

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

## **Call to Order**

The April 10, 2017 regular meeting of the Orange County Transportation Authority (OCTA) and affiliated agencies was called to order by Chairman Hennessey at 9:01 a.m. at the Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

## **Roll Call**

Following the Invocation and Pledge of Allegiance, the Clerk of the Board noted a quorum was present, with the following Directors in attendance:

Directors Present: Michael Hennessey, Chairman  
Lisa A. Bartlett, Vice Chair  
Laurie Davies  
Barbara Delgleize  
Andrew Do  
Lori Donchak  
Mark A. Murphy  
Richard Murphy  
Al Murray  
Shawn Nelson  
Miguel Pulido  
Tim Shaw  
Todd Spitzer  
Michelle Steel  
Tom Tait  
Gregory T. Winterbottom

Directors Absent: Ryan Chamberlain, Governor's Ex-Officio Member  
Steve Jones

Also Present: Darrell Johnson, Chief Executive Officer  
Ken Phipps, Deputy Chief Executive Officer  
Laurena Weinert, Clerk of the Board  
Olga Prado, Assistant Clerk of the Board  
Sahara Meisenheimer, Deputy Clerk of the Board  
James Donich, General Counsel  
Members of the Press and the General Public

## **Special Calendar**

### **Orange County Transportation Authority Special Calendar Matters**

#### **1. Administration of Oath of Office**

James Donich, General Counsel, administered the oath of office to Public Member Gregory T. Winterbottom.

#### **Consent Calendar (Items 2 through 7)**

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

### **Orange County Transportation Authority Consent Calendar Matters**

#### **2. Approval of Minutes**

A motion was made by Director Spitzer, seconded by Director Do, and declared passed by those present, to approve the Orange County Transportation Authority and affiliated agencies' regular meeting minutes of March 27, 2017.

Directors Nelson and Pulido were not present to vote on this item.

#### **3. Approval to Release Request for Proposals for Consultant Services to Prepare the Plans, Specifications, and Estimates for the Anaheim Canyon Metrolink Station Improvement Project**

A motion was made by Director Spitzer, seconded by Director Do, and declared passed by those present, to:

- A. Approve the proposed evaluation criteria and weightings for Request for Proposals 7-1609 for consultant services to prepare the plans, specifications, and estimates for the Anaheim Canyon Metrolink Station Improvement project.
- B. Approve the release of Request for Proposals 7-1609 for consultant services to prepare the plans, specifications, and estimates for the Anaheim Canyon Metrolink Station Improvement project.

Directors Nelson and Pulido were not present to vote on this item.

**4. Fiscal Year 2017-18 Measure M2 Maintenance of Effort Adjustment and Updates to the Eligibility and Local Signal Synchronization Plan Guidelines**

Director Shaw pulled this item and referenced Attachment A of the Staff Report, and asked if the cities were notified of the benchmark change.

Sam Kaur, Section Manager of Local Programs Planning, responded that OCTA staff notified the cities' City Managers, Finance Directors, and Public Works Directors, by email, about the benchmark change.

Director Shaw also inquired if the city's streets and roads are in pristine condition and if is OCTA causing the city to spend more money on its local streets and roads unnecessarily.

Darrell Johnson, Chief Executive Officer (CEO), responded that the Measure M2 Ordinance requires benchmark adjustments every three years. Mr. Johnson felt there would not be a point that a city would not want to spend the Measure M2 streets and roads funds for improvements.

A motion was made by Director Shaw, seconded by Director Murray, and declared passed by those present, to:

- A. Approve the maintenance of effort benchmark adjustment for the fiscal year 2017-18 eligibility cycle.
- B. Approve the fiscal year 2017-18 Measure M2 Eligibility Guidelines.
- C. Approve the Local Signal Synchronization Plan Guidelines.

Director Tait did not participate or vote on this item, due to a potential conflict of interest.

**5. Agreement for Regional Modeling-Traffic Operations On-Call Support Staffing**

A motion was made by Director Spitzer, seconded by Director Do, and declared passed by those present, to:

- A. Approve the selection of W.G. Zimmerman Engineering, Inc., as the firm to provide on-call support staffing on an as-needed basis for regional modeling-traffic operations.

**5. (Continued)**

- B. Authorize the Chief Executive Officer to negotiate and execute Agreement No. C-6-1493 between the Orange County Transportation Authority and W.G. Zimmerman Engineering, Inc., in the amount of \$400,000, for a two-year initial term through April 30, 2019, with one, two-year option term to provide on-call support staffing on an as-needed basis for regional modeling-traffic operations.

Director Tait did not vote on this item, due to a potential conflict of interest.

Directors Nelson and Pulido were not present to vote on this item.

**6. Fiscal Year 2016-17 Measure M2 Annual Eligibility Review**

A motion was made by Director Spitzer, seconded by Director Do, and declared passed by those present, to approve all local jurisdictions as conditionally eligible for Measure M2 net revenues for fiscal year 2016-17, and direct staff to return with eligibility findings for local jurisdictions pending the adoption and submittal of fiscal year 2015-16 expenditure reports by local agencies.

