



# Orange County Transportation Authority

## Executive Committee Agenda Monday, May 6, 2024 at 9:00 a.m.

Board Room, 550 South Main Street, Orange, California

### Committee Members

Tam T. Nguyen, Chair

Doug Chaffee, Vice Chair

Andrew Do, Regional Transportation Planning, Chair

Michael Hennessey, Finance & Administration, Chair

Fred Jung, Transit Committee Chair

Donald P. Wagner, Legislative & Communications, Chair

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

### Agenda Descriptions

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 Committee 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 Availability of Agenda Materials

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

### Meeting Access and Public Comments on Agenda Items

Members of the public can either attend in-person or listen to audio live streaming of the Board and Committee meetings by clicking this link: <https://octa.legistar.com/Calendar.aspx>

### In-Person Comment

Members of the public may attend in-person and address the Board regarding any item within the subject matter jurisdiction of the Orange County Transportation Authority. Please complete a speaker's card and submit it to the Clerk of the Board and notify the Clerk regarding the agenda item number on which you wish to speak. Speakers will be recognized by the Chair at the time of the agenda item is to be considered by the Board. Comments will be limited to three minutes. The Brown Act prohibits the Board from either discussing or taking action on any non-agendized items.

# EXECUTIVE COMMITTEE MEETING AGENDA

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## Written Comment

Written public comments may also be submitted by emailing them to ClerkOffice@octa.net, and must be sent by 5:00 p.m. the day prior to the meeting. If you wish to comment on a specific agenda item, please identify the item number in your email. All public comments that are timely received will be part of the public record and distributed to the Board. Public comments will be made available to the public upon request.

## Call to Order

## Pledge of Allegiance

Director Jung

### 1. Closed Session

#### **Overview**

Pursuant to Government Code Section 54956.9(d) - Conference with General Counsel - Potential Litigation - one item.

## Special Calendar

There are no Special Calendar matters.

## Consent Calendar (Item 2)

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

### 2. Approval of Minutes

Clerk of the Board

#### **Recommendation(s)**

Approve the minutes of the April 1, 2024 Executive Committee meeting.

#### **Attachments:**

[Minutes](#)

## Regular Calendar

### 3. Third Quarter Fiscal Year 2023-24 Capital Action Plan Performance Metrics

James G. Beil

#### **Overview**

Staff has prepared a quarterly progress report on capital project delivery covering the period of January 2024 through March 2024, for review by the Orange County Transportation Authority Board of Directors. This report highlights the Capital Action Plan for project delivery, which is used as a performance metric to assess delivery progress on highway and transit capital improvement projects.

#### **Recommendation(s)**

Receive and file as an information item.

## EXECUTIVE COMMITTEE MEETING AGENDA

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***Attachments:***

[Staff Report](#)

[Attachment A](#)

[Attachment B](#)

**4. Measure M2 Eligibility for the City of Cypress**

Adriann Cardoso/Kia Mortazavi

***Overview***

In 2023, the Orange County Transportation Authority Board of Directors found the City of Cypress ineligible to receive Measure M2 net revenues due to an insufficient investment of discretionary funds in fiscal year 2021-22 for streets and roads purposes to meet the Measure M2 maintenance of effort requirement. A recent accounting of the City of Cypress' Measure M2 maintenance of effort expenditures for fiscal year 2022-23 found that the City of Cypress has met its minimum maintenance of effort expenditure requirement, including the shortfall amount. The Orange County Transportation Authority Board of Directors is being asked to consider reinstating the City of Cypress' Measure M2 eligibility status.

***Recommendation(s)***

- A. Authorize the Chief Executive Officer to negotiate, execute, and amend the settlement agreement with the City of Cypress to reduce the term to deliver the maintenance of effort requirement to one year and remove an audit requirement for fiscal year 2023-24.
- B. Approve the City of Cypress eligible to receive Measure M2 net revenues upon execution of the amended settlement agreement.
- C. Direct staff to reinstate payments to the City of Cypress for Measure M2 net revenues, which were held during its period of ineligibility (less fiscal year 2022-23 audit costs) within ten days of execution of the amended settlement agreement.

***Attachments:***

[Staff Report](#)

[Attachment A](#)

## EXECUTIVE COMMITTEE MEETING AGENDA

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### 5. Measure M2 Eligibility for the City of Orange

Adriann Cardoso/Kia Mortazavi

#### **Overview**

The Orange County Transportation Authority's Internal Auditor has released the results of an independent auditor's report of the City of Orange's compliance with the Measure M2 eligibility requirements for fiscal year 2022-23. The independent auditor's report found the City of Orange lacked adequate documentation to support whether it had spent sufficient discretionary funds on streets and road purposes to meet the maintenance of effort requirement prescribed in the Measure M2 Ordinance. Based on this information, recommendations related the City of Orange eligibility and compliance with the Measure M2 Ordinance are presented.

#### **Recommendation(s)**

- A. Find the City of Orange an ineligible jurisdiction to receive or apply for net Measure M2 revenues.
- B. Suspend net Measure M2 revenue payments to the City of Orange until the City of Orange can demonstrate compliance with Measure M2 eligibility requirements and the Board of Directors acts to find the City of Orange an eligible jurisdiction.
- C. Require the City of Orange to demonstrate supplemental investment of discretionary transportation funds equal to the amount of discretionary investment that was short of the maintenance of effort benchmark in the fiscal year 2022-23 (approximately \$1.12 million) as a condition of accessing suspended funds.
- D. Authorize the Internal Auditor to engage independent auditing services to apply agreed-upon procedures to assess the City of Orange's compliance with maintenance of effort expenditures and authorize staff to deduct audit costs from any future net Measure M2 payments to the City of Orange.
- E. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Orange to correct and remedy the fiscal year 2022-23 audit issues and formalize required actions to become an eligible jurisdiction.

#### **Attachments:**

[Staff Report](#)

[Attachment A](#)

## EXECUTIVE COMMITTEE MEETING AGENDA

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### 6. Measure M2 Eligibility for the City of Buena Park

Francesca Ching/Kia Mortazavi

#### **Overview**

The Orange County Transportation Authority's Internal Auditor issued results of an independent auditor's report related to the City of Buena Park's compliance with the Measure M2 requirements for fiscal year 2022-23. The independent auditor's report found that the City of Buena Park could not sufficiently support their use of Measure M2 Local Fair Share funds related to indirect labor charges thereby resulting in the use of the funds being disallowed. Based on this information, recommendations to address the independent auditor's report finding are presented.

#### **Recommendation(s)**

- A. Seek reimbursement of \$387,576 from the City of Buena Park and find the City of Buena Park ineligible to receive Measure M2 net revenues for five years pursuant to Section 10.4 of Ordinance No. 3.
- B. Authorize the Internal Auditor to engage independent auditing services to apply agreed-upon procedures to review the City of Buena Park's Measure M2 Local Fair Share program and other expenditures for fiscal year 2023-24, fiscal year 2024-25, fiscal year 2025-26, fiscal year 2026-27, and fiscal year 2027-28 to enable the City of Buena Park to reestablish eligibility and authorize staff to deduct the review costs from any future net Measure M2 payments to the City of Buena Park.
- C. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Buena Park to formalize the required actions to reestablish eligibility and other terms.

#### **Attachments:**

[Staff Report](#)

[Attachment A](#)

[Attachment B](#)

### Discussion Items

#### 7. Public Comments

#### 8. Chief Executive Officer's Report

#### 9. Committee Members' Reports

#### 10. Adjournment

The next regularly scheduled meeting of this Committee will be held:

**9:00 a.m. on Monday, June 3, 2024**

OCTA Headquarters

550 South Main Street, Orange, California



**Committee Members Present**

Doug Chaffee, Vice Chair  
Andrew Do  
Michael Hennessey  
Fred Jung  
Donald P. Wagner

**Staff Present**

Darrell E. Johnson, Chief Executive Officer  
Jennifer L. Bergener, Deputy Chief Executive Officer  
Gina Ramirez, Assistant Clerk of the Board  
Allison Cheshire, Clerk of the Board Specialist, Senior  
James Donich, General Counsel  
OCTA Staff

**Committee Members Absent**

Tam T. Nguyen, Chair

**Call to Order**

The April 1, 2024, Executive Committee regular meeting was called to order by Vice Chair Chaffee at 9:00 a.m.

**Consent Calendar (Item 1)**

**1. Approval of Minutes**

A motion was made by Director Wagner, seconded by Director Do, and declared passed by those present to approve the minutes of the March 4, 2024, Executive Committee meeting.

**Regular Calendar**

**2. Board of Directors Meeting Video Streaming**

Andrew Oftelie, Chief Financial Officer, provided a report on this item.

Director Hennessey discussed his concerns about the cost of high-quality video streaming and spending additional money until the headquarters location has been decided.

A substitute motion was made by Director Hennessey, seconded by Director Wagner, to direct staff to pause the implementation of any high-quality video streaming of Board of Directors' meetings until a decision on the new headquarters location has been reached.

Director Jung voted in opposition to this item.

**Discussion Items**

**3. 2028 Olympic Transportation Planning**

Kia Mortazavi, Executive Director, Planning, provided an update on transportation planning activities for the 2028 Olympics.



**4. Public Comments**

No public comments received.

**5. Chief Executive Officer's Report**

Darrell E. Johnson, Chief Executive Officer, provided an update on the Taxpayer's Oversight Committee recruitment.

**6. Committee Members' Reports**

There were no Committee Member's reports.

**7. Adjournment**

The meeting adjourned at 9:30 a.m.

**9:00 a.m. on Monday, May 6, 2024**

OCTA Headquarters

Board Room

550 South Main Street

Orange, California

ATTEST:

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Gina Ramirez  
Assistant Clerk of the Board



**May 6, 2024**

**To:** Executive Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Third Quarter Fiscal Year 2023-24 Capital Action Plan Performance Metrics

### **Overview**

Staff has prepared a quarterly progress report on capital project delivery covering the period of January 2024 through March 2024, for review by the Orange County Transportation Authority Board of Directors. This report highlights the Capital Action Plan for project delivery, which is used as a performance metric to assess delivery progress on highway and transit capital improvement projects.

### **Recommendation**

Receive and file as an information item.

### **Background**

The Orange County Transportation Authority (OCTA) delivers highway and transit capital improvement projects from the beginning of the environmental approval phase through construction completion. Project delivery milestones are planned carefully with consideration of project scope, costs, schedule, and assessment of risks. The milestones reflected in the Capital Action Plan (CAP) are OCTA's planned and budgeted major project delivery commitments.

This report is a quarterly progress report on the CAP performance metrics, which are a snapshot of the planned CAP project delivery milestones in the budgeted fiscal year (FY).

### **Discussion**

OCTA's objective is to deliver projects on schedule and within the approved project budget. Key project cost and schedule commitments are captured in the CAP, which is regularly updated with project status and any new



projects (Attachment A). The CAP is categorized into key project groupings of freeway, grade separation, and transit improvement projects. Transit improvement projects include passenger rail, bus transit and maintenance, and OC Streetcar infrastructure projects. Project schedule milestones are used as performance indicators of progress in project delivery. The CAP performance metrics report provides a FY snapshot of the milestones targeted for delivery in the FY and provides transparency and performance measurement of capital project delivery.

The CAP project costs represent the total cost across all phases of project delivery, including support costs, right-of-way (ROW), and construction capital costs. Baseline costs, if established, are shown in comparison to either the actual or forecast cost. Baseline costs may be shown as to-be-determined (TBD) if project scoping studies and estimates have not been developed or approved and may be updated as delivery progresses, and milestones achieved. Projects identified in the Orange County local transportation sales tax Measure M2 (M2) are identified with the corresponding M2 project logo. The CAP status update is also included in the M2 Quarterly Progress Report.

The CAP summarizes the extraordinarily complex critical path project delivery schedules into eight key milestones.

Begin Environmental	The date work on the environmental clearance, project report, or preliminary engineering phase begins.
Complete Environmental	The date environmental clearance and project approval is achieved.
Begin Design	The date final design work begins, or the date when a design-build contract begins.
Complete Design	The date when final design work is 100 percent complete and approved.
Construction Ready	The date contract bid documents are ready for advertisement, including certification of ROW, all agreements executed, and contract constraints cleared.
Advertise for Construction	The date a construction contract is advertised for construction bids.
Award Contract	The date the construction contract is awarded.

**Construction Complete**

The date all construction work is completed, and the project is open to public use.

These delivery milestones reflect progression across typical project delivery phases shown below.



Project schedules reflect planned baseline milestone dates in comparison to forecast or actual milestone dates. Milestone dates may be shown as TBD if project scoping or approval documents have not been finalized and approved, or if the delivery schedule has not been negotiated with a partnering agency or consultant implementing the specific phase of a project. Planned milestone dates can be revised to reflect new dates from approved baseline schedule changes. Project schedules are reviewed monthly, and milestone achievements and updated forecast dates are included to reflect project delivery status.

CAP milestones achieved in the third quarter of FY 2023-24 include:

- The complete construction milestone was achieved on the Interstate 405 Improvement Project with the design-builder achieving substantial completion. Minor work, punch list work, and landscaping is ongoing and targeted to be completed in the fourth quarter of FY 2023-24.
- The complete environmental milestone for the Orange County Metrolink Maintenance Facility (OCMF) is now being shown as achieved since OCTA adopted and filed the Notice of Determination for the Initial Study/Mitigated Negative Declaration environmental document under the California Environmental Quality Act (CEQA). However, the City of Irvine petitioned the Orange County Superior Court seeking a Writ of Mandate under the provisions of CEQA against OCTA seeking judicial review and invalidation of OCTA's adoption, claimed unlawful actions, determinations, decisions, and approvals.

