



Orange County Transportation Authority

Executive Committee Agenda Monday, May 1, 2023 at 9:00 a.m.

Board Room, 550 South Main Street, Orange, California

Committee Members

Gene Hernandez, Chairman

Tam Nguyen, Vice Chairman

Andrew Do, Regional Transportation Planning Committee Chairman

Brian Goodell, Legislative & Communications Committee Chairman

Michael Hennessey, Finance & Administration Committee Chairman

Steve Jones, Transit Committee Chairman

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 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. Please complete a speaker's card and submit it to the Clerk of the Board or notify the Clerk of the Board the item number on which you wish to speak. Speakers will be recognized by the Chairman at the time the agenda item is to be considered. Comments shall be limited to three minutes.

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.

EXECUTIVE COMMITTEE MEETING AGENDA

Call to Order

Pledge of Allegiance

Director Jones

Special Calendar

There are no Special Calendar matters.

Consent Calendar (Item 1)

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.

1. Approval of Minutes

Recommendation

Approve the minutes of the March 6, 2023 Executive Committee meeting.

Attachments:

[Minutes](#)

Regular Calendar

2. Third Quarter Fiscal Year 2022-23 Capital Action Plan Performance Metrics

James G. Beil

Overview

Staff has prepared a quarterly progress report on capital project delivery for the period of January 2023 through March 2023, 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, transit, and rail projects.

Recommendation

Receive and file as an information item.

Attachments:

[Staff Report](#)

[Attachment A](#)

[Attachment B](#)

EXECUTIVE COMMITTEE MEETING AGENDA

3. Measure M2 Eligibility for the City of Cypress

Adriann Cardoso/Kia Mortazavi

Overview

The Orange County Transportation Authority's Internal Auditor has concluded an audit of the City of Cypress financials for fiscal year 2021-22 related to Measure M2. The audit found the City of Cypress lacked adequate documentation to support whether it had spent sufficient discretionary funds on streets and road purposes to meet the maintenance of effort requirement for the Measure M2 Ordinance. Based on this information, recommendations related to compliance with the Measure M2 Ordinance are presented.

Recommendations

- A. Find the City of Cypress an ineligible jurisdiction to receive or apply for net Measure M2 revenues.
- B. Suspend payments of net Measure M2 revenues to the City of Cypress until the City of Cypress can demonstrate compliance with Measure M2 eligibility requirements and the Board of Directors acts to find the City of Cypress an eligible jurisdiction.
- C. Require the City of Cypress 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 2021-22 (approximately \$1.38 million) as a condition of accessing suspended funds upon being found an eligible jurisdiction.
- D. Authorize the Chief Executive Officer to execute Amendment No. 5 to Contract No. C-8-1911 with Crowe, LLP to revise the scope of work, add an additional task to apply agreed-upon procedures to assess compliance with maintenance of effort expenditure requirements, extend the agreement through December 31, 2025, and authorize staff to deduct audit costs from any future net Measure M2 payments to the City of Cypress.
- E. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Cypress to correct and remedy the fiscal year 2021-22 audit issues and confirm required actions to become an eligible jurisdiction.

Attachments:

[Staff Report](#)

[Attachment A](#)

Discussion Items

- 4. Public Comments
- 5. Chief Executive Officer's Report

EXECUTIVE COMMITTEE MEETING AGENDA

6. Committee Members' Reports

7. Closed Session

There are no Closed Session items scheduled.

8. Adjournment

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

9:00 a.m. on Monday, June 5, 2023

OCTA Headquarters

Board Room

550 South Main Street

Orange, California



Committee Members Present

Tam Nguyen, Vice Chairman
Andrew Do
Brian Goodell
Michael Hennessey
Steve Jones

Staff Present

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

Committee Members Absent

Gene Hernandez, Chairman

Call to Order

The March 6, 2023, Executive Committee regular meeting was called to order by Vice Chairman Nguyen at 9:00 a.m.

Consent Calendar (Items 1 through 3)

1. Approval of Minutes

A motion was made by Director Goodell, seconded by Director Do, and declared passed by those present to approve the minutes of the February 6, 2023 Executive Committee meeting.

2. Public Transportation Agency Safety Plan - Annual Review and Update

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

- A. Adopt the proposed 2023 Public Transportation Agency Safety Plan administrative edits.
- B. Adopt new 2023 Public Transportation Agency Safety Plan performance targets.
- C. Adopt the new Appendix A implementation actions for the first quarter of 2023 through the fourth quarter of 2025 as an ongoing process for continuous improvement.

3. Measure M2 Quarterly Progress Report for the Period of October 2022 Through December 2022

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



Discussion Items

4. Preview to Procurement Workshop

Pia Veesapen, Director, Contracts Administration, and Materials Management, provided a presentation on this item.

No action was taken on this item.

5. Public Comments

Public comment was received from Susie Whitelaw of Save Our Beaches.

6. Chief Executive Officer's Report

Darrell E. Johnson, Chief Executive Officer, reported on the upcoming Transit Operator and Worker Appreciation Day on Saturday, March 18.

7. Committee Members' Reports

There were no Committee Members' Reports.

