

Memorandum of Understanding
among
Cities of Costa Mesa and Fountain Valley
and
The Orange County Transportation Agency
regarding
Measure M Growth Management Area (GMA) Funding and Agency Responsibilities for the
Garfield/Gisler Bridge Crossing over the Santa Ana River
Preliminary Engineering and Supplemental Environmental Impact Report
April 29, 2005

This Memorandum of Understanding (MOU) is entered into among the Orange County Transportation Authority, hereinafter referred to as the OCTA, and the Cities of Fountain Valley and Costa Mesa, hereinafter referred to as Cities. Consistent with Measure M and the Combined Transportation Funding Programs, OCTA allocates funds to local jurisdictions for projects which will benefit a Growth Management Area (GMA). The Cities have applied for and received allocations of \$250,000 in GMA 6 funds and \$100,000 in GMA 8 funds, respectively, for the Garfield/Gisler Bridge Crossing over the Santa Ana River Preliminary Engineering and Supplemental Environmental Impact Report, hereinafter referred to as PE/SEIR. The purpose of this MOU is to provide an initial understanding of each of party's responsibilities with respect to funding and preparing the PE/SEIR.

This document establishes obligations on all parties, and constitutes an exchange of promises. A separate cooperative agreement between the City of Fountain Valley and OCTA will be prepared relative to the City of Fountain Valley's commitment to provide an additional \$100,000 in Measure M turnback funds for preparation of the PE/SEIR.

Section 1. GMA Funding Allocation

1.1 OCTA Responsibilities

1.1.1 Establish Separate Account Codes for GMA Funds Allocated for Report Preparation

OCTA shall establish separate account codes for the \$250,000 in GMA 6 funds, \$100,000 in GMA 8 funds, and \$100,000 in City of Fountain Valley Measure M turnback funds which have been allocated for preparation of the PE/SEIR. OCTA shall draw down these funds to pay Consultant invoices prepared consistent with the requirements set forth in the Agreement which OCTA and the selected Consultant enter into. Upon completion of the PE/SEIR, OCTA will return unexpended funds, if any, to the GMA 6 fund, GMA 8 fund, and City of Fountain Valley on a pro-rated basis.

1.1.2 Prepare Final Report

After the PE/SEIR has been completed, OCTA shall prepare a final report which describes the work performed, the consulting firm(s) involved in the project, and all costs billed to the project.

1.2 Cities' Responsibilities

1.2.1 No Reallocation of GMA Funds Allocated for Report Preparation

The Cities shall ensure that the \$250,000 in GMA 6 funds and \$100,000 in GMA 8 funds which have been allocated to the project are not withdrawn from the Project or reallocated to any other project(s) by either GMA.

Section 2. Report Preparation

2.1 OCTA Responsibilities

2.1.1 OCTA Responsibilities during the Procurement Process

OCTA shall lead the procurement process to select a firm to prepare the PE/SEIR. Responsibilities include:

- a. Establish the procurement schedule.
- b. Work cooperatively with the Cities to develop the scope of work for the Request for Proposals (RFP).
- c. Prepare and issue the RFP.
- d. Appoint members to the Evaluation Committee. The Evaluation Committee to select the firm/consultant who will prepare the PE/SEIR. The Evaluation Committee shall be composed of representatives from the cities of Costa Mesa, Fountain Valley, and Huntington Beach as well as OCTA.
- e. Schedule and host a pre-proposal conference.
- f. Schedule and participate in interviews.
- g. Prepare reports and recommendations for the OCTA Board of Directors.
- h. Negotiate and enter into a contract with the Consultant selected to prepare and develop the PE/SEIR to be completed no later than June 30, 2006.