The following CAP milestones missed the planned delivery through the third quarter of FY 2023-24:

- Three milestones, including the complete design, construction ready, and advertise construction milestones continue to be delayed on the tolled State Route 241/91 Express Lanes Connector (ELC) which is being implemented by the Transportation Corridor Agencies (TCA). The final

plans, specifications, and estimates still need to be approved by the California Department of Transportation (Caltrans). In addition, two required environmental revalidations, multiple interagency operating and cooperative agreements, and the California Transportation Commission (CTC) public hearing approval are outstanding. Revised target dates for these milestones are currently in FY 2024-25.

- The construction ready milestone for the State Route 91 (SR-91) Improvement Project between State Route 55 (SR-55) and Lakeview Avenue was missed due to continuing iterative design comments and resolution cycles between the consultant designer of record and Caltrans. However, the construction ready milestone will be achieved in the fourth quarter of FY 2023-24. The project is planned to receive a funding allocation from the CTC in June 2024, and be advertised for construction bids in July 2024.

#### Recap of FY 2023-24 Performance Metrics Through the Third Quarter

The performance metrics snapshot provided at the beginning of FY 2023-24 reflected seven planned major project delivery milestones to be accomplished through the third quarter (Attachment B). Three of the seven planned milestones were delivered. Of the four missed milestones, three are for TCA's ELC project and one is the SR-91 Improvement Project between State Route 55 (SR-55) and Lakeview Avenue.

#### Notable CAP Milestone and Cost Updates

The complete environmental milestone for the Interstate 5 (I-5) Improvement Project between Avenida Pico to San Diego County Line was revised to March 2025. Technical study completion and reviews and approvals took more time to complete with Caltrans. Additionally, the proposed vehicle mile traveled mitigation development and the Historical Property Survey Report approvals took additional time to complete.

The remaining delivery milestones for the I-5 Improvement Project from Yale Avenue to SR-55 were accelerated to achieve a May 2025 CTC funding allocation deadline for the Caltrans funded scope that is included in the project design.

The remaining delivery milestones for the three segments of the SR-91 Improvement Project between Lakeview Avenue and Acacia Street were adjusted to reflect current delivery schedules.

The remaining delivery milestones for the Interstate 605/Katella Avenue Interchange Improvement Project were revised to accommodate schedules to complete the ROW acquisition needs.

The remaining delivery milestones for the Transit Security and Operations Center (TSOC) were revised to reflect the forecast construction contract award schedule.

#### **Notable FY 2023-24 Cost and Performance Metrics Risks**

The OC Streetcar project cost and schedule risks related to design deficiencies and contractor performance continue to be a challenge. Staff, in partnership with the Federal Transit Administration (FTA) and FTA's consultants, will be preparing an FTA prescribed 90 percent complete risk assessment to forecast the completion cost and schedule. This risk assessment will be thoroughly reviewed by the FTA's program management consultant and should be completed to report to the Board of Directors (Board) in fall 2024. Efforts to mediate the lawsuit filed by the contractor against OCTA continue. Staff will continue making regular reports to the Board on project status.

There is a cost risk on the construction pricing for the TSOC project. Construction bids are planned to be received and opened on June 3, 2024. Construction and material costs on specialty buildings, such as TSOC, are extremely sensitive to contractor and market pricing risks.

The construction market continues to experience pricing escalation. The March 2024 update to the OCTA Infrastructure Cost Index indicates that as wage growth has begun to moderate, concrete structures and structural steel have reached a new annual high through 2023. Escalation is forecast to be in the two percent to six percent range through 2025.

#### **Summary**

Capital project delivery continues to progress and is reflected in the CAP. The planned FY 2023-24 performance metrics created from forecast project schedules will be used as a general project delivery performance indicator throughout the FY. Staff will continue to manage project costs and schedules across all project phases to meet project delivery commitments and report quarterly.

***Attachments***

- A. Capital Action Plan, Status Through March 2024
- B. Capital Programs Division, Fiscal Year 2023-24 Performance Metrics Through March 2024

**Prepared by:**















A handwritten signature in blue ink, appearing to read "James G. Beil".

James G. Beil, P.E.  
Executive Director, Capital Programs  
(714) 560-5646

## Capital Action Plan

Status Through March 2024
















Updated: April 10, 2024

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
<b>Freeway Projects:</b>									
I-5, Pico to San Diego County Line	TBD	Feb-21	Apr-24	TBD	TBD	TBD	TBD	TBD	TBD
<b>Cost/Schedule Risk</b>	TBD	<b>Feb-21</b>	<b>Mar-25</b>	TBD	TBD	TBD	TBD	TBD	TBD
 I-5, Pico to Vista Hermosa	\$113.0	Jun-09	Dec-11	Jun-11	Oct-13	Feb-14	Oct-14	Dec-14	Aug-18
Project C	\$83.6	<b>Jun-09</b>	<b>Oct-11</b>	<b>Jun-11</b>	<b>Oct-13</b>	<b>May-14</b>	<b>Sep-14</b>	<b>Dec-14</b>	<b>Aug-18</b>
 I-5, Vista Hermosa to Pacific Coast Highway	\$75.6	Jun-09	Dec-11	Jun-11	Feb-13	Jun-13	Oct-13	Dec-13	Mar-17
Project C	\$75.3	<b>Jun-09</b>	<b>Oct-11</b>	<b>Jun-11</b>	<b>May-13</b>	<b>Aug-13</b>	<b>Feb-14</b>	<b>Jun-14</b>	<b>Jul-17</b>
 I-5, Pacific Coast Highway to San Juan Creek Road	\$70.7	Jun-09	Dec-11	Jun-11	Jan-13	May-13	Aug-13	Oct-13	Sep-16
Project C	\$74.3	<b>Jun-09</b>	<b>Oct-11</b>	<b>Jun-11</b>	<b>Jan-13</b>	<b>Apr-13</b>	<b>Aug-13</b>	<b>Dec-13</b>	<b>Jul-18</b>
 I-5, I-5/Ortega Interchange	\$90.9	Sep-05	Jun-09	Jan-09	Nov-11	Mar-12	Jun-12	Aug-12	Sep-15
Project D	\$79.8	<b>Sep-05</b>	<b>Jun-09</b>	<b>Jan-09</b>	<b>Dec-11</b>	<b>Apr-12</b>	<b>Jun-12</b>	<b>Aug-12</b>	<b>Jan-16</b>
 I-5, I-5/Ortega Interchange (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project D	N/A	N/A	N/A	<b>Jan-14</b>	<b>Oct-14</b>	<b>Feb-15</b>	<b>Aug-15</b>	<b>Sep-15</b>	<b>Sep-16</b>
 I-5, SR-73 to Oso Parkway	\$151.9	Sep-11	Jun-14	Mar-15	Jan-18	May-18	Aug-18	Dec-18	Apr-25
Project C & D	\$229.4	<b>Oct-11</b>	<b>May-14</b>	<b>Mar-15</b>	<b>Aug-18</b>	<b>May-19</b>	<b>Aug-19</b>	<b>Dec-19</b>	<b>Jan-25</b>
 I-5, Oso Parkway to Alicia Parkway	\$196.2	Sep-11	Jun-14	Nov-14	Jun-17	Dec-17	Feb-18	Jun-18	Nov-23
Project C & D	\$230.3	<b>Oct-11</b>	<b>May-14</b>	<b>Nov-14</b>	<b>Dec-17</b>	<b>Jun-18</b>	<b>Nov-18</b>	<b>Mar-19</b>	<b>Sep-24</b>
 I-5, Alicia Parkway to El Toro Road	\$133.6	Sep-11	Jun-14	Mar-15	Jun-18	Dec-18	Jan-19	May-19	Oct-24
Project C	\$203.6	<b>Oct-11</b>	<b>May-14</b>	<b>Mar-15</b>	<b>May-19</b>	<b>Apr-20</b>	<b>May-20</b>	<b>Sep-20</b>	<b>Dec-24</b>
 I-5, SR-73 to El Toro Road (Landscape)	TBD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project C	\$12.4	N/A	N/A	<b>Mar-23</b>	Dec-24	Apr-25	Jun-25	Sep-25	Mar-27
 I-5, I-5/El Toro Road Interchange	TBD	Apr-17	Apr-26	TBD	TBD	TBD	TBD	TBD	TBD
Project D	TBD	<b>Apr-17</b>	<b>Apr-26</b>	TBD	TBD	TBD	TBD	TBD	TBD
 I-5, I-405 to Yale Avenue	\$230.5	May-14	Aug-18	Oct-21	May-24	May-25	Dec-25	Feb-26	Sep-29
Project B	\$230.5	<b>May-14</b>	<b>Jan-20</b>	<b>Oct-21</b>	<b>Dec-24</b>	<b>May-25</b>	<b>Dec-25</b>	<b>Feb-26</b>	<b>Sep-29</b>
 I-5, Yale Avenue to SR-55	\$200.4	May-14	Aug-18	May-21	Feb-25	Aug-25	Nov-25	Mar-26	Sep-29
Project B	\$200.4	<b>May-14</b>	<b>Jan-20</b>	<b>May-21</b>	<b>Jul-24</b>	<b>Mar-25</b>	<b>Jul-25</b>	<b>Oct-25</b>	<b>May-29</b>
 I-5, SR-55 to SR-57	\$38.1	Jul-11	Jun-13	Jun-15	Mar-17	Jul-17	Sep-17	Dec-17	Apr-21
Project A	\$38.9	<b>Jun-11</b>	<b>Apr-15</b>	<b>Jun-15</b>	<b>Jun-17</b>	<b>Dec-17</b>	<b>Mar-18</b>	<b>Nov-18</b>	<b>Jan-21</b>
 SR-55, I-405 to I-5	\$410.9	Feb-11	Nov-13	Sep-17	Apr-20	Dec-20	Apr-21	May-22	Feb-27
Project F	\$505.7	<b>May-11</b>	<b>Aug-17</b>	<b>Sep-17</b>	<b>Apr-20</b>	<b>Sep-21</b>	<b>Dec-21</b>	<b>May-22</b>	<b>Feb-27</b>

## Capital Action Plan

Status Through March 2024












Updated: April 10, 2024

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
 SR-55, I-5 to SR-91	\$131.3	Dec-16	Jan-20	Aug-22	Jul-25	Dec-25	Apr-26	Jul-26	Oct-29
Project F	\$131.3	<b>Dec-16</b>	<b>Mar-20</b>	<b>Aug-22</b>	Jul-25	Dec-25	Apr-26	Jul-26	Oct-29
 SR-57 Northbound (NB), Orangewood Avenue to Katella Avenue	\$71.8	Apr-16	Dec-18	Mar-22	Jul-24	Feb-25	Jul-25	Nov-25	Jun-28
Project G	\$71.8	<b>Apr-16</b>	<b>Mar-19</b>	<b>Mar-22</b>	Aug-24	Feb-25	Jul-25	Nov-25	Jun-28
 SR-57 (NB), Katella Avenue to Lincoln Avenue	\$78.7	Apr-08	Jul-09	Jul-08	Nov-10	Mar-11	May-11	Aug-11	Sep-14
Project G	\$38.0	<b>Apr-08</b>	<b>Nov-09</b>	<b>Aug-08</b>	<b>Dec-10</b>	<b>Apr-11</b>	<b>Jul-11</b>	<b>Oct-11</b>	<b>Apr-15</b>
 SR-57 (NB), Katella Avenue to Lincoln Avenue (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project G	N/A	N/A	N/A	<b>May-09</b>	<b>Jul-10</b>	<b>Jun-17</b>	<b>Jul-17</b>	<b>Sep-17</b>	<b>Jun-18</b>
 SR-57 (NB), Orangethorpe Avenue to Yorba Linda Boulevard	\$80.2	Aug-05	Dec-07	Feb-08	Dec-09	Apr-10	Jun-10	Oct-10	May-14
Project G	\$52.3	<b>Aug-05</b>	<b>Dec-07</b>	<b>Feb-08</b>	<b>Jul-09</b>	<b>Dec-09</b>	<b>May-10</b>	<b>Oct-10</b>	<b>Nov-14</b>
 SR-57 (NB), Yorba Linda Boulevard to Lambert Road	\$79.3	Aug-05	Dec-07	Feb-08	Dec-09	Apr-10	Jun-10	Oct-10	Sep-14
Project G	\$54.1	<b>Aug-05</b>	<b>Dec-07</b>	<b>Feb-08</b>	<b>Jul-09</b>	<b>Mar-10</b>	<b>May-10</b>	<b>Oct-10</b>	<b>May-14</b>
 SR-57 (NB), Orangethorpe Avenue to Lambert Road (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project G	N/A	N/A	N/A	<b>Oct-14</b>	<b>Aug-17</b>	<b>Dec-17</b>	<b>Jan-18</b>	<b>Feb-18</b>	<b>Apr-19</b>
 SR-57 (NB), Lambert Road to Tonner Canyon	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Project G	TBD	Sep-25	May-28	TBD	TBD	TBD	TBD	TBD	TBD
 SR-91 Westbound (WB), I-5 to SR-57	\$78.1	Jul-07	Apr-10	Oct-09	Feb-12	Jul-12	Aug-12	Nov-12	Apr-16
Project H	\$59.2	<b>Jul-07</b>	<b>Jun-10</b>	<b>Mar-10</b>	<b>Apr-12</b>	<b>Aug-12</b>	<b>Oct-12</b>	<b>Jan-13</b>	<b>Jun-16</b>
 SR-91 Westbound (WB), I-5 to SR-57 (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project H	N/A	N/A	N/A	<b>Nov-14</b>	<b>Aug-16</b>	<b>Dec-16</b>	<b>Feb-17</b>	<b>Mar-17</b>	<b>Nov-17</b>
 SR-91, SR-55 to Lakeview Avenue (Segment 1)	\$100.9	Jan-15	Oct-18	Mar-20	Jan-23	Aug-23	Oct-23	Feb-24	Sep-27
Project I	\$126.3	<b>Jan-15</b>	<b>Jun-20</b>	<b>Mar-20</b>	<b>Mar-23</b>	May-24	Jul-24	Aug-24	Jul-28
 SR-91, La Palma Avenue to SR-55 (Segment 2)	\$208.4	Jan-15	Oct-18	Jun-20	Jul-23	Feb-24	Mar-24	Jul-24	Mar-28
Project I	\$208.4	<b>Jan-15</b>	<b>Jun-20</b>	<b>Jun-20</b>	Dec-24	Aug-25	Oct-25	Jan-26	Jan-30
 SR-91, Acacia Street to La Palma Avenue (Segment 3)	\$116.2	Jan-15	Oct-18	Nov-20	Apr-24	Nov-24	Jan-25	Apr-25	Sep-28
Project I	\$116.2	<b>Jan-15</b>	<b>Jun-20</b>	<b>Nov-20</b>	Aug-24	May-25	Sep-25	Dec-25	Jun-29
 SR-91 (WB), Tustin Interchange to SR-55	\$49.9	Jul-08	Jul-11	Jul-11	Mar-13	Jul-13	Aug-13	Oct-13	Jul-16
Project I	\$42.5	<b>Jul-08</b>	<b>May-11</b>	<b>Jun-11</b>	<b>Feb-13</b>	<b>Apr-13</b>	<b>Jun-13</b>	<b>Oct-13</b>	<b>Jul-16</b>
 SR-91, SR-55 to SR-241	\$128.4	Jul-07	Jul-09	Jun-09	Jan-11	Apr-11	Jun-11	Sep-11	Dec-12
Project J	\$79.7	<b>Jul-07</b>	<b>Apr-09</b>	<b>Apr-09</b>	<b>Aug-10</b>	<b>Dec-10</b>	<b>Feb-11</b>	<b>May-11</b>	<b>Mar-13</b>