8. Closed Session

There were no Closed Session items scheduled.

9. Adjournment

The meeting adjourned at 9:39 a.m. in recognition of Coach Operator Kenny Enwright on Route 76. Vice Chairman Nguyen complimented Mr. Enwright for his service on a recent trip.

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

9:00 a.m. on Monday, April 3, 2023

OCTA Headquarters

550 South Main Street

Orange, California



May 1, 2023

To: Executive Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Third Quarter Fiscal Year 2022-23 Capital Action Plan Performance Metrics

Overview

Staff has prepared a quarterly progress report on capital project delivery for the period of January 2023 through March 2023, 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, transit, and rail projects.

Recommendation

Receive and file as an information item.

Background

The Orange County Transportation Authority (OCTA) delivers highway, transit, rail, and facility 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 (Attachment A), which is regularly updated with project status and any new

projects. The CAP is categorized into four key project groupings of freeway, railroad grade separation, and rail and station projects. 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 very complex capital project critical path 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 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 the 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 FY 2022-23 include:

Freeway Projects

- The begin design milestone was achieved for the Interstate 5 (I-5) replacement planting project between State Route 73 (SR-73) and El Toro Road. This project re-establishes landscaping throughout the associated Measure M2 freeway improvement project limits. The project is planned to be construction ready by 2025.
- The complete design milestone was achieved for the State Route 91 (SR-91) improvements between State Route 55 (SR-55) and Lakeview Avenue. This project includes the complete reconstruction of the Lakeview Avenue overcrossing and is planned to be construction ready in the first quarter of FY 2023-24.
- The complete design milestone for the Interstate 605 Katella Avenue interchange improvement project was achieved one month early. However, the remaining scheduled milestones have been delayed by the ROW acquisition schedule. The project is planned to be construction ready in the first quarter FY 2023-24.

Rail and Station Projects

- Construction was completed on the Anaheim Canyon Metrolink Station expansion and both the new westerly platform and extended easterly platform were commissioned and placed into service.

Previously reported CAP milestones that were missed through the third quarter FY 2022-23 include:

Freeway Projects

- The complete design milestone for the SR-91 to State Route 241 direct toll connector project was missed in the second quarter. The Transportation Corridor Agencies have submitted the final design to the California Department of Transportation (Caltrans) and OCTA for final review and approval. Additionally, two separate environmental documents that cover features of the project require revalidation and approval by Caltrans. The remaining delivery milestones for construction ready, advertise construction, and award contract are still under review with Caltrans. The engineers' estimate of cost for construction and construction management is reported to be \$338,000,000.

Rail and Station Projects

- The complete environmental milestone for the Orange County Metrolink Maintenance Facility project was missed in the second quarter. OCTA's planned release of the final environmental document has been delayed due to the City of Irvine's concerns regarding land-use zoning and conditional-use permitting. The environmental completion schedule is on hold pending resolution of these issues with the City of Irvine.

Recap of FY 2022-23 Performance Metrics Through the Third Quarter

The performance metrics snapshot provided at the beginning of FY 2022-23 reflects nine major project delivery milestones to be accomplished within the FY (Attachment B). Three of six milestones planned through the third quarter were achieved, two were missed, and one fourth quarter milestone delivered early.

CAP Milestones and Cost Updates

- The emergency railroad track stabilization project in San Clemente was added to the CAP.
- The OC Streetcar project budget and schedule were updated to reflect the risk adjusted cost and schedule approved by the OCTA Board of Directors (Board) on April 24, 2023.

FY 2022-23 Cost and Performance Metrics Risks

Cost escalation and scope creep are impacting estimated construction costs for projects currently in the design phase, including three segments of SR-91 from La Palma Avenue to SR-55, and two segments of I-5 from Interstate 405 to SR-55. When design phase estimates are updated and vetted, staff will bring proposed capital programming plan adjustments to the Board for approval.

The three I-5 improvement construction contracts between SR-73 and El Toro Road, administered by Caltrans, are experiencing some construction delays and unforeseen changes. Construction contract change orders are forecast to deplete available contingency funding quicker than anticipated. Staff is preparing amendments to the cooperative agreement with Caltrans which will be brought to the Board for approval to assure there is enough funding to complete the work.

Construction contractors continue to experience increased labor, material, and supply pricing pressure. Staff will continue to monitor market pricing trends and material availability impacts on heavy civil construction in the region.

Summary

Capital project delivery is progressing and is reflected in the CAP. The FY 2022-23 performance metrics created from forecast project schedules at the beginning of the FY 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 2023
- B. Capital Programs Division, Fiscal Year 2022-23 Performance Metrics Through March 2023

Prepared by:















A handwritten signature in blue ink, appearing to read 'James G. Beil', is positioned above the printed name.

