submit an application for funding under the Renewed Measure M Project T program to convert Metrolink stations into region gateways that connect Orange County with planned future high-speed rail systems. The City's funding application for \$3 million in Project T revenue was for the initial planning and conceptual engineering phase for the SARTC Master Site Plan and grade separation of Santa Ana Boulevard.

On March 23, 2009, the OCTA Board approved Santa Ana's funding request for \$3 million comprised of \$2,660,000 million in Regional Surface Transportation Program funding and \$340,000 million in M1 Transit Revenue. Alternative funding sources were used to fund the requests of the cities of Fullerton, Irvine, and Santa Ana because the OCTA Board voted to fund the full Anaheim project application using Project T funding.

The scope of work for the each project is as follows:

SARTC Master Site Plan

- Environmental evaluation
- Space needs study
- On and off site parking requirements
- Station area study for different transit modes
- Maintenance facility for fixed guideway (modern streetcar)
- Circulation study for buses and vehicles
- Integration of land use and transportation (TOD development)
- Pedestrian access and circulation
- Fly away destination and ZIP car rental facility studies

Santa Ana Boulevard Grade Separation Study

- Environmental evaluation
- Alignment study
- Preliminary engineering
- Right-of-Way impacts/cost estimates
- Detour routing for vehicles and trains during construction
- Access to SARTC, business and downtown during construction

Staff will be releasing two separate Request for Proposals (RFP) in mid October 2009, one for the SARTC Master Site Plan and the other for the Santa Ana Boulevard Grade Separation Study. Both are expected to be completed within 24 months.

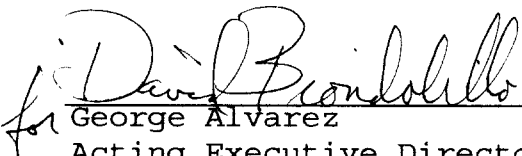
The cooperative agreement with OCTA states that Santa Ana will be the lead agency and clarifies the roles and responsibilities of both agencies. The agreement also stipulates that OCTA is committed to funding this phase of the projects including planning, preliminary engineering and environmental evaluation.

**ENVIRONMENTAL IMPACT**

There is no environmental impact associated with this action.

**FISCAL IMPACT**

There is no fiscal impact associated with this action.

  
for \_\_\_\_\_  
George Alvarez  
Acting Executive Director  
Public Works Agency

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

COOPERATIVE AGREEMENT NO. C-9-XXXX

BETWEEN

ORANGE COUNTY TRANSPORTATION AUTHORITY

AND

CITY OF SANTA ANA

FOR

SANTA ANA REGIONAL TRANSPORTATION CENTER EXPANSION

THIS AGREEMENT is effective this \_\_\_\_\_ day of \_\_\_\_\_ 2009, by and between the Orange County Transportation Authority, 550 South Main Street, P.O. Box 14184, Orange, California 92863-1584, a public corporation of the State of California (hereinafter referred to as "AUTHORITY"), and the City of Santa Ana, 20 Civic Center Plaza, M-21, California 92702, a municipal corporation (hereinafter referred to as "CITY").

RECITALS:

WHEREAS, AUTHORITY and the CITY desire to enter into a Cooperative Agreement to define the roles and responsibilities related to funding between the AUTHORITY and CITY for the planning and preliminary engineering work associated with the proposed expansion of the Santa Ana Regional Transportation Center; (hereinafter referred to as "PROJECT"); and

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

WHEREAS, the AUTHORITY's Board of Directors, on April 27, 2009, approved funding providing \$2,660,000 of RSTP funds and \$340,000 of M1 Transit Funds for a total of \$3,000,000; and

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

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

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

8           **WHEREAS**, CITY and AUTHORITY agree that the total full funding for this phase of the  
9 PROJECT including planning, preliminary engineering and environmental clearance shall be Three  
10 Million Dollars (\$3,000,000) in accordance with the funding schedule shown as Exhibit 1, which is  
11 attached herein and incorporated by reference; and

12           **WHEREAS**, CITY agrees to act as lead agency for planning, preliminary engineering and  
13 environmental clearance of said PROJECT; and

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

16           **WHEREAS**, the AUTHORITY'S Board of Directors approved the Cooperative Agreement on  
17 September XX, 2009; and

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

20           **ARTICLE 1. COMPLETE AGREEMENT**

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

25           B.       AUTHORITY'S failure to insist on any instance(s) of CITY'S performance of any  
26 term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of

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

6 **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**

7 AUTHORITY agrees to the following responsibilities for PROJECT:

8 A. AUTHORITY shall formally request on behalf of the CITY that the Southern California  
9 Association of Governments (SCAG) amend the Regional Transportation Improvement Program (RTIP)  
10 to program \$2,660,000 dollars in accordance with the funding plan and schedule outlined in Exhibit 1,  
11 whereby AUTHORITY's performance under this Agreement is contingent upon SCAG and FHWA  
12 approval.