## Capital Action Plan

Status Through March 2024

Updated: April 10, 2024











Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
 SR-91, SR-55 to SR-241 (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project J	N/A	N/A	N/A	May-12	Feb-13	Apr-13	Jul-13	Oct-13	Feb-15
 SR-91 Eastbound, SR-241 to SR-71	\$104.5	Mar-05	Dec-07	Jul-07	Dec-08	Mar-09	May-09	Jul-09	Nov-10
Project J	\$57.8	Mar-05	Dec-07	Jul-07	Dec-08	May-09	Jun-09	Aug-09	Jan-11
91 Express Lanes to SR-241 Toll Connector	TBD	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	TBD	Nov-13	Jan-20	Jun-16	Sep-24	Feb-25	Jun-25	Aug-25	Nov-28
 I-405, I-5 to SR-55	TBD	Dec-14	Jul-18	TBD	TBD	TBD	TBD	TBD	TBD
Project L	TBD	Dec-14	Aug-18	TBD	TBD	TBD	TBD	TBD	TBD
 I-405, SR-55 to I-605 (Design-Build)	\$2,160.0	Mar-09	Mar-13	Mar-14	Nov-15	Feb-16	Mar-16	Nov-16	Feb-24
Project K	\$2,160.0	Mar-09	May-15	Mar-14	Nov-15	Feb-16	Mar-16	Nov-16	Feb-24
I-405/SR-22 HOV Connector	\$195.9	N/A	N/A	Sep-07	Sep-09	Mar-10	May-10	Aug-10	Aug-14
	\$120.8	N/A	N/A	Sep-07	Jun-09	Sep-09	Feb-10	Jun-10	Mar-15
I-405/I-605 HOV Connector	\$260.4	N/A	N/A	Sep-07	Sep-09	Mar-10	May-10	Oct-10	Jan-15
	\$172.6	N/A	N/A	Sep-07	Sep-09	Feb-10	May-10	Oct-10	Mar-15
 I-605, I-605/Katella Interchange	\$29.0	Aug-16	Nov-18	Dec-20	Mar-23	Jul-23	Nov-23	Feb-24	Nov-25
Project M	\$49.7	Aug-16	Oct-18	Dec-20	Jan-23	May-24	Sep-24	Dec-24	Sep-26
<b>Grade Separation Projects:</b>									
 Sand Canyon Avenue Railroad Grade Separation	\$55.6	N/A	Sep-03	Jan-04	Jul-10	Jul-10	Oct-10	Feb-11	May-14
Project R	\$61.9	N/A	Sep-03	Jan-04	Jul-10	Jul-10	Oct-10	Feb-11	Jan-16
 Raymond Avenue Railroad Grade Separation	\$77.2	Feb-09	Nov-09	Mar-10	Aug-12	Nov-12	Feb-13	May-13	Aug-18
Project O	\$126.2	Feb-09	Nov-09	Mar-10	Dec-12	Jul-13	Oct-13	Feb-14	May-18
 State College Boulevard Railroad Grade Separation (Fullerton)	\$73.6	Dec-08	Jan-11	Jul-06	Aug-12	Nov-12	Feb-13	May-13	May-18
Project O	\$99.6	Dec-08	Apr-11	Jul-06	Feb-13	May-13	Sep-13	Feb-14	Mar-18
 Placentia Avenue Railroad Grade Separation	\$78.2	Jan-01	May-01	Jan-09	Mar-10	May-10	Mar-11	Jun-11	Nov-14
Project O	\$64.5	Jan-01	May-01	Jan-09	Jun-10	Jan-11	Mar-11	Jul-11	Dec-14
 Kraemer Boulevard Railroad Grade Separation	\$70.4	Jan-01	Sep-09	Jan-09	Jul-10	Jul-10	Apr-11	Aug-11	Oct-14
Project O	\$63.8	Jan-01	Sep-09	Feb-09	Jul-10	Jan-11	Jun-11	Sep-11	Dec-14
 Orangethorpe Avenue Railroad Grade Separation	\$117.4	Jan-01	Sep-09	Feb-09	Dec-11	Dec-11	Feb-12	May-12	Sep-16
Project O	\$105.9	Jan-01	Sep-09	Feb-09	Oct-11	Apr-12	Sep-12	Jan-13	Oct-16



## Capital Action Plan

Status Through March 2024

Updated: April 10, 2024

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
 Tustin Avenue/Rose Drive Railroad Grade Separation	\$103.0	Jan-01	Sep-09	Feb-09	Dec-11	Mar-12	May-12	Aug-12	May-16
Project O	\$96.6	<b>Jan-01</b>	<b>Sep-09</b>	<b>Feb-09</b>	<b>Jul-11</b>	<b>Jun-12</b>	<b>Oct-12</b>	<b>Feb-13</b>	<b>Oct-16</b>
 Lakeview Avenue Railroad Grade Separation	\$70.2	Jan-01	Sep-09	Feb-09	Oct-11	Oct-12	Feb-13	May-13	Mar-17
Project O	\$110.7	<b>Jan-01</b>	<b>Sep-09</b>	<b>Feb-09</b>	<b>Jan-13</b>	<b>Apr-13</b>	<b>Sep-13</b>	<b>Nov-13</b>	<b>Jun-17</b>
 17th Street Railroad Grade Separation	TBD	Oct-14	Jun-16	TBD	TBD	TBD	TBD	TBD	TBD
Project R	TBD	<b>Oct-14</b>	<b>Nov-17</b>	TBD	TBD	TBD	TBD	TBD	TBD
<b>Transit Projects:</b>									
 Rail-Highway Grade Crossing Safety Enhancement	\$94.4	Jan-08	Oct-08	Jan-08	Sep-08	Sep-08	Sep-08	Aug-09	Dec-11
Project R	\$90.4	<b>Jan-08</b>	<b>Oct-08</b>	<b>Jan-08</b>	<b>Sep-08</b>	<b>Sep-08</b>	<b>Sep-08</b>	<b>Aug-09</b>	<b>Dec-11</b>
 San Clemente Beach Trail Safety Enhancements	\$6.0	Sep-10	Jul-11	Feb-12	Apr-12	Apr-12	Jul-12	Oct-12	Jan-14
Project R	\$5.0	<b>Sep-10</b>	<b>Jul-11</b>	<b>Feb-12</b>	<b>Jun-12</b>	<b>Jun-12</b>	<b>Oct-12</b>	<b>May-13</b>	<b>Mar-14</b>
 Emergency Track Stabilization at Mile Post 206.8	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Project R	\$14.9	N/A	N/A	N/A	N/A	N/A	<b>Sep-22</b>	<b>Oct-22</b>	<b>Aug-23</b>
San Juan Capistrano Passing Siding	\$25.3	Aug-11	Jan-13	Mar-15	May-16	May-16	Aug-16	Dec-16	Feb-21
	\$33.2	<b>Aug-11</b>	<b>Mar-14</b>	<b>Mar-15</b>	<b>Aug-18</b>	<b>Aug-18</b>	<b>Aug-18</b>	<b>Mar-19</b>	<b>Nov-20</b>
 OC Streetcar	\$595.8	Aug-09	Mar-12	Feb-16	Sep-17	Oct-17	Dec-17	Aug-18	Aug-25
Project S	<b>Cost/Schedule Risk</b> \$595.8	<b>Aug-09</b>	<b>Mar-15</b>	<b>Feb-16</b>	<b>Nov-17</b>	<b>Dec-17</b>	<b>Dec-17</b>	<b>Sep-18</b>	<b>Aug-25</b>
Transit Security and Operation Center (TSOC)	N/A	Jun-17	Jun-20	Jun-20	Oct-23	Nov-23	Jan-24	Sep-24	Sep-26
<b>Cost/Schedule Risk</b>	\$77.8	<b>Jun-17</b>	<b>Jun-20</b>	<b>Jun-20</b>	<b>Mar-24</b>	<b>Mar-24</b>	<b>Mar-24</b>	<b>Sep-24</b>	<b>Mar-27</b>
 Placentia Metrolink Station and Parking Structure	\$34.8	Jan-03	May-07	Oct-08	Jan-11	TBD	TBD	TBD	TBD
Project R	<b>Cost/Schedule Risk</b> \$40.1	<b>Jan-03</b>	<b>May-07</b>	<b>Oct-08</b>	<b>Feb-11</b>	TBD	TBD	TBD	TBD
 Orange County Maintenance Facility - ON HOLD	TBD	Apr-20	Apr-22	TBD	TBD	TBD	TBD	TBD	TBD
Project R	<b>Cost/Schedule Risk</b> TBD	<b>Apr-20</b>	<b>Nov-23</b>	TBD	TBD	TBD	TBD	TBD	TBD
 Irvine Metrolink Station Improvements - ON HOLD	TBD	Jan-22	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Project R	TBD	<b>Jan-22</b>	TBD	TBD	TBD	TBD	TBD	TBD	TBD
Anaheim Canyon Metrolink Station	\$27.9	Jan-16	Dec-16	Mar-19	May-19	May-19	Jul-19	Nov-19	Jan-23
	\$34.2	<b>Jan-16</b>	<b>Jun-17</b>	<b>Mar-18</b>	<b>Oct-20</b>	<b>Oct-20</b>	<b>Oct-20</b>	<b>Mar-21</b>	<b>Jan-23</b>
Orange Metrolink Station Parking Expansion	\$33.2	Dec-09	Dec-12	Nov-10	Apr-13	Jul-16	Jul-16	Nov-16	Feb-19
	\$30.9	<b>Dec-09</b>	<b>May-16</b>	<b>Nov-10</b>	<b>Apr-16</b>	<b>Jul-16</b>	<b>Jul-16</b>	<b>Jun-17</b>	<b>Feb-19</b>

## Capital Action Plan

Status Through March 2024

Updated: April 10, 2024

Capital Projects	Cost	Schedule							
	Baseline/Forecast	Plan/Forecast							
	(millions)	Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
Fullerton Transportation Center - Elevator Upgrades	\$3.5	N/A	N/A	Jan-12	Dec-13	Dec-13	Jun-14	Sep-14	Mar-17
	\$4.2	N/A	N/A	Jan-12	Dec-13	Dec-13	Aug-14	Apr-15	May-19
Anaheim Regional Transportation Intermodal Center	\$227.4	Apr-09	Feb-11	Jun-09	Feb-12	Feb-12	May-12	Jul-12	Nov-14
Project R & T	\$232.2	Apr-09	Feb-12	Jun-09	May-12	May-12	May-12	Sep-12	Dec-14

Note: Costs associated with landscape projects are included in respective freeway projects.

Grey = Milestone achieved

Green = Forecast milestone meets or exceeds plan

Yellow = Forecast milestone is one to three months later than plan

Red = Forecast milestone is over three months later than plan

**Begin Environmental:** The date work on the environmental clearance, project report, or preliminary engineering phase begins.

**Complete Environmental:** The date environmental clearance and project approval is achieved.

**Begin Design:** The date final design work begins, or the date when a design-build contract begins.

**Complete Design:** The date final design work is 100 percent complete and approved.

**Construction Ready:** The date contract bid documents are ready for advertisement, including certification of right-of-way, all agreements executed, contract constraints are cleared.