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

Capital Action Plan

Status Through March 2023
















Updated: April 14, 2023

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
Freeway Projects:									
I-5, Pico to San Diego County	TBD	Feb-21	Apr-24	TBD	TBD	TBD	TBD	TBD	TBD
	TBD	Feb-21	Apr-24	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	Jun-09	Oct-11	Jun-11	Oct-13	May-14	Sep-14	Dec-14	Aug-18
 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	Jun-09	Oct-11	Jun-11	May-13	Aug-13	Feb-14	Jun-14	Jul-17
 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	Jun-09	Oct-11	Jun-11	Jan-13	Apr-13	Aug-13	Dec-13	Jul-18
 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	Sep-05	Jun-09	Jan-09	Dec-11	Apr-12	Jun-12	Aug-12	Jan-16
 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	Jan-14	Oct-14	Feb-15	Aug-15	Sep-15	Sep-16
 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	\$195.8	Oct-11	May-14	Mar-15	Aug-18	May-19	Aug-19	Dec-19	Sep-24
 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	\$203.1	Oct-11	May-14	Nov-14	Dec-17	Jun-18	Nov-18	Mar-19	Sep-24
 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	\$165.9	Oct-11	May-14	Mar-15	May-19	Apr-20	May-20	Sep-20	Oct-24
 I-5, SR-73 to El Toro Road (Landscape)	TBD	N/A	N/A	N/A	TBD	TBD	TBD	TBD	TBD
Project C	\$12.4	N/A	N/A	Mar-23	Nov-24	Mar-25	May-25	Jul-25	Feb-27
 I-5, I-5/El Toro Road Interchange	TBD	Apr-17	Nov-19	TBD	TBD	TBD	TBD	TBD	TBD
Project D Cost/Schedule Risk	TBD	Apr-17	Jan-25	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	May-14	Jan-20	Oct-21	May-24	May-25	Dec-25	Feb-26	Sep-29
 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 Cost/Schedule Risk	\$200.4	May-14	Jan-20	May-21	Jan-24	Aug-25	Nov-25	Mar-26	Sep-29
 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	Jun-11	Apr-15	Jun-15	Jun-17	Dec-17	Mar-18	Nov-18	Jan-21
 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 Cost/Schedule Risk	\$505.7	May-11	Aug-17	Sep-17	Apr-20	Sep-21	Dec-21	May-22	Feb-27

Capital Action Plan

Status Through March 2023











Updated: April 14, 2023

Capital Projects	Cost Baseline/Forecast	Schedule Plan/Forecast							
		Begin Environmental	Complete Environmental	Begin Design	Complete Design	Construction Ready	Advertise Construction	Award Contract	Complete Construction
	(millions)								
 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	Dec-16	Mar-20	Aug-22	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	TBD	TBD	TBD	TBD	TBD
Project G	\$71.8	Apr-16	Mar-19	Mar-22	Jul-24	Nov-24	Mar-25	Jul-25	Feb-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	Apr-08	Nov-09	Aug-08	Dec-10	Apr-11	Jul-11	Oct-11	Apr-15
 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	May-09	Jul-10	Jun-17	Jul-17	Sep-17	Jun-18
 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	Aug-05	Dec-07	Feb-08	Jul-09	Dec-09	May-10	Oct-10	Nov-14
 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	Aug-05	Dec-07	Feb-08	Jul-09	Mar-10	May-10	Oct-10	May-14
 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	Oct-14	Aug-17	Dec-17	Jan-18	Feb-18	Apr-19
 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	Jul-07	Jun-10	Mar-10	Apr-12	Aug-12	Oct-12	Jan-13	Jun-16
 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	Nov-14	Aug-16	Dec-16	Feb-17	Mar-17	Nov-17
 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	\$100.9	Jan-15	Jun-20	Mar-20	Mar-23	Sep-23	Nov-23	Mar-24	Nov-27
 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	Jan-15	Jun-20	Jun-20	Jun-24	Apr-25	Jun-25	Sep-25	Sep-29
 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	Jan-15	Jun-20	Nov-20	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	Jul-08	May-11	Jun-11	Feb-13	Apr-13	Jun-13	Oct-13	Jul-16
 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	Jul-07	Apr-09	Apr-09	Aug-10	Dec-10	Feb-11	May-11	Mar-13

Capital Action Plan

Status Through March 2023
















Updated: April 14, 2023

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	Jun-23	Sep-23	Sep-23	Feb-24	Feb-27
 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)	\$2,080.2	Mar-09	Mar-13	Mar-14	Nov-15	Feb-16	Mar-16	Nov-16	Feb-24
Project K	\$2,080.2	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-405/SR-22/I-605 HOV Connector (Landscape)	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
	N/A	N/A	N/A	Jun-08	May-09	Feb-16	May-16	Jul-16	Feb-18
 I-605, I-605/Katella Avenue Interchange	\$29.0	Aug-16	Nov-18	Dec-20	Mar-23	Jul-23	Nov-23	Feb-24	Nov-25
Project M	\$29.0	Aug-16	Oct-18	Dec-20	Jan-23	Apr-24	Aug-24	Nov-24	Jul-26
Grade Separation Projects:									
 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