Directors Nelson and Pulido were not present to vote on this item.

**Orange County Service Authority For Freeway Emergencies  
Consent Calendar Matters**

**7. Sole Source Agreement for Freeway Service Patrol Data Collection and Tracking Software Development**

A motion was made by Director Spitzer, seconded by Director Do, and declared passed by those present, to:

- A. Authorize the Chief Executive Officer to negotiate and execute sole source Agreement No. C-7-1557 between the Orange County Transportation Authority and Los Alamos Technical Associates, Inc., in the amount of \$250,000, to develop and implement improvements to the LATATrax software for a five-year term.
- B. Amend the Orange County Transportation Authority's Fiscal Year 2016-17 adopted Budget to transfer \$50,000 from Account 0013-7519-S1002-TC2 to Capital Account 0013-9028-S1002-TC2.

Directors Nelson and Pulido were not present to vote on this item.

## **Regular Calendar**

### **Orange County Transportation Authority Regular Calendar Matters**

**8. Appeal to the Board of Directors to Protest Proposed Award of Contract; Invitation for Bid 6-1521 and Award of Agreement for Construction of the Metrolink Parking Structure at the Orange Transportation Center**

Virginia Abadessa, Director, Contract Administration and Materials Management (Camm), reported that the Board of Directors (Board) was being asked to hear the appeal from Bomel Construction Co., Inc. (Bomel). Ms. Abadessa stated that an Invitation for Bid (IFB) was released on November 17, 2016, for the construction of a Metrolink Parking Structure in the City of Orange, and four bids were received.

Ms. Abadessa stated that Bomel was the apparent low bidder; however, OCTA found Bomel's bid to be non-responsive to the IFB requirements. Ms. Abadessa reported on OCTA's IFB process and definition of a Buy America compliant "approved equal" products. She also reported on Bomel's protest and appeal and OCTA's decisions.

Ms. Abadessa stated that on March 17, 2017, OCTA received a request by Bomel to appeal the CEO's decision to the Board. Ms. Abadessa stated that the decision by the Board represents the final administrative step in the protest process.

A public comment was made by:

Jim Ure, Executive Vice President of Bomel, who commented that Bomel was the low bidder, and OCTA determined Bomel to be non-responsive because they intended to install an elevator that was not determined under the IFB to be "approved equal" product.

Mr. Ure stated that the elevator specified was Mitsubishi elevator model number IDH-S-H1 or equal. Mr. Ure reported that according to Mitsubishi, the model (IDH-S-H1) is manufactured in Mexico and not Buy America compliant. Mr. Ure also reported that based on staff's interpretation of the bid instructions, no firm can use that specified model and all the firms need to submit an "approved equal" document. In addition, he stated that per OCTA, no firm submitted an "approved equal" document for the elevators.

Mr. Ure stated that since all the bidders have the same apparent "flaw," that OCTA waive the "flaw" as a minor irregularity and treat all bidders the same. If OCTA waived the "flaw", Bomel would be the apparent low bidder and be awarded the agreement.

**8. (Continued)**

A lengthy discussion ensued, and the Board raised concerns regarding Bomel's appeal. The Board also directed staff to determine if each of the four proposing bidders proposed Mitsubishi Electric Elevator IDH-S-H1 Hydraulic, as requested in the IFB, or an "approved equal" product that was Buy America compliant.

Bomel went on the record that it would honor its low bid price of \$18,189,446 with the Excelsior elevator, as well as be responsible to make the elevator fit within the IFB specifications and be fully responsible for any elevator cost impacts.

A motion was made by Director Nelson, seconded by Director Spitzer (for discussion), to approve the protest and award the contract to Bomel Construction Co., Inc.

After additional discussion, Director Spitzer supported withdrawing the motion and going with Director R. Murphy's suggestion, to find out if the Mitsubishi elevator model specified in the IFB is Buy America compliant.

Mr. Johnson, CEO, responded that OCTA would ask Mitsubishi, in writing, where the elevator was built, if the elevator is Buy America compliant, and would return to the Board with the written response.

A motion was made by Director Nelson, seconded by Director Murray, and declared passed by those present, to continue this item to the April 24, 2017 Board of Directors meeting pending receipt of additional information from the bidders.

A public comment was made by:

Justin Wilson, W.M. Klorman Construction (Klorman), commented that Klorman submitted a bid protest, and received OCTA's response letter that deemed Bomel, McCarthy Building Companies, Inc., (McCarthy), and Largo Concrete, Inc., as non-responsive and highlighted the reasons for being non-responsive.

Mr. Wilson stated that Excelsior Elevator Corporation bid this project without prior approval, which is required under the IFB. He also reviewed McCarthy's bid submission, and stated that McCarthy failed to list an elevator subcontractor for the work and highlighted other items not listed by McCarthy noted in the IFB.

Mr. Wilson also provided his concerns about this item's bid process, referenced public contract code section 100 and section D, and asked OCTA to revisit his firm's bid protest that was submitted on January 15, 2017.

Vice Chair Bartlett requested that when staff returns to the Board in two weeks with this item, to clarify the process, timeframe, bidders' responses, and "approved equal" determination.