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

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

16 D. AUTHORITY shall process any required RTIP amendments.

17 E. AUTHORITY shall provide \$340,000 in Measure M Transit funds to serve as local  
18 matching funding.

19 **ARTICLE 3 RESPONSIBILITIES OF CITY**

20 CITY agrees to the following responsibilities for PROJECT:

21 A. CITY will act as the lead in developing a Santa Ana Regional Transportation Center  
22 (SARTC) Master Plan and processing a Project Study Report for the Santa Ana Grade Separation  
23 Project. The scope of work for each project is as follows:

24 SARTC Master Plan: environmental evaluation, space needs study, on and off site parking  
25 requirements, station area study for different transit modes, maintenance facility for fixed guideway,  
26 circulation study for buses and vehicles, integration of land use and transportation (TOD

1 development), pedestrian access and circulation, Fly away destination and ZIP car rental facility  
2 studies.

3 Santa Ana Grade Separation: environmental evaluation, alignment study, preliminary  
4 engineering, right-of -way impacts/ cost estimates, detour routing for vehicles and trains during  
5 construction, access to SARTC, business and downtown during construction.

6 A. CITY is responsible for preparing and submitting all necessary Caltrans required  
7 documentation.

8 B. CITY is responsible for completing the PROJECT in accordance with the funding  
9 schedule (Exhibit 1), timely use of funds requirements, and to abide by all RSTP programming  
10 guidelines and any and all other requirements of the federal, state, and Caltrans related to the  
11 RSTP.

12 D. CITY is responsible for immediately notifying the AUTHORITY in writing of any  
13 changes to the PROJECT schedule that would jeopardize funding of the PROJECT.

14 E. CITY agrees that the overall budget for this phase of the PROJECT is a not-to-  
15 exceed amount of Three Million Dollars (\$3,000,000); contingent on full funding from reauthorization  
16 or extension of SAFETLU.

17 F. CITY agrees that any cost overruns shall be the responsibility of the CITY.

18 G. CITY will submit periodic invoices to the California Department of Transportation.  
19 In addition, CITY shall submit final invoices to the U.S. Department of Transportation within 180  
20 days of PROJECT's completion and request the due RSTP funds.

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

1 I. CITY will comply with all federal, state and local laws and regulations.

2 J. CITY agrees to comply with all Federal Highway Administration third party  
3 contracting laws and regulations pursuant to including but not limited to federal, state, and local  
4 laws, and shall include all laws and regulations in any PROJECT related contract entered into by the  
5 CITY.

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

12 **ARTICLE 4. DELEGATED AUTHORITY**

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

16 **ARTICLE 5. AUDIT AND INSPECTION**

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

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

24 All parties agree to the following mutual responsibilities regarding PROJECT:  
25  
26

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

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

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

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

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

To CITY:	To AUTHORITY:
City of Santa Ana	Orange County Transportation Authority
P.O. Box 1988	550 South Main Street
	P. O. Box 14184
Santa Ana, CA 92702	Orange, CA 92863-1584
Attention: James G. Ross	Attention: Venita Todd
Executive Director, Public Works Agency	Senior Contract Administrator
cc. David Biondolillo, Project Manager	cc: Roger M Lopez Manager, Local Measure M Programs
Tel: (714) 647-5603	Tel: (714) 560-5427; Fax: (714) 560-5734
Email: dbiondolillo@santa-ana.org	Email: vtodd@octa.net



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

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

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

10 I. This Agreement may be executed and delivered in any number of counterparts, each  
11 of which, when executed and delivered shall be deemed an original and all of which together shall  
12 constitute the same agreement. Facsimile signatures will be permitted.

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

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

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

23 **CITY OF SANTA ANA**

**ORANGE COUNTY TRANSPORTATION AUTHORITY**

24 By: \_\_\_\_\_  
25 Miguel Pulido  
Mayor

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

26 **ATTEST:**

**APPROVED AS TO FORM:**  
Page 7 of 8

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

By: \_\_\_\_\_  
xxxxxxxxxxx  
City Clerk

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

**APPROVED AS TO FORM:**  
xxxxxxxxxxx,  
City Attorney

**APPROVAL RECOMMENDED:**

By: \_\_\_\_\_  
Deputy City Attorney

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

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

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