Capital Action Plan

Status Through March 2023

Updated: April 14, 2023

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
 Orangethorpe Avenue Railroad Grade Separation Project O	\$117.4 \$105.9	Jan-01 Jan-01	Sep-09 Sep-09	Feb-09 Feb-09	Dec-11 Oct-11	Dec-11 Apr-12	Feb-12 Sep-12	May-12 Jan-13	Sep-16 Oct-16
 Tustin Avenue/Rose Drive Railroad Grade Separation Project O	\$103.0 \$96.6	Jan-01 Jan-01	Sep-09 Sep-09	Feb-09 Feb-09	Dec-11 Jul-11	Mar-12 Jun-12	May-12 Oct-12	Aug-12 Feb-13	May-16 Oct-16
 Lakeview Avenue Railroad Grade Separation Project O	\$70.2 \$110.7	Jan-01 Jan-01	Sep-09 Sep-09	Feb-09 Feb-09	Oct-11 Jan-13	Oct-12 Apr-13	Feb-13 Sep-13	May-13 Nov-13	Mar-17 Jun-17
 17th Street Railroad Grade Separation Project R	TBD TBD	Oct-14 Oct-14	Jun-16 Nov-17	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD
Rail and Station Projects:									
 Rail-Highway Grade Crossing Safety Enhancement Project R	\$94.4 \$90.4	Jan-08 Jan-08	Oct-08 Oct-08	Jan-08 Jan-08	Sep-08 Sep-08	Sep-08 Sep-08	Sep-08 Sep-08	Aug-09 Aug-09	Dec-11 Dec-11
 San Clemente Beach Trail Safety Enhancements Project R	\$6.0 \$5.0	Sep-10 Sep-10	Jul-11 Jul-11	Feb-12 Feb-12	Apr-12 Jun-12	Apr-12 Jun-12	Jul-12 Oct-12	Oct-12 May-13	Jan-14 Mar-14
 Emergency Track Stabilization at Mile Post 206.8 Project R	N/A \$13.7	N/A N/A	N/A N/A	N/A N/A	N/A N/A	N/A N/A	N/A Sep-22	N/A Oct-22	N/A Jun-23
 San Juan Capistrano Passing Siding Project S	\$25.3 \$33.2	Aug-11 Aug-11	Jan-13 Mar-14	Mar-15 Mar-15	May-16 Aug-18	May-16 Aug-18	Aug-16 Aug-18	Dec-16 Mar-19	Feb-21 Nov-20
 OC Streetcar Project S	\$595.8 \$595.8	Aug-09 Aug-09	Mar-12 Mar-15	Feb-16 Feb-16	Sep-17 Nov-17	Oct-17 Dec-17	Dec-17 Dec-17	Aug-18 Sep-18	Nov-24 Nov-24
 Placentia Metrolink Station and Parking Structure Project R	\$34.8 \$40.1	Jan-03 Jan-03	May-07 May-07	Oct-08 Oct-08	Jan-11 Feb-11	TBD TBD	TBD TBD	TBD TBD	TBD TBD
 Orange County Maintenance Facility - ON HOLD Project R	TBD TBD	Apr-20 Apr-20	Apr-22 Jul-23	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD
 Irvine Metrolink Station Improvements - ON HOLD Project R	TBD TBD	Jan-22 Jan-22	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD	TBD TBD
 Anaheim Canyon Metrolink Station Project R	\$27.9 \$34.2	Jan-16 Jan-16	Dec-16 Jun-17	Mar-19 Mar-18	May-19 Oct-20	May-19 Oct-20	Jul-19 Oct-20	Nov-19 Mar-21	Jan-23 Jan-23
 Orange Metrolink Station Parking Expansion Project R	\$33.2 \$30.9	Dec-09 Dec-09	Dec-12 May-16	Nov-10 Nov-10	Apr-13 Apr-16	Jul-16 Jul-16	Jul-16 Jul-16	Nov-16 Jun-17	Feb-19 Feb-19
 Fullerton Transportation Center - Elevator Upgrades Project R	\$3.5 \$4.2	N/A N/A	N/A N/A	Jan-12 Jan-12	Dec-13 Dec-13	Dec-13 Dec-13	Jun-14 Aug-14	Sep-14 Apr-15	Mar-17 May-19

Capital Action Plan

Status Through March 2023

Updated: April 14, 2023

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
Laguna Niguel/Mission Viejo Station ADA Ramps	\$3.5	Jul-13	Jan-14	Jul-13	Aug-14	Aug-14	Sep-14	Jan-15	Apr-17
	\$5.2	Jul-13	Feb-14	Jul-13	Jul-15	Jul-15	Jul-15	Oct-15	Sep-17
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)

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

SR-57 - Orange Freeway (State Route 57)

SR-91 - Riverside Freeway (State Route 91)

SR-71 - Corona Expressway (State Route 71)

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

I-405 - San Diego Freeway (Interstate 405)

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

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

HOV - High-Occupancy Vehicle

ADA - Americans with Disabilities Act

Capital Programs Division

Fiscal Year 2022-23 Performance Metrics Through March 2023

Begin Environmental

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
No "Begin Environmental" Milestones Scheduled for FY 2022-23									
Total Forecast/Actual	0	0	0	0	0	0	0	0	0