**Advertise for Construction:** The date a construction contract is both funded and advertised for bids.

**Award Contract:** The date the construction contract is awarded.

**Construction Complete:** The date all construction work is completed and the project is open to public use.

### Acronyms

I-5 - Santa Ana Freeway (Interstate 5)

SR-73 - San Joaquin Freeway (State Route 73)

I-405 - San Diego Freeway (Interstate 405)

SR-55 - Costa Mesa Freeway (State Route 55)

SR-57 - Orange Freeway (State Route 57)

SR-91 - Riverside Freeway (State Route 91)

SR-241 - Foothill/Eastern Transportation Corridor (State Route 241)

SR-71 - Corona Expressway (State Route 71)

I-605 - San Gabriel River Freeway (Interstate 605)

SR-22 - Garden Grove Freeway (State Route 22)

HOV - high-occupancy vehicle

**Capital Programs Division**  
**Fiscal Year 2023-24 Performance Metrics Through March 2024**

**Begin Environmental**

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
No "Begin Environmental" milestones scheduled for FY 2023-24									
Total Forecast/Actual	0	0	0	0	0	0	0	0	0

**Complete Environmental**

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
Orange County Maintenance Facility					X	✓			
Total Forecast/Actual	0	0	0	0	1	1	0	0	1

**Begin Design**

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
No "Begin Design" milestones scheduled for FY 2023-24									
Total Forecast/Actual	0	0	0	0	0	0	0	0	0

**Complete Design**

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
91 Express lanes to SR-241 Toll Connector	X								
Total Forecast/Actual	1	0	0	0	0	0	0	0	1

**Construction Ready**

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
91 Express lanes to SR-241 Toll Connector			X						
SR-91, SR-55 to Lakeview Avenue (Segment 1)					X				
I-605, I-605/Katella Interchange							X		
Total Forecast/Actual	0	0	1	0	1	0	1	0	3

**Advertise Construction**

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
91 Express lanes to SR-241 Toll Connector			X						
SR-91, SR-55 to Lakeview Avenue (Segment 1)							X		
Total Forecast/Actual	0	0	1	0	0	0	1	0	2

# Capital Programs Division

## Fiscal Year 2023-24 Performance Metrics Through March 2024

### Award Contract

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
91 Express lanes to SR-241 Toll Connector							X		
Total Forecast/Actual	0	0	0	0	0	0	1	0	1

### Complete Construction

Project Description	FY 24 Qtr 1		FY 24 Qtr 2		FY 24 Qtr 3		FY 24 Qtr 4		FY 24 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
Emergency Track Stabilization at Mile Post 206.8	X	✔							
I-405, SR-55 to I-605 (Design-Build)					X	✔			
Total Forecast/Actual	1	1	0	0	1	1	0	0	2

Totals	2	1	2	0	3	2	3	0	10
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**Begin Environmental:** The date work on the environmental clearance, project report, or preliminary engineering phase begins.

**Complete Environmental:** The date environmental clearance and project approval is achieved.

**Begin Design:** The date final design work begins or the date when a design-build contract begins.

**Complete Design:** The date final design work is 100 percent complete and approved.

**Construction Ready:** The date contract bid documents are ready for advertisement, right-of-way certified, all agreements executed, and contract constraints are cleared.

**Advertise for Construction:** The date a construction contract is both funded and advertised for bids.

**Award Contract:** The date the construction contract is awarded.

**Construction Complete:** The date all construction work is completed and the project is open to public use.

#### Acronyms

FY - fiscal year

SR-241 - Foothill/Eastern Transportation Corridor (State Route 241)

SR-91 - Riverside Freeway (State Route 91)

SR-55 - Costa Mesa Freeway (State Route 55)

I-605 - San Gabriel River Freeway ( Interstate 605)

I-405 - San Diego Freeway (Interstate 405)

X = milestone forecast in quarter

✔ = milestone accomplished in quarter



**May 6, 2024**

**To:** Executive Committee  
**From:** Darrell E. Johnson, Chief Executive Officer  
**Subject:** Measure M2 Eligibility for the City of Cypress

### **Overview**

In 2023, the Orange County Transportation Authority Board of Directors found the City of Cypress ineligible to receive Measure M2 net revenues due to an insufficient investment of discretionary funds in fiscal year 2021-22 for streets and roads purposes to meet the Measure M2 maintenance of effort requirement. A recent accounting of the City of Cypress' Measure M2 maintenance of effort expenditures for fiscal year 2022-23 found that the City of Cypress has met its minimum maintenance of effort expenditure requirement, including the shortfall amount. The Orange County Transportation Authority Board of Directors is being asked to consider reinstating the City of Cypress' Measure M2 eligibility status.

### **Recommendations**

- A. Authorize the Chief Executive Officer to negotiate, execute, and amend the settlement agreement with the City of Cypress to reduce the term to deliver the maintenance of effort requirement to one year and remove an audit requirement for fiscal year 2023-24.
- B. Approve the City of Cypress eligible to receive Measure M2 net revenues upon execution of the amended settlement agreement.
- C. Direct staff to reinitiate payments to the City of Cypress for Measure M2 net revenues, which were held during its period of ineligibility (less fiscal year 2022-23 audit costs) within ten days of execution of the amended settlement agreement.

### **Background**

The Measure M2 (M2) Ordinance outlines eligibility requirements that each local jurisdiction must continually satisfy to receive net revenues from the M2 Program. One of the requirements is that a local jurisdiction must continue to invest a certain level of discretionary revenues, such as general funds that

support street and road activities, to be deemed eligible for any M2 funding. This requirement is rooted in the California Public Utilities Code (PUC) 180001 that enables local transportation authorities to seek voter approval for sales tax measures. The PUC states the intent of the legislature is that funds generated through a sales tax ordinance “shall supplement existing local revenues used for public transportation purposes and that local governments maintain their existing commitment of local funds for transportation purposes” (PUC 180200). This requirement is referred to as maintenance of effort (MOE).

In June 2021, the City of Cypress (City) provided MOE certification to the Orange County Transportation Authority (OCTA) as part of its M2 eligibility verification package submittal. The certification stated that the City had budgeted sufficient expenditures for fiscal year (FY) 2021-22, consistent with the following requirement:

“The Authority shall not allocate any net revenues to any jurisdiction for any fiscal year until that jurisdiction has certified to the Authority that it has included in its budget for that fiscal year an amount of local discretionary funds for streets and roads purposes, at least equal to the level of its maintenance of effort requirement.”

Per M2 MOE requirements, the City was required to spend \$3,607,878 using discretionary revenues toward streets and roads-related costs. According to the expenditure report for FY 2021-22 that was approved by the city council and submitted to OCTA, the City spent \$3,892,903 toward the MOE requirement. However, an independent review of the City’s expenditures, through the annual eligibility process conducted in coordination with the TOC and Internal Audit, identified ineligible direct charges and found that indirect costs allocated to MOE could not be verified based on a reasonable methodology. After the removal of ineligible direct costs and unsupported indirect costs, the City did not meet the MOE requirement for FY 2021-22. Consistent with M2 Ordinance requirements, on May 22, 2023, the OCTA Board of Directors (Board) found the City ineligible to receive M2 net revenues. As part of that action, the OCTA Board specified that the following actions be completed by OCTA staff in conjunction with the finding of ineligibility.

- Suspend payments to the City of net M2 revenues;
- Deduct audit costs related to this eligibility finding from any future net M2 payments to the City;
- Require the City to demonstrate supplemental investment of discretionary transportation funds equal to the amount of discretionary investment that was short of the MOE benchmark in FY 2021-22 (approximately \$1.38 million) as a condition of accessing suspended funds upon being found an eligible jurisdiction, and

- Authorize the Chief Executive Officer to negotiate and execute an agreement with the City outlining the process to re-establish eligibility.

***Discussion***

Throughout fall 2023 and early 2024, OCTA worked with City staff to implement and address the required actions. An independent accounting firm, BCA Watson Rice, LLP (auditors), applied agreed-upon procedures (AUP) to the City's M2 MOE-related expenditures for FY 2022-23 to determine whether the City had met its obligation under the settlement agreement. The auditors reported that, based on the AUP, the City had incurred expenditures sufficient to meet its obligations under the settlement agreement, which included the City's MOE requirement plus the shortfall amount in MOE expenditures identified in FY 2021-22. These findings were presented to the Finance and Administration Committee on April 24, 2024, and will be presented to the Board on May 13, 2024.

**Other Eligibility Requirements**

M2 includes 13 eligibility requirements that all 35 local agencies are required to comply with in order to receive M2 net revenues and agencies must submit required documents by June 30. The City submitted all required M2 eligibility verification documents prior to June 30, 2023.

These documents were received and reviewed by OCTA staff, the Taxpayer Oversight Committee's (TOC) Annual Eligibility Review Subcommittee, and the full TOC. In February 2024, M2 eligibility findings for FY 2023-24 were advanced to the OCTA Regional Transportation Planning Committee and Board for consideration and approval. However, due to the City's ineligibility, the Board elected to only receive and file the City's M2 eligibility verification documents until the resolution of the prior year's MOE shortcomings had been remedied.

Based on the results of the AUP of the City's MOE expenditures for FY 2022-23, the City has met its obligation under the settlement agreement, and it is recommended that the City now be found eligible again to receive M2 net revenues and the suspended M2 funds that were being held in reserve during the period of the City's ineligibility (less the FY 2022-23 AUP costs). These actions, if approved by the Board, would conclude the City's period of M2 ineligibility and would also place the City back on an eligibility review cycle consistent with all other eligible Orange County local agencies.

**Amendment to the Agreement**

At the time the settlement agreement was executed, the City indicated that they may need more than one year to make up for the MOE underrun. The settlement agreement was structured to respond to this possibility and provides the City two years to deliver the MOE underrun. However, the City was able to both make up for the MOE shortfall found for FY 2021-22 and deliver its current year MOE in FY 2022-23. Staff is recommending that the settlement agreement be amended so that the City can move forward and be found eligible without having to wait another year. The proposed amendment would also remove the requirement to conduct another AUP of City MOE expenditures for FY 2023-24 and would put the City back into the regular review cycle.

**Summary**

Auditors have applied AUP to the City's M2 MOE-related expenditures for FY 2022-23 and have reported that the City has made up the FY 2021-22 MOE as well as delivered its current year MOE. Staff is recommending an amendment to the settlement agreement to reduce the term to deliver the FY 2021-22 shortfall to one year and remove the audit requirement for FY 2023-24, reinstate City eligibility upon execution of the amended settlement agreement, and direct staff to reinstate payments to the City that were held during the period of ineligibility (less FY 2022-23 audit costs) within ten days of execution of the amended settlement agreement. If approved by the Board, these actions would conclude the City's period of M2 ineligibility and place the City back on an eligibility cycle consistent with other eligible local agencies.

**Attachment**

- A. City of Cypress Measure M2 Maintenance of Effort Independent Accountant's Report on Applying Agreed-Upon Procedures for the Year Ended June 30, 2023

**Prepared by:**

Adriann Cardoso  
Department Manager,  
Capital Programming  
(714) 560-5915

**Approved by:**

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



# **CITY OF CYPRESS**

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## **MEASURE M2 MAINTENANCE OF EFFORT**

### **Independent Accountant's Report on Applying Agreed-Upon Procedures**

**For the Year Ended June 30, 2023**



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## INDEPENDENT ACCOUNTANT'S REPORT ON APPLYING AGREED-UPON PROCEDURES

Board of Directors  
Orange County Transportation Authority  
Orange, California

We have performed the procedures enumerated below, which were agreed to by the Orange County Local Transportation Authority (OCLTA), related to the City of Cypress' (City) compliance with certain provisions of the Measure M2 Local Transportation Ordinance (Measure M2) as of and for the fiscal year ended June 30, 2023. The City's management is responsible for compliance with the Ordinance.

The OCLTA has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of evaluating the City's compliance with Measure M2 Maintenance of Effort (MOE) requirements as of and for the fiscal year ended June 30, 2023. We make no representations regarding the appropriateness of the procedures either for the purpose for which this report has been requested or for any other purpose. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes. An agreed-upon procedures engagement involves performing specific procedures that the engaging party has agreed to and acknowledged to be appropriate for the intended purpose of the engagement and reporting on findings based on the procedures performed.

The procedures and associated findings are as follows:

- 1) Obtain the Settlement Agreement between OCTA and the City and identify the required minimum amount to be spent on MOE expenditures.

**Findings:** Per the Settlement Agreement between OCTA and the City, the required minimum amount to be spent on MOE expenditures is \$4,988,926, which includes the minimum required MOE expenditures for FY 2022/2023 of \$3,607,878 and a shortfall from FY 2021/2022 of \$1,381,048.

- 2) Describe which funds the City used to track all street and road expenditures and inquire how the City identifies MOE expenditures in the general ledger.

**Findings:** MOE expenditures were tracked in the City's general ledger by fund (three digits), programs (five digits), and in some cases, a sub-program (four digits). There are two types of expenditures recorded in the City's general ledger applied against the MOE – right-of-way maintenance operating expenditures and capital project expenditures funded by the general fund.

Expenditures for personnel, supplies, and services in the following maintenance operating program (70212) are applied against the MOE and recorded in the City's General Fund (111).

- Street Maintenance (111-70212-7212)
- Street Cleaning (111-70212-7213)
- Traffic Safety (111-70212-7214)
- Tree Maintenance (111-70212-7216)
- Parkway Maintenance (111-70212-7217)
- Sidewalk Repair (111-70212-7238)

Expenditures for street right-of-way Capital Improvement Program projects paid using the City's General Funds are applied against the MOE and recorded in the City's Capital Projects Fund (415). For FY 2022/2023, the following street projects (80100) and parkway projects (80500) were fully or partially funded with General Fund monies.

- Residential Street Resurfacing (415-80100-8011)
- Arterial Street Rehabilitation (415-80100-8012)
- Sidewalk/Concrete Repair (415-80500-8051)
- Tree Planting (415-80500-8055)

Additionally, a portion of personnel costs charged to storm drain maintenance (261-70281) is applied to the MOE for annual catch basin cleaning and recorded in the Storm Drainage Fund (261).

Furthermore, indirect costs are computed separately, utilizing the indirect cost rates derived from the City's FY 2021/2022 Cost Allocation Plan finalized in October 2023. These rates are applied to the actual FY 2022/2023 direct labor and fringe charges associated with the Right-of-Way Maintenance Operating expenditures and the Storm Drain Maintenance expenditures related to annual catch basin cleaning are included in the MOE for FY 2022/2023.

- 3) Obtain the details of MOE expenditures for the Fiscal Year ended June 30, 2023, and agree the total MOE expenditures to the amount reported on the City's Expenditure Report (Schedule 3, Line 18). Explain any differences.

**Findings:** The City's Expenditure Report (Schedule 3, Line 18) recorded total MOE expenditures of \$5,108,162. The details of MOE expenditures for the Fiscal Year ended June 30, 2023, also totaled \$5,108,162. No discrepancies were identified between the City's Expenditure Report and the detailed MOE expenditures breakdown.