## **Orange County Local Transportation Authority Regular Calendar Matters**

### **9. Comprehensive Transportation Funding Programs - 2017 Call for Projects Programming Recommendations**

Sam Kaur, Section Manager of Local Programs, opened with comments that the Board was provided a handout of a letter from a group in San Juan Capistrano regarding the Ortega Highway project that is listed in Attachment B of the Staff Report.

Ms. Kaur provided a PowerPoint presentation for this item as follows:

- Comprehensive Transportation Funding Programs Overview;
- 2017 Call for Projects (Call);
- 2017 Programming Recommendations;
- 2017 Call Timelines and Milestones; and
- Staff Recommendations.

Director Donchak reported that the Ortega Highway project was discussed at the (April 3<sup>rd</sup>) Regional Planning and Highways (RP&H) Committee meeting, which is now a County of Orange project. Director Donchak also stated that the RP&H Committee supported the Ortega Highway project as being an important next step in the south Orange County mobility program.

A motion was made by Director Donchak, seconded by Director Nelson, and declared passed by those present, to:

- A. Approve the 2017 Regional Capacity Program to fund 13 projects, in an amount totaling \$32.24 million.
- B. Approve the 2017 Regional Traffic Signal Synchronization Program to fund five projects, in an amount totaling \$2.5 million.

## **Discussion Items**

### **10. Public Comments**

There were no public comments received.

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

Mr. Johnson, CEO, reported that:

- On Thursday, April 6<sup>th</sup>, Senate Bill (SB) 1 was passed by the California Legislature, and the Governor is expected to sign the transportation funding package when the legislature returns from recess. In addition, SB 1 will provide \$52 billion over the next 10 years, and a report will be provided at the April 20<sup>th</sup> Legislative and Communications Committee and April 24<sup>th</sup> Board meetings.
- On Friday, April 7<sup>th</sup>, OCTA hosted a pre-game kickoff rally for the Angels Express at the Irvine Metrolink Station, and thanked Director Murray for attending the event.
- Last week, the California Association of Public Information Officers (CAPIO) hosted its annual conference, and OCTA was honored with CAPIO's five awards for the following:
  - OC Bus Mobile App video won an Award of Excellence, for the Short Form Video Production category;
  - The 64Xpress Bus Dedication Event won an Award of Merit;
  - The October Ridership Campaign won an Award of Distinction;
  - The 91 Weekend Shift Campaign won an Award of Merit; and
  - The 64Xpress Bus Dedication Event also won an Award of Merit for the Dollar Stretcher Category.

**12. Directors' Reports**

Vice Chair Bartlett reported that she received over the weekend a postcard from OCTA about making progress on the Interstate 5 south Orange County, and complimented OCTA staff for an informative postcard.

Director Donchak reported that she recently attended, on behalf of OCTA, the California Association of Councils of Government meeting, and the mantra was fix-it first.

Director Donchak also announced that she would attend, on behalf of OCTA, on Thursday, April 13<sup>th</sup>, the Interstate 5 Stakeholders Working Group meeting.



**13. Closed Session**

A Closed Session was held as follows:

- A. Pursuant to Government Code Section 54957(b) to evaluate the performance of the Chief Executive Officer, Darrell Johnson.
- B. Pursuant to Government Code Section 54957.6 to meet with designated representatives, Chairman Michael Hennessey, regarding the compensation of the Chief Executive Officer.

There was a report out under Item 14.

**14. Annual Review and Compensation Adjustment for Chief Executive Officer, Darrell Johnson**

Chairman Hennessey reported out from Item 13 – Closed Session that the Board discussed the performance of Darrell Johnson's, CEO.

A motion was made by Chairman Hennessey, seconded by Director Murray, to approve for the Chief Executive Officer the following:

- A. Four percent merit award
- B. Four percent special award
- C. Five thousand dollars in deferred compensation

Director Nelson proposed that each of the above compensation adjustments be voted separately.

A motion was made by Chairman Hennessey, seconded by Director Pulido, and declared passed by those present, for a merit award of four percent. Director Do was not present to vote.

A motion was made by Chairman Hennessey, seconded by Director Tait, and following a roll call vote, declared passed 11-4, for a four percent special award. Directors Nelson, Spitzer, Steel, and Tait voted in opposition, and Director Do was not present to vote.

A motion was made by Chairman Hennessey, seconded by Director Davies, and declared passed by those present, for five thousand dollars in deferred compensation. Directors Nelson, Steel, and Tait voted in opposition, and Director Do was not present to vote.

James Donich, General Counsel, reported that as part of the above motions, Chairman Hennessey is authorized to sign the Chief Executive Officer's contract.

**15. Adjournment**

The meeting was adjourned at 10:50 a.m.

The next regularly scheduled meeting of this Board will be held at **9:00 a.m. on Monday, April 24, 2017**, at Orange County Transportation Authority Headquarters, 550 South Main Street, Board Room – Conference Room 07-08, Orange, California.

ATTEST:

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Laurena Weinert  
Clerk of the Board

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Michael Hennessey  
OCTA Chairman