Complete Environmental

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
Orange County Maintenance Facility			X						
Total Forecast/Actual	0	0	1	0	0	0	0	0	1

Begin Design

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
SR-55, I-5 to SR-91	X	✓							
I-5, SR-73 to El Toro Road Interchange (Landscape)					X	✓			
Total Forecast/Actual	1	1	0	0	1	1	0	0	2

Complete Design

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 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 Avenue Interchange						✓	X		
Total Forecast/Actual	0	0	1	0	1	2	1	0	3

Construction Ready

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 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

Advertise Construction

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 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

Capital Programs Division

Fiscal Year 2022-23 Performance Metrics Through March 2023

Award Contract

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
No "Award Contract" Milestones Scheduled for FY 2022-23									
Total Forecast/Actual	0	0	0	0	0	0	0	0	0

Complete Construction

Project Description	FY 23 Qtr 1		FY 23 Qtr 2		FY 23 Qtr 3		FY 23 Qtr 4		FY 23 Fcst
	Fcst	Actual	Fcst	Actual	Fcst	Actual	Fcst	Actual	
Anaheim Canyon Metrolink Station					X	✔			
Total Forecast/Actual	0	0	0	0	1	1	0	0	1

Totals	1	1	2	0	3	4	3	0	9
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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-55 - Costa Mesa Freeway (State Route 55)

I-5 - Santa Ana Freeway (Interstate 5)

SR-91 - Riverside Freeway (State Route 91)

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

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

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

X = milestone forecast in quarter

✔ = milestone accomplished in quarter



May 1, 2023

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

Overview

The Orange County Transportation Authority's Internal Auditor has concluded an audit of the City of Cypress financials for fiscal year 2021-22 related to Measure M2. The audit found the City of Cypress lacked adequate documentation to support whether it had spent sufficient discretionary funds on streets and road purposes to meet the maintenance of effort requirement for the Measure M2 Ordinance. Based on this information, recommendations related to compliance with the Measure M2 Ordinance are presented.

Recommendations

- A. Find the City of Cypress an ineligible jurisdiction to receive or apply for net Measure M2 revenues.
- B. Suspend payments of net Measure M2 revenues to the City of Cypress until the City of Cypress can demonstrate compliance with Measure M2 eligibility requirements and the Board of Directors acts to find the City of Cypress an eligible jurisdiction.
- C. Require the City of Cypress 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 2021-22 (approximately \$1.38 million) as a condition of accessing suspended funds upon being found an eligible jurisdiction.
- D. Authorize the Chief Executive Officer to execute Amendment No. 5 to Contract No. C-8-1911 with Crowe, LLP to revise the scope of work, add an additional task to apply agreed-upon procedures to assess compliance with maintenance of effort expenditure requirements, extend the agreement through December 31, 2025, and authorize staff to deduct audit costs from any future net Measure M2 payments to the City of Cypress.

- E. Authorize the Chief Executive Officer to negotiate and execute a settlement agreement with the City of Cypress to correct and remedy the fiscal year 2021-22 audit issues and confirm 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 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).

In the eligibility process, this requirement is referred to as the maintenance of effort (MOE) requirement and was also included in the original M2 program. Each jurisdiction is required to maintain a minimum level of local streets and roads discretionary expenditures. The minimum level was based on the average of general fund expenditures for local street maintenance and construction over the period of fiscal year (FY) 1985-86 through FY 1989-90. M2 used a similar benchmark and requires the amount to be adjusted for inflation every three years beginning in 2011 commensurate with overall growth of the local jurisdiction’s general fund revenues or growth in the construction cost index, whichever is lower.

The local jurisdiction demonstrates its commitment to comply with the required MOE through 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 FY.

The OCTA Board of Directors (Board) makes a determination of eligibility annually based on the information that is 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 carry out audits to confirm that funds have been spent in accordance with the M2 Ordinance and that each jurisdiction had sufficient expenditures to meet the previously self-certified MOE requirement.

Every year, OCTA's Finance and Administration, Internal Audit, and Planning staff, as well as the TOC, have provided training on 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 these audits and presented results of the audits to the Finance and Administration Committee on April 26, 2023, and will be considered by the Board on May 8, 2023. The audit of the City of Cypress (City) reported that the City lacked adequate documentation to support indirect costs charged to MOE, and if these unsupported costs were removed from MOE expenditures, the City would not meet its MOE requirement. This will impact the City's eligibility determination and the disbursement of net M2 revenues to the City. It should be noted that the City has provided a response to the audit that is also included in Attachment A.

Discussion

In June 2021, the City provided the required MOE certification that stated it budgeted sufficient expenditures for 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.”

The City met the MOE requirement through the submittal of the self-certification of intent to meet the MOE based on their FY 201-22 budget. The City's MOE benchmark for FY 2021-22 was \$3,607,878. The next submittal related to MOE was the expenditure report to verify that the budgeted amount was actually spent. The City Council approved the expenditure report through a resolution on November 14, 2022, and submitted it to OCTA on December 7, 2022. According to the expenditure report that was submitted, the City spent \$3,892,903 in discretionary revenues toward streets and roads-related costs to meet the MOE requirement.