- 4) Select a sample of MOE expenditures from the City's general ledger expenditure detail, ensuring adequate coverage. Describe the number and percentage of total expenditures selected for testing. For each item selected, perform the following:
  - a. Agree the dollar amount listed on the general ledger to supporting documentation, which may include a check copy or wire transfer, vendor invoice, payroll registers, timecards, journal vouchers, or other appropriate supporting documentation.
  - b. Verify that the expenditure was properly classified as a local street and road expenditure and is allowable per the Ordinance.

**Findings:** We selected 50 direct MOE expenditures totaling \$2,552,782, which represents approximately 64.8% of direct MOE expenditures of \$3,936,940 for the fiscal year ended June 30, 2023. No exceptions were found as a result of this procedure.

- 5) Identify whether or not indirect costs were charged as MOE expenditures. If applicable, compare indirect costs identified to the amount reported on the City's Expenditure Report (Schedule 3, Line 1). Explain any differences. If applicable, obtain details of the indirect costs charged and select a sample of charges for inspection, ensuring adequate coverage. Inspect supporting documentation for reasonableness and appropriate methodology.

**Findings:** For FY 2022/2023, indirect costs of \$1,171,222 were included within the overall MOE expenditures of \$5,108,162. These indirect costs agreed with the amount reported in the City's Expenditure Report (Schedule 3, line 1).

In FY 2022/2023, the calculation of indirect costs was conducted separately, utilizing the indirect cost rates/percentages determined in the City's FY 2021/2022 Cost Allocation Plan, and the indirect cost rates/percentages were applied to the actual direct labor and fringe costs associated with the Right-of-Way Maintenance Operating expenditures and the Storm Drain Maintenance expenditures related to annual catch basin cleaning.

The City engaged an external contractor, Revenue and Cost Specialist, LLC to develop a cost allocation plan utilizing actual audited amounts from FY 2021/2022. The indirect cost rates/percentages derived from this plan were applied to calculate the indirect costs for FY 2022/2023. This cost allocation process adhered to Office of Management and Budget guidelines and underwent thorough review and certification by the City.

The methodology used to calculate and allocate the \$1,171,222 in indirect cost to MOE expenditures appears to be reasonable, appropriate, and adequately supported.

- 6) The auditor report should include details of any ineligible and/or questioned costs and report the remaining total MOE expenditures after the removal of such items. This should be compared to the amount required to be spent per procedure 1) above.

**Findings:** Based on our procedures performed, no ineligible and/or questioned costs were detected.

We were engaged by OCTA to perform this agreed-upon procedure engagement and conducted our engagement in accordance with attestation standards established by the AICPA. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the City's compliance with Measure M2 MOE requirements. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the City's management and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

This report is intended solely for the information and use of the management and the board of directors of OCTA and the City and is not intended to be and should not be used by anyone other than those specified parties.


*BCA Watson Rice, LLP*

Torrance, California  
March 18, 2024



**May 6, 2024**

**To:** Executive Committee

**From:** Darrell E. Johnson, Chief Executive Officer 

**Subject:** Measure M2 Eligibility for the City of Orange

### **Overview**

The Orange County Transportation Authority's Internal Auditor has released the results of an independent auditor's report of the City of Orange's compliance with the Measure M2 eligibility requirements for fiscal year 2022-23. The independent auditor's report found the City of Orange lacked adequate documentation to support whether it had spent sufficient discretionary funds on streets and road purposes to meet the maintenance of effort requirement prescribed in the Measure M2 Ordinance. Based on this information, recommendations related the City of Orange eligibility and compliance with the Measure M2 Ordinance are presented.

### **Recommendations**

- A. Find the City of Orange an ineligible jurisdiction to receive or apply for net Measure M2 revenues.
- B. Suspend net Measure M2 revenue payments to the City of Orange until the City of Orange can demonstrate compliance with Measure M2 eligibility requirements and the Board of Directors acts to find the City of Orange an eligible jurisdiction.
- C. Require the City of Orange to demonstrate supplemental investment of discretionary transportation funds equal to the amount of discretionary investment that was short of the maintenance of effort benchmark in the fiscal year 2022-23 (approximately \$1.12 million) as a condition of accessing suspended funds.
- D. Authorize the Internal Auditor to engage independent auditing services to apply agreed-upon procedures to assess the City of Orange's compliance with maintenance of effort expenditures and authorize staff to deduct

audit costs from any future net Measure M2 payments to the City of Orange.

- E. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Orange to correct and remedy the fiscal year 2022-23 audit issues and formalize required actions to become an eligible jurisdiction.

### ***Background***

The Measure M2 (M2) Ordinance outlines eligibility requirements that each local jurisdiction must continually satisfy to receive net revenues from the M2 Program, including local fair share, Senior Mobility Program, and awards through competitive programs. One of the requirements is that a local jurisdiction must continue to invest a certain level of discretionary revenues, such as general funds that support street and road activities, to be deemed eligible for any M2 funding. This requirement originates from the California Public Utilities Code (PUC) 180001, which enables local transportation authorities to seek voter approval for sales tax measures. The PUC states the intent of the legislature is that funds generated through a sales tax ordinance “shall supplement existing local revenues used for public transportation purposes and that local governments maintain their existing commitment of local funds for transportation purposes” (PUC 180200).

The local jurisdiction demonstrates its commitment to comply with the required maintenance of effort (MOE) by budgeting the appropriate level of discretionary funding as part of the local jurisdiction budget process. The local jurisdiction must also provide the Orange County Transportation Authority (OCTA) with an annual expenditure report to validate that the local jurisdiction has met the MOE commitment for each fiscal year (FY).

The OCTA Board of Directors (Board) determines eligibility based on the information provided by each jurisdiction and with support from the Taxpayer Oversight Committee (TOC), which is also charged with reviewing certain submittals. Following the annual eligibility cycle, the TOC directs the internal auditor to review local agencies’ compliance with M2 requirements through agreed-upon procedures for MOE. The review is designed to confirm that funds have been spent in accordance with the M2 Ordinance and that the jurisdiction had sufficient expenditures to meet the MOE requirement, which is consistent with OCTA’s established MOE benchmark.

Every year, for the last 13 years, OCTA’s Finance and Administration, Internal Audit, and Planning staff, as well as the TOC, have provided training on the MOE

process and cautioned local agencies that budgeting at or just above the required MOE amount may put the jurisdiction's M2 funds at risk if they end up not meeting the requirement due to disallowed costs.

At the direction of the TOC, the OCTA Internal Auditor utilizes OCTA's independent financial audit firm to conduct agreed-upon procedures reviews of selected cities. Results of reviews for the FY 2022-23 were presented to the Finance and Administration Committee on April 24, 2024, and will be presented to the Board on May 13, 2024. The review of the City of Orange (City) indicated that the City lacked adequate documentation to support whether it had spent sufficient discretionary funds on streets and roads purposes to meet the MOE requirement for the M2 Ordinance. The result of the review impacts the City's eligibility determination and the disbursement of net M2 revenues to the City.

### ***Discussion***

In June 2022, the City provided MOE certification that stated it had budgeted sufficient expenditures for FY 2022-23, consistent with the following requirement:

“The Authority shall not allocate any net revenues to any jurisdiction for any fiscal year until that jurisdiction has certified to the Authority that it has included in its budget for that fiscal year an amount of local discretionary funds for streets and roads purposes, at least equal to the level of its maintenance of effort requirement.”

The City met the initial MOE requirement through the submittal of the self-certification of intent to meet the MOE based on their FY 2022-23 budget. The City's MOE benchmark for FY 2022-23 was \$3,392,885. The next submittal related to MOE was the expenditure report to verify that the City had actually spent sufficient discretionary funding on streets and roads expenditures to meet the MOE benchmark. The city council approved the expenditure report through a resolution on December 12, 2023, and submitted it to OCTA on December 18, 2023. According to the expenditure report that was submitted, the City spent \$3,852,679 in discretionary revenues on streets and roads-related improvements to meet the MOE requirement.

However, an independent review of the City's expenditures identified costs, which were reported as direct costs, should have been classified as indirect costs. In order for OCTA to allow indirect costs to be used to meet the MOE requirement, the local jurisdiction must have a documented, reasonable cost allocation methodology. The City could not provide documentation to confirm that any of the indirect costs allocated to MOE were allocated based on a

reasonable methodology. After the removal of unsupported indirect costs, the City's shortfall from the MOE benchmark is \$1,116,649. The City, in its response to the audit, acknowledges the findings and indicated that it would ensure indirect charges are supported, documented, and based on a reasonable allocation methodology going forward. After deducting these unverifiable expenditures, the City cannot demonstrate that it has met the MOE requirement for FY 2022-23.

This is not the first city to be recommended to be found ineligible for net M2 revenues due to the lack of a reasonable methodology for determining indirect costs for MOE. OCTA continues to provide reminders and guidance through guidelines, eligibility workshops, and annual M2 Finance Director Workshops, stating that indirect costs must have a reasonable basis or methodology for cost allocation. Despite these efforts, there have been past circumstances that have led to ineligibility determinations under similar circumstances.

The formal process for a determination of ineligibility is specified in the M2 Ordinance as follows:

“A determination of non-eligibility of a jurisdiction shall be made only after a hearing has been conducted and a determination has been made by the Authority's Board of Directors that the jurisdiction is not an eligible jurisdiction.”

Staff is recommending that the Board find the City ineligible to receive M2 revenues to be consistent with the requirements of the M2 Ordinance and to comply with the intent of the authorizing state statute. Specific actions include:

- Find the City ineligible to receive or apply for net M2 revenues;
- Suspend payments to the City of net M2 revenues until the City is deemed eligible;
- Require the City to demonstrate supplemental investment of discretionary transportation funds (above the required MOE benchmark), equal to the amount of discretionary investment that was short of the MOE benchmark in FY 2022-23 (approximately \$1.12 million) as an additional condition of accessing suspended funds;
- Deduct future review or audit costs related to verification of MOE and supplemental investment of discretionary funds from any future net M2 payments to the City;
- Authorize the Chief Executive Officer to negotiate and execute an agreement with the City outlining the process to re-establish eligibility and,
- Direct staff to return to the Board and seek further direction if the City has not re-established eligibility within two years.



Based on these recommendations, subject to Board approval, net M2 payments would be suspended until the City can re-establish eligibility. The funds will be held in reserve, consistent with past practice, until such a time that the City has re-established eligibility, as determined through a future MOE-related review. Costs incurred for the review will be paid for by the City through a reduction in M2 revenues. The M2 Ordinance and eligibility guidelines do not include precise time frames and terms related to re-establishing eligibility. Therefore, OCTA will work with the City to enter into an agreement that details specific requirements and time frames for submittals to support timely re-establishment of the City's eligibility.

**Summary**

A recent report conducted by an independent auditing firm indicated that the City of Orange did not meet Measure M2 eligibility requirements. Recommendations are presented to find the City of Orange ineligible to receive net Measure M2 funds, consistent with the Measure M2 Ordinance.

**Attachment**

- A. Crowe, Independent Accountants' Report on Applying Agreed-Upon Procedures, City of Orange

**Prepared by:**

Adriann Cardoso  
Department Manager,  
Capital Programming  
(714) 560-5915

**Approved by:**

Kia Mortazavi  
Executive Director, Planning  
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Crowe LLP  
Independent Member Crowe Global

INDEPENDENT ACCOUNTANTS' REPORT ON  
APPLYING AGREED-UPON PROCEDURES  
CITY OF ORANGE

Board of Directors  
Orange County Local Transportation Authority and  
the Taxpayers Oversight Committee of the  
Orange County Local Transportation Authority  
Orange, California

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee of the Orange County Local Transportation Authority (OCLTA) (the specified party), related to the City of Orange's (City) compliance with certain provisions of the Measure M2 Local Transportation Ordinance (Ordinance) as of and for the fiscal year ended June 30, 2023. The City's management is responsible for compliance with the Ordinance and for its cash, revenue, and expenditure records.

The Taxpayers Oversight Committee of the OCLTA has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of evaluating the City's compliance with certain provisions of the Ordinance as of and for the fiscal year ended June 30, 2023. We make no representation regarding the appropriateness of the procedures either for the purpose for which this report has been requested or for any other purpose. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes. An agreed-upon procedures engagement involves performing specific procedures that the engaging party has agreed to and acknowledged to be appropriate for the intended purpose of the engagement and reporting on findings based on the procedures performed.

The procedures and associated findings were as follows:

1. Describe which funds the Eligible Jurisdiction used to track all street and road expenditures and inquire how the Eligible Jurisdiction identifies (Maintenance of Effort) MOE expenditures in its general ledger.

Findings: The MOE expenditures were tracked in the City's general ledger by fund, department, and object code. The City records its MOE expenditures in its General Fund (100), followed by various department codes and object codes. No exceptions were found as a result of this procedure. No exceptions were found as a result of this procedure.

2. Obtain the detail of MOE expenditures for the fiscal year ended June 30, 2023 and determine whether the Eligible Jurisdiction met the minimum MOE requirement as outlined in the Measure M2 Eligibility Guidelines Fiscal Year 2022/2023. Agree the total MOE expenditures to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 18). Explain any differences.

Findings: The City's MOE expenditures for the fiscal year ended June 30, 2023, were \$3,852,679 (see Schedule A) which exceeded the MOE benchmark requirement of \$3,392,885. We agreed the total expenditures of \$3,852,679 to the amount reported on the City's Expenditure Report (Schedule 3, line 18), with no differences. No exceptions were noted as a result of this procedure.

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(Continued)

3. Select a sample of MOE expenditures from the Eligible Jurisdiction's general ledger expenditure detail. Describe the percentage of total expenditures selected for inspection. For each item selected, perform the following:
  - a. Agree the dollar amount listed on the general ledger to supporting documentation, which may include a check copy or wire transfer, vendor invoice, payroll registers and timecards, journal voucher or other appropriate supporting documentation; and
  - b. Determine whether the expenditure was properly classified as a local street and road expenditure and is allowable per the Ordinance.

