



**LOCAL JURISDICTION REQUESTS FOR THE
ORANGE COUNTY TRANSPORTATION AUTHORITY
TO SERVE AS LEAD AGENCY FOR A
LOCALLY-SPONSORED CAPITAL PROJECT
DRAFT GUIDANCE**

I. PURPOSE

The purpose of this guidance document is to provide parameters for when the Orange County Transportation Agency (OCTA) would accept a request to take over as lead for a local jurisdiction-sponsored transportation capital project*.

II. POLICY

Prior to OCTA accepting a request to serve as lead of a local jurisdiction-sponsored transportation capital project, the following criteria must be met.

1. Project purpose and need must be clearly defined.
2. Project deemed to have regional transportation significance.
3. OCTA determined to have sufficient capacity to take on project delivery responsibility and maintain existing priorities.
4. The project must have project-level environmental clearance following both the California Environmental Quality Act (CEQA) and the National Environmental Policy Act (NEPA) process.
 - a. Following the federal environmental clearance process for the project ensures maximum funding flexibility for future phases and is critical to reducing cost risk.
 - b. Obtaining federal clearance is not optional unless reviewed and agreed in advance by OCTA that it is unnecessary.
5. A funding plan developed and formally approved by both agencies defining responsibility for all direct and indirect costs.
6. A cost-sharing agreement must be negotiated up front specifying shared responsibility for project cost increases resulting from unforeseen issues during project implementation.
7. Parties must agree to ~~mutual~~ indemnification for project legal issues/claims **as appropriate**.
8. Agreement on utility and right-of-way assignments and timeframe for local agency acceptance of the transfer of rights and defined actions if transfer extends beyond.
9. Defined public outreach responsibilities and cost ensuring successful delivery.

* Guidance document doesn't apply to intelligent transportation systems projects

**LOCAL JURISDICTION REQUESTS FOR THE
ORANGE COUNTY TRANSPORTATION AUTHORITY
TO SERVE AS LEAD AGENCY FOR A
LOCALLY-SPONSORED CAPITAL PROJECT
DRAFT GUIDANCE**

10. Both agencies agree that prior to entering into right-of-way phase and prior to the completion of the design phase, the project will be re-evaluated for benefit versus cost risk of project delivery before committing to construction.
11. A formal request must be sent to OCTA from the local jurisdiction's legislative body (i.e. city council or Board of Supervisors) requesting OCTA consideration to serve as lead for project design and construction.
12. OCTA Board of Director's (Board) review and approve serving as lead for the proposed project.

III. RESPONSIBILITIES

Local Agency Responsibility

1. Environmentally clear the project following CEQA and NEPA process prior to formally requesting OCTA's involvement as lead agency.
2. Submit an official written request to OCTA from the agencies legislative body seeking OCTA's approval to take over as lead of the federally environmentally-cleared regionally-significant transportation project, including justification.
3. Provide documentation on why the project should be deemed regionally significant for transportation.
4. Sign a cooperative agreement for project implementation with OCTA as lead, including provisions addressing cost sharing responsibilities in the event of unforeseen cost increasing project issues during delivery.
5. Agree to ~~mutual~~ indemnification for project legal issues/claims **as appropriate**.
6. Agree to utility and transfer of rights assignments and timeline for acceptance.
7. Conduct a risk workshop with OCTA during or after environmental clearance to identify issues impacting successful delivery.
8. Agree to a review by OCTA prior to entering the right-of-way phase and the completion of the design phase to assess the project risk of moving forward and benefit of completing the project before initiating the construction phase.

**LOCAL JURISDICTION REQUESTS FOR THE
ORANGE COUNTY TRANSPORTATION AUTHORITY
TO SERVE AS LEAD AGENCY FOR A
LOCALLY-SPONSORED CAPITAL PROJECT
DRAFT GUIDANCE**

OCTA Responsibility

1. Review and make a determination that the proposed transportation capital project is regionally significant and not merely locally significant.
2. Conduct a constructability review upfront to gain insight on the challenges and issues in delivery of the project.
3. Perform an internal review to determine staff and agency resources necessary for project delivery and current workload capability.
4. Make a determination that taking on the responsibility as lead of the requested project will not impact OCTA's first priority of delivering on the promise of Measure M2 or other OCTA primary responsibilities.
5. Develop a cooperative agreement for local agency and OCTA signature, including cost-sharing provisions to address unforeseen cost increasing project issues, ensuring equity and fairness.
6. Agree to **mutual** indemnification for any project lawsuits **as appropriate**.
7. Conduct a review prior to entering the right-of-way phase and prior to completion of the design phase to assess the project risk of moving forward and benefit of completing the project before agreeing to initiate the construction phase.
8. Seek OCTA Board approval to serve as lead for the delivery of the proposed project as presented by the local agency, including **disclosure of the determinations/risk assessments** required in this policy.