However, the audit identified \$632 in ineligible direct charges, and the City could not provide documentation to confirm that any of the indirect costs allocated to MOE were based on a reasonable methodology. After the removal of ineligible direct costs and unsupported indirect costs, the City's shortfall from the MOE benchmark amounted to \$1,381,048. The City, in its response to the audit, disagreed with the finding noting that the allocation methodology that was used has been used for 30 years and is fair and reasonable and was not found

non-compliant in prior audits. In the internal audit staff report, it is noted that indirect costs were reviewed in audits in FY 2012-13 and FY 2016-17 and reported no exceptions. For the FY 2007-08 audit, no indirect costs were identified, and City staff confirmed no indirect costs were charged.

In addition, since those audits were conducted, there were audit findings for FY 2017-18 that led to ineligibility based on similar circumstances for the Cities of Santa Ana and Stanton for MOE. Since that finding of ineligibility, OCTA sent letters and emails and provided guidance through guidelines and the annual M2 Finance Director Workshops that indirect costs must have a reasonable basis or methodology for cost allocation.

The City has indicated that it could not produce the original allocation methodology that is being applied. The City only provided spreadsheets indicating the allocation of budgeted costs from various internal service funds and could not produce support for how the allocation percentages were derived or demonstrate that the allocations represented actual costs (rather than budgeted amounts). The City acknowledged that its documentation and method of allocating costs could be improved. After deducting these unverifiable expenditures, the City would not meet the MOE requirement for FY 2021-22.

Under this circumstance, the following M2 Ordinance requirement applies:

“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.”

Because the audit determined that the City did not provide sufficient verifiable expenditures to meet the MOE requirement, and in order to be consistent with the requirements of the M2 Ordinance and comply with the intent of the authorizing state statute, it is recommended that the Board find the City ineligible to receive Measure M2 revenues. Specific recommendations include:

- Find the City ineligible to receive or apply for net M2 revenues;
- Suspend payments to the City of net M2 revenues;
- Deduct audit costs for any future audits 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.

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 until such a time that the City has re-established eligibility. The City will be required to demonstrate through a future OCTA audit that it has met the MOE required for FY 2022-23, plus made up for the underrun in MOE expenditures from FY 2021-22. Based on discussions with the City, the City may need more than one year to make up for the underrun. If an additional audit of FY 2023-24 is required in order to validate that the entire underrun amount has been expended, then an audit shall be conducted. Costs incurred for audits required to determine eligibility will be paid for by the City through a reduction in M2 revenues. The M2 Ordinance and eligibility guidelines do not include precise terms and conditions related to re-establishing eligibility. Therefore, staff will return to Board and seek further direction if the City has not re-established eligibility after two years. In the interim, OCTA will work with the City to enter into an agreement that details specific requirements and timeframes for submittals to support timely re-establishment of the City's eligibility.

Summary

A recent audit indicated that the City of Cypress did not meet Measure M2 eligibility requirements. Recommendations are presented to find the City of Cypress ineligible to receive net Measure M2 funds given the audit report and to remain consistent with the Measure M2 Ordinance.

Attachment

- A. Crowe, LLP, Certified Public Accounts, Independent Accountants' Report on Applying Agreed-Upon Procedures – City of Cypress

Prepared by:

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Approved by:

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Crowe LLP
Independent Member Crowe Global

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

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 Cypress's (City) compliance with certain provisions of the Measure M2 Local Transportation Ordinance (Ordinance) as of and for the fiscal year ended June 30, 2022. 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 the City compliance with certain provisions of the Ordinance as of and for the fiscal year ended June 30, 2022. 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 account number. The City recorded its MOE expenditures in its General Fund (111), Storm Drainage Fund (261), Capital Projects Fund (415) and various account 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, 2022 and determine whether the Eligible Jurisdiction met the minimum MOE requirement as outlined in the Measure M2 Eligibility Guidelines Fiscal Year 2021/2022. Agree the total MOE expenditures to the amount reported on the Eligible Jurisdiction's Expenditure Report (Schedule 3, line 18). Explain any differences.

(Continued)