Findings: We selected 25 direct MOE expenditures totaling \$781,753, which represented approximately 25% of direct MOE expenditures of \$3,069,840 for fiscal year ended June 30, 2023. We agreed the dollar amount listed on the general ledger to supporting documentation provided by the City. Expenditures were properly classified as local street and road expenditures and were allowable per the Ordinance, except for nine charges, totaling \$61,537 which were found to be indirect cost allocations and should have been reported as indirect costs. Upon further inspection, we identified a total of \$793,608 in charges that should have been reported as indirect costs. See Procedure #4 for indirect cost testing. No other exceptions were found as a result of this procedures.

4. Identify whether indirect costs were charged as MOE expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, obtain detail of indirect costs charged, and select a sample of charges for inspection. Inspect supporting documentation for reasonableness and appropriate methodology.

Findings: We agreed total indirect expenditures of \$782,835 per the general ledger to the amount reported on the City's Expenditure Report (Schedule 3, line 1) with no differences. We selected 25 indirect MOE charges for inspection totaling \$582,141, representing 74% of the total indirect MOE costs reported of \$782,835. During testing of direct costs at Procedure #3, we identified an additional \$793,608 in indirect costs that were reported as direct costs. These expenses included allocations of payroll and benefits, debt service payments, liability insurance costs, data processing allocations, contracted services, monthly print shop/mail/phone charges, monthly office rental and various other charges. For indirect costs, the methodology used to allocate actual costs should be documented and represent a fair and reasonable allocation of costs. The City was unable to provide a documented methodology representing a fair and reasonable allocation of costs. After removing unsupported indirect cost allocations, totaling \$1,576,443, the City no longer meets the MOE benchmark. The shortfall equals \$1,116,649.

5. Obtain a listing of Measure M2 Local Fair Share payments made from OCLTA to the Eligible Jurisdiction and calculate the amount the Eligible Jurisdiction received for the past three fiscal years. Obtain the fund balance of the Eligible Jurisdiction's Measure M2 Local Fair Share Fund as of June 30, 2023 and agree to the balance as listed on the Eligible Jurisdiction's Expenditure Report (Schedule 1, line 20) and determine whether funds were expended within three years of receipt or within five years, if an extension was granted. Explain any differences.

Findings: The City received \$10,549,834 for the past three fiscal years ended June 30, 2021, 2022, and 2023. We agreed the fund balance of \$5,285,100 from the general ledger detail to the City's Expenditure Report (Schedule 1, line 20), with no differences. We determined funds were expended within three years of receipt. No exceptions were found as a result of this procedure.

6. Describe which fund the Eligible Jurisdiction used to track expenditures relating to Measure M2 Local Fair Share monies in its general ledger and the amount spent during the fiscal year ended June 30, 2023. Agree the total Local Fair Share expenditures per the general ledger to the amounts reflected on the Eligible Jurisdiction's Expenditure Report (Schedule 2, line 17, and detail listed at Schedule 4). Explain any differences.

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(Continued)

Findings: The City tracks its LFS expenditures in its Traffic Improvement Measure M2 Fund (263). Total Measure M2 Local Fair Share expenditures per the general ledger during the fiscal year ended June 30, 2023, was \$2,880,026 (see Schedule A), which agreed to the City's Expenditure Report. (Schedule 2, line 17, and detail listed at Schedule 4). No exceptions were found as a result of this procedure.

7. Obtain the Eligible Jurisdiction's Seven-Year Capital Improvement Program (CIP). Compare the projects listed on the Eligible Jurisdiction's Expenditure Report (Schedule 4) to the Seven-Year CIP, explaining any differences. Select a sample of Measure M2 Local Fair Share expenditures from the Eligible Jurisdiction's general ledger expenditure detail. Describe the percentage of total expenditures selected for inspection. For each item selected perform the following:
  - a. Agree the dollar amount listed on the general ledger to supporting documentation, which may include a check copy or wire transfer, vendor invoice, payroll registers and timecards, journal vouchers or other appropriate supporting documentation; and
  - b. Determine that the expenditures selected in (a) above were related to projects included in the Eligible Jurisdiction's Seven-Year CIP and are properly classified as Measure M2 Local Fair Share projects.

Findings: We compared the projects listed on the City's Expenditure Report (Schedule 4) to the Seven Year CIP, without any exception. We selected 20 Measure M2 Local Fair Share direct expenditures for inspection totaling \$1,928,551 representing approximately 78% of total Measure M2 direct Local Fair Share expenditures of \$2,479,629 for the fiscal year ended June 30, 2023. We agreed the dollar amount to supporting documentation and determined that the expenditures selected were related to projects included in the City's Seven-Year CIP and were properly classified as Measure M2 Local Fair Share projects. No exceptions were found as a result of this procedure.

8. Identify whether indirect costs were charged as Measure M2 Local Fair Share expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, select a sample of charges. Describe the dollar amount inspected. Identify the amounts charged and inspect supporting documentation for reasonableness and appropriate methodology.

Findings: Based upon inspection of the Expenditure Report (Schedule 3, line 1), the City reported \$400,397 in indirect costs for LFS for the fiscal year ended June 30, 2023. We selected 25 indirect costs for inspection with a total amount of \$300,014 representing 75% of the total LFS indirect costs. Upon inspection, we determined these charges were labor costs and materials directly identifiable as street and road project labor costs. As such, these costs should have been reported as direct costs. No other exceptions were found as a result of this procedure.

9. Obtain and inspect the Eligible Jurisdiction's interest allocation methodology and amount of interest allocated to the Measure M2 Local Fair Share Fund to ensure the proper amount of interest was credited. Agree the amount reflected to the amount of interest listed on the Eligible Jurisdiction's Expenditure Report (Schedule 2, line 4). Explain any differences.

Findings: We inspected the amount of interest allocated to the Measure M2 Local Fair Share Fund and agreed the amount reflected to the amount of interest totaling \$64,383 listed on the City's Expenditure Report (Schedule 2, line 4). We inspected the interest allocation methodology and recomputed the amount based on the interest allocation methodology. No exceptions were found as a result of this procedure.

10. Determine whether the Jurisdiction was found eligible by the Board of Directors for the applicable year (FY23) by inspecting the OCLTA Board agenda and action items.

Findings: No exceptions were noted as a result of this procedure.

We were engaged by OCLTA to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the accounting records, any indirect cost allocation plans and compliance with the provisions of the Measure M2 Local Transportation Ordinance. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the City's management and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

At the request of OCLTA, the City's responses to certain findings are included in Exhibit 1. The responses are included for the purpose of additional information and were not subjected to the procedures described above. Accordingly, we did not perform any procedures on the City's responses and express no assurance or opinion on them.

This report is intended solely for the information and use of and is not intended to be, and should not be, used by anyone other than the specified party.



Crowe LLP

Costa Mesa, California  
March 28, 2024

CITY OF ORANGE, CALIFORNIA  
SCHEDULE OF MEASURE M2 LOCAL FAIR SHARE EXPENDITURES  
Year ended June 30, 2023  
(Unaudited)

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**SCHEDULE A**

**Maintenance of Effort (MOE) Expenditures:**

Indirect and/ or Overhead - Schedule 3, line 1 \$ 782,835

**Construction & Right-of-Way**

Street Reconstruction \$ 326,104

Signals, Safety Devices, & Street Lights 734,808

Pedestrian Ways & Bikepaths 46,803

Storm Drains 23,401

**Total Construction** \$ 1,131,116

**Maintenance**

Patching \$ 572,449

Overlay & Sealing 31,446

Street Lights & Traffic Signals 1,240,495

Storm Damage 31,446

Other Street Purpose Maintenance 62,892

**Total Maintenance** \$ 1,938,728

**Total MOE Expenditures** \$ 3,852,679

**Measure M2 Local Fair Share Expenditures (Schedule 4):**

00000 - Contractual Services (Part of Maintenance) \$ 400,397

13115 - Reg Salaries - Misc-Pvmnt Mgt 550

13120 Pavement Management Program 1,611,554

16302 - Minor Traffic Control Devices - Various 51,963

16304 Biennial Traffic Signal Coordination 5,870

16469 - Traffic Signal Equip Painting 9,800

30150 - Local Roadway Safety Plan (LRSP) 7,809

30162 Citywide Bus Stop Enhancements 1,864

30167 - Katella Ave Street Rehabilitation 785,928

30168 - Walnut Ave Infrastructure Improvement 4,291

**Total Measure M2 Local Fair Share Expenditures** \$ 2,880,026

**Total MOE and Measure M2 Local Fair Share Expenditures** \$ 6,732,705



March 28, 2024

Board of Directors,  
Orange County Local Transportation Authority,  
Taxpayers Oversight Committee of the Orange County Local Transportation Authority  
Orange, California

The following response is being submitted to address results from the agreed upon procedures performed for the Measure M2 Local Fair Share program for the City of Orange as of and for the fiscal year ended June 30, 2023.

**Procedure #3**

Select a sample of MOE expenditures from the Eligible Jurisdiction's general ledger expenditure detail. Describe the percentage of total expenditures selected for inspection. For each item selected, perform the following:

- a. Agree the dollar amount listed on the general ledger to supporting documentation, which may include a check copy or wire transfer, vendor invoice, payroll registers and timecards, journal voucher or other appropriate supporting documentation; and
- b. Determine whether the expenditure was properly classified as a local street and road expenditure and is allowable per the Ordinance.

Findings: We selected 25 direct MOE expenditures totaling \$781,753, which represented approximately 25% of direct MOE expenditures of \$3,069,840 for fiscal year ended June 30, 2023. Crowe agreed the dollar amount listed on the general ledger to supporting documentation provided by the City. Upon inspection of our samples, we determined that there were nine charges totaling \$61,537 that were allocated based on budgeted percentages. Upon further inspection, we noted that there were a total \$793,608 of direct costs that were based on these allocated budgeted percentages. As such, the entirety of these costs allocation reported as direct charges should have been reported as indirect costs. Refer to Procedure#4 for MOE indirect costs removed. No other exceptions were found as a result of this procedure.

City's Response:

City management acknowledges the findings and will implement procedures to ensure the reporting of M.O.E. expenditures and allocations are based on actuals and not budgeted percentages. City management will also implement procedures to ensure proper reporting of direct and indirect expenditures.





#### Procedure #4

Identify whether indirect costs were charged as MOE expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, obtain detail of indirect costs charged, and select a sample of charges for inspection. Inspect supporting documentation for reasonableness and appropriate methodology.

Findings: We agreed total indirect expenditures of \$782,835 per the general ledger to the amount reported on the City's Expenditure Report (Schedule 3, line 1) with no differences. We selected 25 indirect MOE charges for inspection totaling \$582,141, representing 74% of the total indirect MOE costs reported of \$782,835. During testing of direct costs at Procedure #3, we identified an additional \$793,608 in indirect costs that were reported as direct costs. These expenses included allocations of payroll and benefits, debt service payments, liability insurance costs, data processing allocations, contracted services, monthly print shop/mail/phone charges, monthly office rental and various other charges. For indirect costs, the methodology used to allocate actual costs should be documented and represent a fair and reasonable allocation of costs. The City was unable to provide a documented methodology representing a fair and reasonable allocation of costs. After removing unsupported indirect cost allocations, totaling \$1,576,443, the City no longer meets the MOE benchmark. The shortfall equals \$1,116,649.

#### City's Response:

City management acknowledges the findings. The City has eligible expenditures of approximately \$1.5 million in the Capital Project Fund that were supported by the General Fund but were not reported as M.O.E. eligible expenditures, therefore the exclusion of the unsupported indirect cost allocations caused the City to not meet the M.O.E benchmark. Going forward, City management will ensure indirect costs are supported, documented, and used reasonable allocation methodology. City management will also implement procedures to ensure proper reporting of all eligible expenditures in the future.

#### Procedure #8

Identify whether indirect costs were charged as Measure M2 Local Fair Share expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, select a sample of charges. Describe the dollar amount inspected. Identify the amounts charged and inspect supporting documentation for reasonableness and appropriate methodology.

Findings: Based upon inspection of the Expenditure Report (Schedule 3, line 1), the City reported \$400,397 in indirect costs for LFS for the fiscal year ended June 30, 2023. We selected 25 indirect costs for inspection with a total amount of \$300,014 representing 75% of the total LFS indirect costs. Upon inspection, we determined these charges were labor costs and materials directly identifiable as street and road project labor costs. As such, these costs should have been reported as direct costs. No other exceptions were found as a result of this procedure.







## City of Orange

Finance Department  
300 E. Chapman Ave.  
Orange, CA 92866

### City's Response:

City management acknowledges the findings and will implement procedures to ensure proper reporting of direct and indirect expenditures.

Tom Kisela, City Manager

for

Christopher Cash, Public Works Director

Trang Nguyen, Finance Director



(714) 744-2230




[www.cityoforange.org](http://www.cityoforange.org)



**May 6, 2024**

**To:** Executive Committee

**From:** Darrell E. Johnson, Chief Executive Officer 

**Subject:** Measure M2 Eligibility for the City of Buena Park

### **Overview**

The Orange County Transportation Authority's Internal Auditor issued results of an independent auditor's report related to the City of Buena Park's compliance with the Measure M2 requirements for fiscal year 2022-23. The independent auditor's report found that the City of Buena Park could not sufficiently support their use of Measure M2 Local Fair Share funds related to indirect labor charges thereby resulting in the use of the funds being disallowed. Based on this information, recommendations to address the independent auditor's report finding are presented.

### **Recommendations**

- A. Seek reimbursement of \$387,576 from the City of Buena Park and find the City of Buena Park ineligible to receive Measure M2 net revenues for five years pursuant to Section 10.4 of Ordinance No. 3.
- B. Authorize the Internal Auditor to engage independent auditing services to apply agreed-upon procedures to review the City of Buena Park's Measure M2 Local Fair Share program and other expenditures for fiscal year 2023-24, fiscal year 2024-25, fiscal year 2025-26, fiscal year 2026-27, and fiscal year 2027-28 to enable the City of Buena Park to reestablish eligibility and authorize staff to deduct the review costs from any future net Measure M2 payments to the City of Buena Park.
- C. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Buena Park to formalize the required actions to reestablish eligibility and other terms.

***Background***

In July 2006, the Orange County Transportation Authority (OCTA) Board of Directors (Board) approved and adopted the Renewed Measure M (M2) Ordinance No. 3 (M2 Ordinance). The M2 Ordinance became effective on November 8, 2006, after voters approved the one-half cent sales tax for transportation improvements. OCTA is designated as responsible for administering M2 and ensuring that OCTA's commitment to voters is followed, including numerous specific requirements, safeguards, and transparency provisions.

The M2 Ordinance requires local jurisdictions to annually submit an expenditure report that details all M2 net revenues, interest earned, expenditures, and expenditures of earned interest. Local jurisdictions' expenditure reports are signed by their respective Finance Director, adopted by City Council/Board of Supervisors, and submitted to OCTA within six months of the local jurisdiction's fiscal year (FY) end.

Annually, the Audit Subcommittee (Subcommittee) of the Taxpayer Oversight Committee selects specific local jurisdictions for application of agreed-upon procedures (AUP) by OCTA's independent auditing firm. The AUP includes testing of expenditures for compliance with program requirements, review of indirect costs for adequate support and reasonableness, testing to ensure allocation of interest, and testing of the annual expenditure reports for accuracy. The independent auditing firm's report helps determine local jurisdictions' level of compliance with certain M2 Ordinance provisions.

For FY 2022-23, one of the local jurisdictions selected by the Subcommittee for review of the M2 Local Fair Share (LFS) program funding was the City of Buena Park (City). Crowe, LLP (auditors), OCTA's independent auditing firm, conducted interviews of City finance and program-related staff, and applied the AUP. The results of the effort were presented to the Finance and Administration Committee on April 24, 2024, and will be presented to the Board on May 13, 2024. The auditors reported one notable finding; the City could not provide sufficient support for its indirect LFS expenditures. As a result, the auditors disallowed a total of \$387,576.

This is not the first time that a city has had an AUP report finding noting a lack of reasonable methodology for determining indirect costs. To date, these findings have been related to the M2 eligibility requirement regarding maintenance of effort (MOE) involving local jurisdiction funds not M2 net revenues such as the LFS.

For these instances, the Board acted to:

- Find the local jurisdiction ineligible to receive or apply for net M2 revenues;
- Suspend payments to the local jurisdiction of net M2 revenues;
- Require the local jurisdiction to demonstrate supplemental investment of discretionary local funds for transportation equal to the amount of local discretionary investment that was short of the MOE benchmark identified as a condition of accessing suspended funds upon reinstatement of eligibility;
- Engage an independent auditing firm to apply AUP to verify MOE and supplemental investment of discretionary funds and deduct the costs related to the future review from any future net M2 payments to the local jurisdiction; and
- Authorize the Chief Executive Officer to negotiate and execute an agreement with the local jurisdiction outlining the process to re-establish eligibility.

OCTA continues to provide reminders and guidance through guidelines, eligibility workshops, and annual M2 Finance Director Workshops, stating that indirect costs must have a reasonable basis or methodology for cost allocation. Despite these efforts, there have been ineligibility determinations under similar circumstances.

### ***Discussion***

Continued investment in Orange County's transportation improvements is the cornerstone of M2. However, the specific type of funding, M2 net revenues through the LFS, is the critical distinction with the matter at hand. The difference between previous AUP report findings related to MOE and the City's finding is the specific funding utilized: local discretionary revenues versus M2 net revenues. The M2 MOE requires local jurisdictions to continue to invest a certain level of local revenues, such as general funds that support streets and road activities, to be deemed eligible to receive any M2 net revenues. The M2 LFS program provides 18 percent of M2 net revenues to eligible local jurisdictions for use on allowable transportation planning and implementation activities. OCTA, as the M2 administrator, is accountable to the taxpayers on uses of M2 revenues. This is the first instance where there has been a finding of disallowed expenditures for actual M2 net revenues that have been provided to a local jurisdiction under the M2 LFS program; as such, there is no precedent to address this, and the measures taken to address the MOE issues with other local jurisdictions do not apply.

The auditors' AUP report along with the City's response is included as Attachment A; specifically, the finding pertains to Procedure 8. The City reported indirect expenses for LFS, which are an allowable use. When inspecting these expenditures, the auditors "...requested the City to provide the documented methodology used to support the labor cost allocations..." However, "...the City was unable to provide such documentation. It was noted that allocation percentages for each employee were based on the Public Works managerial assumption of the time being spent on each account and was not based on historical or current data. As such, sufficient information was not available to confirm these costs as fair and reasonable." The auditors found that "...the entirety of these allocations, except for the allocated salary of one Street Maintenance Superintendent... were not deemed allowable per the [M2] Ordinance. The total disallowed was \$387,576."

The M2 Ordinance includes specific language to address safeguards related to the unauthorized use of M2 net revenues. Section 10.4 of the M2 Ordinance (Attachment B) states:

"No Net Revenues shall be used by a jurisdiction for other than transportation purposes authorized by the Ordinance. Any jurisdiction which violates this provision must fully reimburse the Authority for the Net Revenues misspent and shall be deemed ineligible to receive Net Revenues for a period of five (5) years."

The unsupported expenditures identified in the auditor's finding are not authorized by the M2 Ordinance. OCTA staff has carefully reviewed, considered, and consulted with legal counsel on how to address this matter. To ensure OCTA maintains compliance with the M2 Ordinance and continues to uphold public trust, staff recommends the Board adhere to the provisions of Section 10.4 of the M2 Ordinance by:

- Seeking reimbursement from the City for the disallowed indirect expenditures in the amount of \$387,576 (to be paid to OCTA by June 30, 2024) and,
- Finding the City ineligible to receive M2 net revenues for a period of five years, which would also exclude the City from participating in M2 competitive programs.

Since the City is ineligible, OCTA will not be allocating M2 net revenues to the City. For previous M2 ineligibility findings involving other jurisdictions, the Board has suspended payments and held funds in reserve for that local jurisdiction. Although this situation is different, the City is expecting that the estimated amounts, specifically for the LFS and Senior Mobility Program, be withheld within

the source programs and be released to the City once it has reestablished eligibility and demonstrated it was fulfilling M2 eligibility requirements throughout the five-year ineligibility period. This can be verified through future AUP reviews of FY 2023-24, FY 2024-25, FY 2025-26, FY 2026-27, and FY 2027-28 expenditures. Costs incurred for these reviews can be paid for by the City through a reduction in future M2 net revenues.

During the period of ineligibility, M2 net revenues the City has received to date can still be utilized. Further, the City has requested to incur M2-eligible expenditures at risk and be able to apply the expense to future M2 net revenues. Should the City choose to do so, these expenditures must be clearly identified in accounting records and included in annual M2 expenditure report submittals.

Pending Board action on this item, OCTA will work with the City to enter into a settlement agreement that details the specific requirements and time frames for submittals to support the re-establishment of the City's eligibility. OCTA is committed to delivering the M2 promises made to voters and does not take this responsibility lightly. This includes adhering to the safeguards in the M2 Ordinance which ensure transparency and accountability of taxpayer dollars.

### ***Summary***

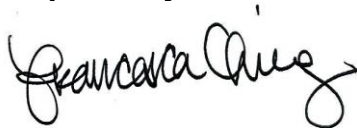
A recent report conducted by an independent auditing firm disallowed the City's FY 2022-23 indirect LFS expenditures due to insufficient support. The M2 Ordinance has specific language related to funds used for unauthorized purposes. Recommendations to address the auditor's report finding are presented.

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***Attachments***

- A. Crowe, Independent Accountants' Report on Applying Agreed-Upon Procedures, City of Buena Park
- B. Orange County Local Transportation Authority Ordinance No. 3, Safeguards of Use of Revenues Excerpt, Pages 5-6

**Prepared by:**



Francesca Ching  
Section Manager,  
Measure M2 Program Management Office  
(714) 560-5625

**Approved by:**



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



Crowe LLP  
Independent Member Crowe Global

INDEPENDENT ACCOUNTANTS' REPORT ON  
APPLYING AGREED-UPON PROCEDURES  
CITY OF BUENA PARK

Board of Directors  
Orange County Local Transportation Authority and  
the Taxpayers Oversight Committee of the  
Orange County Local Transportation Authority  
Orange, California

We have performed the procedures enumerated below, which were agreed to by the Taxpayers Oversight Committee of the Orange County Local Transportation Authority (OCLTA) (the specified party), related to the City of Buena Park's (City) compliance with certain provisions of the Measure M2 Local Transportation Ordinance (Ordinance) as of and for the fiscal year ended June 30, 2023. The City's management is responsible for compliance with the Ordinance and for its cash, revenue, and expenditure records.

The Taxpayers Oversight Committee of the OCLTA has agreed to and acknowledged that the procedures performed are appropriate to meet the intended purpose of evaluating the City's compliance with certain provisions of the Ordinance as of and for the fiscal year ended June 30, 2023. We make no representation regarding the appropriateness of the procedures either for the purpose for which this report has been requested or for any other purpose. This report may not be suitable for any other purpose. The procedures performed may not address all the items of interest to a user of this report and may not meet the needs of all users of this report and, as such, users are responsible for determining whether the procedures performed are appropriate for their purposes. An agreed-upon procedures engagement involves performing specific procedures that the engaging party has agreed to and acknowledged to be appropriate for the intended purpose of the engagement and reporting on findings based on the procedures performed.

The procedures and associated findings were as follows:

1. Describe which funds the Eligible Jurisdiction used to track all street and road expenditures and inquire how the Eligible Jurisdiction identifies (Maintenance of Effort) MOE expenditures in its general ledger.

Findings: The MOE expenditures were tracked in the City's general ledger by fund and activity number. The City recorded its MOE expenditures in its General Fund (101) and expenditures are identified by various 6-digit activity numbers. No exceptions were found as a result of this procedure.

2. Obtain the detail of MOE expenditures for the fiscal year ended June 30, 2023 and determine whether the Eligible Jurisdiction met the minimum MOE requirement as outlined in the Measure M2 Eligibility Guidelines Fiscal Year 2022/2023. Agree the total MOE expenditures to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 18). Explain any differences.

Findings: The City's MOE expenditures for the fiscal year ended June 30, 2023, were \$5,142,741 (see Schedule A), which exceeded the MOE benchmark requirement of \$4,184,754. We agreed the total expenditures of \$5,142,741 to the amount reported on the City's Expenditure Report (Schedule 3, line 18). No exceptions were found as a result of this procedure.

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(Continued)



3. Select a sample of MOE expenditures from the Eligible Jurisdiction's general ledger expenditure detail. Describe the percentage of total expenditures selected for inspection. For each item selected, perform the following:
  - a. Agree the dollar amount listed on the general ledger to supporting documentation, which may include a check copy or wire transfer, vendor invoice, payroll registers and timecards, journal voucher or other appropriate supporting documentation; and
  - b. Determine whether the expenditure was properly classified as a local street and road expenditure and is allowable per the Ordinance.

Findings: We selected 25 direct MOE expenditures totaling \$1,033,865, which represented approximately 29% of direct MOE expenditures of \$3,606,939 for fiscal year ended June 30, 2023. Crowe agreed the dollar amount listed on the general ledger to supporting documentation provided by the City. Crowe determined that the expenditures were properly classified as a local street and road expenditure and is allowable per the ordinance. No exceptions were found as a result of this procedure.

4. Identify whether indirect costs were charged as MOE expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, obtain detail of indirect costs charged, and select a sample of charges for inspection. Inspect supporting documentation for reasonableness and appropriate methodology.

Findings: We agreed the total indirect expenditures of \$1,535,802 to the amount reported on the City's Expenditure Report (Schedule 3, line 1) with no differences. We selected 25 indirect MOE costs for inspection totaling \$613,744, representing 41% of the total indirect MOE costs of \$1,535,802. These expenses included payroll and benefits, monthly building and equipment maintenance allocation, office supplies, and others. For indirect costs, the methodology used to allocate the actual costs to projects should be documented and represent a fair and reasonable allocation of costs. Specifically for the payroll and benefits related expenditures, we requested the City to provide a documented methodology used to support the employee percentage allocations to the MOE accounts and they were unable to provide such documentation that adequately supports the allocation percentages. It was noted that the allocation percentages for each employee were based on a Public Works managerial assumption of the time spent on each account and was not based on historical or current data. As such, we lack information necessary to confirm these costs as fair and reasonable and the entirety of these allocated costs were removed from the MOE, except for the allocated salary of one Street Maintenance Superintendent, who worked exclusively on street and road related projects. The total costs removed were \$998,755. In addition, chargebacks to payroll-related expenditures totaling \$252,192 were removed from the MOE. After the above adjustments, the City's MOE expenditures totaled \$4,396,178, which exceed the City's MOE benchmark of \$4,184,754. No other exceptions were found as a result of this procedure.

5. Obtain a listing of Measure M2 Local Fair Share payments made from OCLTA to the Eligible Jurisdiction and calculate the amount the Eligible Jurisdiction received for the past three fiscal years. Obtain the fund balance of the Eligible Jurisdiction's Measure M2 Local Fair Share Fund as of June 30, 2023 and agree to the balance as listed on the Eligible Jurisdiction's Expenditure Report (Schedule 1, line 20) and determine whether funds were expended within three years of receipt or within five years, if an extension was granted. Explain any differences.

Findings: The City received \$5,541,865 for the past three fiscal years ended June 30, 2021, 2022, and 2023. We agreed the fund balance of \$2,384,395 from the general ledger detail to the City's Expenditure Report (Schedule 1, line 20), with no differences.