Findings: The City's MOE expenditures for the fiscal year ended June 30, 2022, were \$3,892,903 (see Schedule A) which originally exceeded the MOE benchmark requirement of \$3,607,878. We agreed the total expenditures of \$3,892,903 to the amount reported on the City's Expenditure Report (Schedule 3, line 18), with no differences. However, after removal of indirect costs, outlined at Procedure #4, the City no longer met the minimum MOE benchmark requirement. No other exceptions were found as a result of this 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 \$949,195, which represented approximately 42% of direct MOE expenditures of \$2,247,663 for the fiscal year ended June 30, 2022. We agreed the dollar amount listed on the general ledger to supporting documentation provided by the City. After inspecting the supporting documentation, and through discussion with the City's accounting personnel, we identified one expenditure related to a retirement lunch for a public works maintenance employee in the amount of \$97, which was not properly classified as a local street and road expenditure and is not allowable per the Ordinance. We selected an additional five direct MOE expenditures totaling \$535, which were comprised of \$48 for a grilling tools set, \$53 for reimbursement of a phone case and a screen protector, \$143 for an annual renewal fee to South Coast Air Quality Management District, \$269 for membership dues to American Public Works Association, and \$22 for picture frames. We found these expenditures were also not properly classified as local street and road expenditures, nor are they allowable per the Ordinance. We also identified \$20,201 of direct charges that should have been reported as indirect costs. They represented charges for pump station support, National Pollutant Discharge Elimination System (NPDES) annual license fee, data acquisition service, water quality permit fees, and other water quality contract services that were allocated 5% as direct charges. After removing the transactions above from total direct MOE expenditures, the City continued to meet the MOE benchmark requirement; however, if indirect costs were removed as outlined at Procedure #4 the City would no longer met the minimum MOE benchmark requirement. No other 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 \$1,645,240 to the amount reported on the City's Expenditure Report (Schedule 3, line 18), with no differences. We selected 25 indirect MOE costs for inspection totaling \$223,883, representing 14% of the total indirect MOE costs of \$1,645,240. During testing of direct expenditures, we also identified \$20,201 of direct costs that should have been reported as indirect costs. Refer to Procedure #3 above. The City applied internal service allocations based on fiscal year 2022 budget amounts for various indirect/overhead expenses. These expenses included payroll and benefits, liability insurance, monthly print shop/mail/phone charges, monthly office rental charges, monthly tools and equipment maintenance/replacement charges, monthly computer website maintenance charges, monthly vehicle replacement charges and various other charges. 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. The City was unable to provide a documented methodology used to support the allocation of charges for the samples selected, including the \$20,201, identified in Procedure #3, that should have been reported as indirect costs.

(Continued)

We then requested the City to provide a documented methodology used to support the allocation of the remaining indirect costs and the City was unable to provide documentation to support these allocations. As such, we lack information necessary to confirm these costs as fair and reasonable. After removing ineligible direct costs at Procedure #3, if unsupported indirect costs were removed from MOE, the City would no longer meet the benchmark requirement. The shortfall would amount to \$1,381,048.

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, 2022 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 \$3,002,853 for the past three fiscal years ended June 30, 2020, 2021 and 2022. We agreed the fund balance of \$1,553,813 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, 2022. 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.

Findings: The LFS expenditures were tracked in the City's general ledger by fund and account number. The City recorded its LFS expenditures in its Measure M Fund and in various account numbers. Total Measure M2 Local Fair Share expenditures per the general ledger during the Fiscal Year ended June 30, 2022 were \$693,309 (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 five direct Measure M2 Local Fair Share expenditures for inspection totaling \$489,656 representing approximately 71% of total direct Measure M2 Local Fair Share expenditures of \$693,309 for the Fiscal Year ended June 30, 2022. 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 general ledger detail, the Expenditure Report (Schedule 3, line 1), and discussion with the City's accounting personnel, no indirect costs were identified as Measure M2 Local Fair Share expenditures for the Fiscal Year ended June 30, 2022. No 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 \$6,864 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 (FY22) 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 13, 2023

CITY OF CYPRESS, CALIFORNIA
SCHEDULE OF MEASURE M2 LOCAL FAIR SHARE EXPENDITURES
Year ended June 30, 2022
(Unaudited)

SCHEDULE A

Maintenance of Effort (MOE) Expenditures:

Indirect and/ or Overhead - Schedule 3, line 1 \$ 1,645,240

Construction & Right-of-Way

Street Reconstruction 736,174

Pedestrian Ways & Bikepaths 193,933

Maintenance

Overlay & Sealing 58,627

Street Lights & Traffic Signals 93,371

Other Street Purpose Maintenance 1,165,558

Total MOE Expenditures \$ 3,892,903

Measure M2 Local Fair Share Expenditures (Schedule 4):

Residential Street Resurfacing \$ 600,000

Traffic Signal Improvements 93,309

Total Measure M2 Local Fair Share Expenditures \$ 693,309

Total MOE and Measure M2 Local Fair Share Expenditures \$ 4,586,212

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



CITY of CYPRESS

5275 Orange Avenue, Cypress, California 90630

Phone 714-229-6700

www.cypressca.org

April 13, 2023

Exhibit 1

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 Cypress as of and for the fiscal year ended June 30, 2022.

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 vouchers 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 \$949,195, which represented approximately 42% of direct MOE expenditures of \$2,247,663 for the fiscal year ended June 30, 2022. We agreed the dollar amount listed on the general ledger to supporting documentation provided by the City. After inspecting the supporting documentation, and through discussion with the City's accounting personnel, we identified one expenditure related to a retirement lunch for a public works maintenance employee in the amount of \$97, which was not properly classified as a local street and road expenditure and is not allowable per the Ordinance. We selected an additional five direct MOE expenditures totaling \$535, which were comprised of \$48 for a grilling tools set, \$53 for reimbursement of a phone case and a screen protector, \$143 for an annual renewal fee to South Coast Air Quality Management District, \$269 for membership dues to American Public Works Association, and \$22 for picture frames. We found these expenditures were also not properly classified as local street and road expenditures, nor are they allowable per the Ordinance. We also identified \$20,201 of direct charges that should have been reported as indirect costs. They represented charges for pump station support, National Pollutant Discharge Elimination System (NPDES) annual license fee, data acquisition service, water quality permit fees, and other water quality contract services that were allocated 5% as direct charges. After removing the transactions above from total direct MOE expenditures, the City continued to meet the MOE benchmark requirement; however, if indirect costs were removed as outlined at Procedure #4 the City

Anne Hertz-Mallari, Mayor

Scott Minikus, Mayor Pro Tem
Frances Marquez, Ph.D., Council Member

David Burke, Council Member
Bonnie Peat, Council Member

would no longer met the minimum MOE benchmark requirement. No other exceptions were found as a result of this procedure.