6. Describe which fund the Eligible Jurisdiction used to track expenditures relating to Measure M2 Local Fair Share monies in its general ledger and the amount spent during the fiscal year ended June 30, 2023. Agree the total Local Fair Share expenditures per the general ledger to the amounts reflected on the Eligible Jurisdiction's Expenditure Report (Schedule 2, line 17, and detail listed at Schedule 4). Explain any differences. We determined funds were expended within three years of receipt. No exceptions were found as a result of this procedure.

Findings: The City tracks its LFS expenditures in its Measure M2 Fund (25). Total Measure M2 Local Fair Share expenditures per the general ledger during the fiscal year ended June 30, 2023 was \$2,055,113 (see Schedule A), which agreed to the City's Expenditure Report. (Schedule 2, line 17, and detail listed at Schedule 4). No exceptions were found as a result of this procedure.

7. Obtain the Eligible Jurisdiction's Seven-Year Capital Improvement Program (CIP). Compare the projects listed on the Eligible Jurisdiction's Expenditure Report (Schedule 4) to the Seven-Year CIP, explaining any differences. Select a sample of Measure M2 Local Fair Share expenditures from the Eligible Jurisdiction's general ledger expenditure detail. Describe the percentage of total expenditures selected for inspection. For each item selected perform the following:
  - a. Agree the dollar amount listed on the general ledger to supporting documentation, which may include a check copy or wire transfer, vendor invoice, payroll registers and timecards, journal vouchers or other appropriate supporting documentation; and
  - b. Determine that the expenditures selected in (a) above were related to projects included in the Eligible Jurisdiction's Seven-Year CIP and are properly classified as Measure M2 Local Fair Share projects.

Findings: We compared the projects listed on the City's Expenditure Report (Schedule 4) to the Seven Year CIP, without any exception. We selected 5 Measure M2 Local Fair Share direct expenditures for inspection totaling \$1,528,585 representing approximately 92% of total Measure M2 direct Local Fair Share expenditures of \$1,639,630 for the fiscal year ended June 30, 2023. We agreed the dollar amount to supporting documentation and determined that the expenditures selected were related to projects included in the City's Seven-Year CIP and were properly classified as Measure M2 Local Fair Share projects. No exceptions were found as a result of this procedure.

8. Identify whether indirect costs were charged as Measure M2 Local Fair Share expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, select a sample of charges. Describe the dollar amount inspected. Identify the amounts charged and inspect supporting documentation for reasonableness and appropriate methodology.

Findings: Based upon inspection of the Expenditure Report (Schedule 3, line 1), the City reported \$415,484 in indirect costs for LFS for the fiscal year ended June 30, 2023. We selected 25 indirect costs for inspection with a total amount of \$243,581 representing 59% of the total LFS indirect costs. Upon inspection, we determined these charges were labor cost allocations. For indirect costs, the methodology used to allocate the actual costs to projects should be documented and represent a fair and reasonable allocation of costs. We requested the City to provide the documented methodology used to support the labor cost allocations and the City was unable to provide such documentation. It was noted that the allocation percentages for each employee were based on the Public Works managerial assumption of the time being spent on each account and was not based on historical or current data. As such, sufficient information was not available to confirm these costs as fair and reasonable, and the entirety of these allocations, except for the allocated salary of one Street Maintenance Superintendent that worked exclusively on street and road related projects, were not deemed allowable per the Ordinance. The total disallowed was \$387,576. No other exceptions were found as a result of this procedure.

9. Obtain and inspect the Eligible Jurisdiction's interest allocation methodology and amount of interest allocated to the Measure M2 Local Fair Share Fund to ensure the proper amount of interest was credited. Agree the amount reflected to the amount of interest listed on the Eligible Jurisdiction's Expenditure Report (Schedule 2, line 4). Explain any differences.

Findings: We inspected the amount of interest allocated to the Measure M2 Local Fair Share Fund and agreed the amount reflected to the amount of interest totaling \$43,807 listed on the City's Expenditure Report (Schedule 2, line 4). We inspected the interest allocation methodology and recomputed the amount based on the interest allocation methodology. No exceptions were found as a result of this procedure.

10. Determine whether the Jurisdiction was found eligible by the Board of Directors for the applicable year (FY23) by inspecting the OCLTA Board agenda and action items.

Findings: No exceptions were noted as a result of this procedure.

We were engaged by OCLTA to perform this agreed-upon procedures engagement and conducted our engagement in accordance with attestation standards established by the American Institute of Certified Public Accountants. We were not engaged to and did not conduct an examination or review engagement, the objective of which would be the expression of an opinion or conclusion, respectively, on the accounting records, any indirect cost allocation plans and compliance with the provisions of the Measure M2 Local Transportation Ordinance. Accordingly, we do not express such an opinion or conclusion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

We are required to be independent of the City's management and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements related to our agreed-upon procedures engagement.

At the request of OCLTA, the City's responses to certain findings are included in Exhibit 1. The responses are included for the purpose of additional information and were not subjected to the procedures described above. Accordingly, we did not perform any procedures on the City's responses and express no assurance or opinion on them.

This report is intended solely for the information and use of and is not intended to be, and should not be, used by anyone other than the specified party.



Crowe LLP

Costa Mesa, California  
April 9, 2024

CITY OF BUENA PARK, CALIFORNIA  
SCHEDULE OF MEASURE M2 LOCAL FAIR SHARE EXPENDITURES  
Year ended June 30, 2023  
(Unaudited)

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	<b>SCHEDULE A</b>
<b>Maintenance of Effort (MOE) Expenditures:</b>	
Indirect and/ or Overhead - Schedule 3, line 1	\$ 1,535,802
<b>Maintenance</b>	
Street Lights & Traffic Signals	1,227,520
Other Street Purpose Maintenance	<u>2,379,418</u>
<b>Total Maintenance</b>	<u>\$ 3,606,938</u>
 <b>Total MOE Expenditures</b>	 <u><u>\$ 5,142,740</u></u>
 <b>Measure M2 Local Fair Share Expenditures (Schedule 4):</b>	
Malvern Avenue Rehabilitation	\$ 1,850,908
Orangethorpe Avenue Pavement Rehabilitation	150,144
Metrolink Improvements	<u>54,061</u>
 <b>Total Measure M2 Local Fair Share Expenditures</b>	 <u>\$ 2,055,113</u>
 <b>Total MOE and Measure M2 Local Fair Share Expenditures</b>	 <u><u>\$ 7,197,853</u></u>

Note: The above amounts were taken directly from the financial records of the City of Buena Park and were not audited.

**Exhibit 1**

April 9, 2024

Board of Directors  
Orange County Local Transportation Authority  
and the Taxpayers Oversight Committee of the  
Orange County Local Transportation Authority  
Orange, California

The following response is being submitted to address results from the agreed upon procedures performed for the Measure M2 Local Fair Share program for the City of Buena Park as of and for the fiscal year ended June 30, 2023.

**Procedure #4**

Identify whether indirect costs were charged as MOE expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, obtain detail of indirect costs charged, and select a sample of charges for inspection. Inspect supporting documentation for reasonableness and appropriate methodology.

Findings: We agreed the total indirect expenditures of \$1,535,802 to the amount reported on the City's Expenditure Report (Schedule 3, line 1) with no differences. We selected 25 indirect MOE costs for inspection totaling \$613,744, representing 41% of the total indirect MOE costs of \$1,535,802. These expenses included payroll and benefits, monthly building and equipment maintenance allocation, office supplies, and others. For indirect costs, the methodology used to allocate the actual costs to projects should be documented and represent a fair and reasonable allocation of costs. Specifically for the payroll and benefits related expenditures, we requested the City to provide a documented methodology used to support the employee percentage allocations to the MOE accounts and they were unable to provide such documentation that adequately supports the allocation percentages. It was noted that the allocation percentages for each employee were based on a Public Works managerial assumption of the time spent on each account and was not based on historical or current data. As such, we lack information necessary to confirm these costs as fair and reasonable and the entirety of these allocated costs were removed from the MOE, except for the allocated salary of one Street Maintenance Superintendent, who worked exclusively on street and road related projects. The total costs removed were \$998,755. In addition, chargebacks to payroll-related expenditures totaling \$252,192 were removed from the MOE. After the above adjustments, the City's MOE expenditures totaled \$4,396,178, which exceed the City's MOE benchmark of \$4,184,754. No other exceptions were found as a result of this procedure.

City's Response:

**See Procedure #8 response.**

**Procedure #8**

Identify whether indirect costs were charged as Measure M2 Local Fair Share expenditures. If applicable, compare indirect costs identified to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 1). Explain any differences. If applicable, select a sample of charges. Describe the dollar amount inspected. Identify the amounts charged and inspect supporting documentation for reasonableness and appropriate methodology.

Findings: Based upon inspection of the Expenditure Report (Schedule 3, line 1), the City reported \$415,484 in indirect costs for LFS for the fiscal year ended June 30, 2023. We selected 25 indirect costs for inspection with a total amount of \$243,581 representing 59% of the total LFS indirect costs. Upon inspection, we determined these

charges were labor cost allocations. For indirect costs, the methodology used to allocate the actual costs to projects should be documented and represent a fair and reasonable allocation of costs. We requested the City to provide the documented methodology used to support the labor cost allocations and the City was unable to provide such documentation. It was noted that the allocation percentages for each employee were based on the Public Works managerial assumption of the time being spent on each account and was not based on historical or current data. As such, sufficient information was not available to confirm these costs as fair and reasonable, and the entirety of these allocations, except for the allocated salary of one Street Maintenance Superintendent that worked exclusively on street and road related projects, were not deemed allowable per the Ordinance. The total disallowed was \$387,576. No other exceptions were found as a result of this procedure.

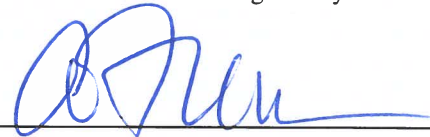
City's Response:

The City acknowledges and accepts that its current indirect cost methodology is no longer accepted by OCTA as a fair and equitable way to allocate costs and will implement corrective action to align with OCTA guidelines. The City maintains that its methodology for allocating labor costs was followed consistently for several years and had been previously audited by OCTA for the fiscal year ending June 30, 2018, with no finding related to its allocation plan. While the issue of overhead cost allocation was discussed at the M2 director's meetings, the City relied on past audits where the methodology was accepted, considering them as prior validation to continue employing the same approach under the assumption that it was acceptable and reasonable for OCTA.

Furthermore, the City believes that the allocated overhead costs could have alternatively been classified as direct labor costs according to the gas tax guidelines. Extensive sample documentation was provided to support that direct staff time was dedicated to readily identifiable street projects. While the auditors and OCTA staff acknowledged that work was performed by City staff, they expressed that they could not accept the supporting documentation citing challenges in quantifying the time worked.

The City holds the view that OCTA guidelines do not necessarily mandate time sheets as the exclusive means to substantiate and quantify labor costs. It contends that the extensive documentation provided, which consists of legal notices, inspection reports, contracts, contractor correspondence, construction documents, agenda reports, and other supportive materials, is reasonable and sufficient to demonstrate the considerable staff resources directly involved with specific street-related projects and the costs reported for these activities are fair and reasonable. The documentation provided, though not in the form of traditional timesheets, offers compelling evidence of the resources dedicated to fulfilling Measure M2 LFS objectives. Disallowing the entirety of these costs not only disregards the substantial efforts invested by City personnel but also implies an unreasonable scenario where no engineering and inspection staff time was allocated to street activities.

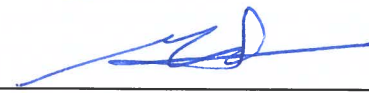
We acknowledge the need to revise our indirect cost methodology to align with OCTA standards and recognize the significance of ensuring fair and reasonable allocation of resources while fulfilling Measure M2 LFS objectives. As a part of this initiative, the City will begin using timecards to track direct costs and implement a cost allocation plan to track indirect costs associated with street projects. We are committed to working closely with OCTA to address concerns and implement necessary changes.



Aaron France, City Manager



Sung Hyun, Director of Finance



Mina Mikhael, Director of Public Works

**Orange County Local Transportation Authority Ordinance No. 3**  
**Safeguards of Use of Revenues Excerpt**  
**Pages 5-6**

**SECTION 10. SAFEGUARDS OF USE OF REVENUES**

The following safeguards are hereby established to ensure strict adherence to the limitations on the use of the Revenues:

1. A transportation special revenue fund (the "Local Transportation Authority Special Revenue Fund") shall be established to maintain all Revenues.
2. The County of Orange Auditor-Controller ("Auditor-Controller"), in the capacity as Chair of the Taxpayer Oversight Committee, shall annually certify whether the Revenues have been spent in compliance with the Ordinance.
3. Receipt, maintenance and expenditure of Net Revenues shall be distinguishable in each jurisdiction's accounting records from other funding sources, and expenditures of Net Revenues shall be distinguishable by program or project. Interest earned on Net Revenues allocated pursuant to the Ordinance shall be expended only for those purposes for which the Net Revenues were allocated.
4. No Net Revenues shall be used by a jurisdiction for other than transportation purposes authorized by the Ordinance. Any jurisdiction which violates this provision must fully reimburse the Authority for the Net Revenues misspent and shall be deemed ineligible to receive Net Revenues for a period of five (5) years.
5. A Taxpayer Oversight Committee ("Committee") shall be established to provide an enhanced level of accountability for expenditure of Revenues under the Ordinance. The Committee will help to ensure that all voter mandates are carried out as required. The roles and responsibilities of the Committee, the selection process for Committee members and related administrative procedures shall be carried out as described in Attachment C.
6. A performance assessment shall be conducted at least once every three years to evaluate the efficiency, effectiveness, economy and program results of the Authority in satisfying the provisions and requirements of the Investment Summary of the Plan, the Plan and the Ordinance. A copy of the performance assessment shall be provided to the Committee.
7. Quarterly status reports regarding the major projects detailed in the Plan shall be brought before the Authority in public meetings.
8. Annually the Authority shall publish a report on how all Revenues have been spent and on progress in implementing projects in the Plan, and shall publicly report on the findings.