City's Response:

We accept the determination these expenditures are not eligible to be classified as direct local street and road 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 the total indirect expenditures of \$1,645,240 to the amount reported on the City's Expenditure Report (Schedule 3, line 18), with no differences. We selected 25 indirect MOE costs for inspection totaling \$223,883, representing 14% of the total indirect MOE costs of \$1,645,240. During testing of direct expenditures, we also identified \$20,201 of direct costs that should have been reported as indirect costs. Refer to Procedure #3 above. The City applied internal service allocations based on fiscal year 2022 budget amounts for various indirect/overhead expenses. These expenses included payroll and benefits, liability insurance, monthly print shop/mail/phone charges, monthly office rental charges, monthly tools and equipment maintenance/replacement charges, monthly computer website maintenance charges, monthly vehicle replacement charges and various other charges. 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. The City was unable to provide a documented methodology used to support the allocation of charges for the samples selected, including the \$20,201, identified in Procedure #3, that should have been reported as indirect costs. We then requested the City to provide a documented methodology used to support the allocation of the remaining indirect costs and the City was unable to provide documentation to support these allocations. As such, we lack information necessary to confirm these costs as fair and reasonable. After removing ineligible direct costs at Procedure #3, if unsupported indirect costs were removed from MOE, the City would no longer meet the benchmark requirement. The shortfall would amount to \$1,381,048.

City's Response:

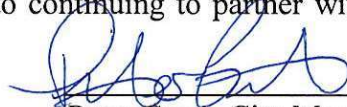
We acknowledge the above finding. The City uses internal service funds to allocate a variety of service costs to those departments/programs that utilize the services. This is a standard practice in municipal government and we assert the allocation methodology is documented and represents a fair and reasonable allocation of costs. Despite using this allocation methodology since Measure M was passed in 1990, it appears the City's documentation (which is largely based on the annual budget and historical trends) is no longer sufficient for OCTA. OCTA audit representatives have indicated documentation, such as a formal cost allocation plan and/or time and motion studies, would meet its needs. However, this was not previously requested of the City and the City has not had the need for such a plan to be prepared, nor is there sufficient time to prepare such a plan during the timeline for this audit. Further, the City calculates its MOE expenditures annually using

the same methodology that OCTA has repeatedly audited without any findings. In fact, during the FY 2017 audit, the costs that OCTA now identifies as undocumented, were specifically reviewed and reclassified (for reporting purposes) to the indirect cost line item at the suggestion of OCTA's auditor. No other suggestions or concerns were raised as part of the 2017 audit or during any previous audit review process. However, despite these facts we agree an update to our allocation methodology is appropriate to ensure the documentation is sufficient to meet OCTA standards.

Even though the City's documentation of its method of allocating indirect costs can be improved upon, a determination to potentially remove all indirect costs is not reasonable. For more than 30 years, the current indirect cost allocation documentation has been accepted. These indirect costs (\$1.6 million) represents more than 45% of Cypress' Maintenance of Effort (MOE) benchmark. Many of these costs are considered indirect because of how they are recorded in the City's general ledger (in separate internal service funds). For example, all fleet costs associated with street and right-of-way maintenance (including fuel, repairs, and vehicle replacement) are recorded as indirect costs and excluding these costs from the MOE calculation would not be appropriate. These costs are directly related to MOE activities and should be included for MOE purposes.

The City recognizes auditing standards and processes have evolved since the MOE benchmark was established; however, the documentation standard for determining if indirect costs are fair and reasonable does not appear clear and obvious. As Cypress' situation demonstrates, this determination may have significant impacts and requires a reasonable, common sense-based response and implementation. The City requests OCTA allow the current methodology for indirect costs until the City can complete a cost allocation study in the next 12 months. This study would provide the basis for an updated methodology for determining MOE eligible costs.

Cypress is one of the most financially stable cities in Orange County and takes great pride in the quality of its streets and roads. The City has not changed its cost allocation methodology in attempts to meet its MOE and it has always been a forthright, enthusiastic partner to OCTA. We appreciate and value the audit process and simply ask OCTA to provide the City the opportunity and necessary time to update past practices that have been consistently applied, reviewed and audited over the years. We look forward to continuing to partner with OCTA to address these concerns.



Peter Grant, City Manager



Matt Burton,
Director of Finance and Administrative Services



Doug Dancs, Director of Public Works