2.1.2 OCTA Responsibilities as Lead Agency

OCTA shall act as the lead agency for the PE/SEIR. As such, OCTA shall:

- a. Prepare the Initial Study/Notice of Preparation (IS/NOP) for the PE/SEIR.
- b. Host a public open house prior to release of the IS/NOP.
- c. Host a public scoping meeting during circulation of the IS/NOP.
- d. Review and analyze the draft and final versions of the PE/SEIR, associated technical reports, and the Mitigation Monitoring and Reporting Program (MMRP) for scope, content, and adequacy.
- e. Issue a Notice of Availability (NOA) and Notice of Completion (NOC) when the draft PE/SEIR is ready for public review and comment.
- f. Host a public open house prior to finalizing the draft PE/SEIR.
- g. Host at least one public hearing at a regularly scheduled OCTA Board of Directors meeting after the NOA and NOC have been filed, to receive public comments on the draft PE/SEIR.
- h. Certify the original Program Level EIR with the accompanying PE/SEIR derived from this effort only upon consensus reached by all "Cooperating Agencies" (i.e.,

the cities of Costa Mesa, Fountain Valley, Huntington Beach and Newport Beach, and the County of Orange).

- i. Certify the existing Program Level EIR in accordance with OCTA's *Guidance for Administration of the Master Plan of Arterial Highways* document, as amended April 1998, if the PE/SEIR is delayed beyond June 30, 2006.

2.1.3 OCTA Responsibilities for Project Management

OCTA shall, through its designated agent, act as Project Manager for the Consultant contract. Representative duties include:

- a. Prepare the scope of work, schedule, and budget for the PE/SEIR. Convene at least two meetings with the Cities during preparation of these items.
- b. Provide direction to and information for the Consultant selected to prepare the PE/SEIR.
- c. Coordinate and communicate with the Cities and Responsible Agencies (i.e., resource agencies such as the U.S. Army Corps of Engineers or California Department of Fish and Game), if applicable.
- d. Convene a Garfield/Gisler Bridge Crossing Technical Advisory Committee (TAC) and schedule monthly meetings thereof. The TAC shall be composed of one staff representative each from the cities of Costa Mesa, Fountain Valley, Huntington Beach, and Newport Beach as well as the County of Orange and OCTA.
- e. Convene a Garfield/Gisler Bridge Crossing Policy Advisory Committee (PAC) and schedule quarterly meetings thereof. The PAC shall be composed of one city manager and one elected official each from the cities of Costa Mesa, Fountain Valley, Huntington Beach, and Newport Beach, as well as the County of Orange Executive Director and OCTA Chief Executive Officer.
- f. Prepare quarterly progress reports to the OCTA Board of Directors; provide copies to the Cooperating Agencies.
- g. Schedule public meetings and a public hearing, as discussed above.

2.2 Cities' Responsibilities

2.2.1 Cities' Responsibilities during the Procurement Process

The Cities shall participate in the procurement process to select a Consultant to prepare the PE/SEIR. Responsibilities include:

- a. Cooperatively working with OCTA to develop the scope of work for the RFP.
- b. Participating in Evaluation Committee meetings and interviews to select the Consultant to prepare the PE/SEIR.

2.2.2 Cities' Responsibilities as Cooperating Agencies

The Cities shall act as Cooperating Agencies for the PE/SEIR. As such, the Cities shall:

- a. Review and provide comments on the draft Initial Study/Notice of Preparation (IS/NOP) for the PE/SEIR.

- b. Attend and participate in all public meetings, including one open house prior to release of the IS/NOP, one public scoping meeting during circulation of the IS/NOP, one open house prior to completion of the draft PE/SEIR, and one public hearing at a regularly scheduled OCTA Board of Directors meeting after the NOA and NOC have been filed, to receive public comments on the draft PE/SEIR.
- c. Review and provide comments on the draft and final versions of the PE/SEIR, associated technical reports, and the Mitigation Monitoring and Reporting Program (MMRP).

2.2.3 Cities' Responsibilities during PE/SEIR Preparation

The Cities shall assist with PE/SEIR preparation and review. Representative duties include:

- a. Assist OCTA with preparation of the scope of work, schedule, and budget for the PE/SEIR. Participate in at least two meetings with OCTA and other Cooperating Agencies during preparation of these items.
- b. Provide information to the firm selected to prepare the PE/SEIR, as requested.
- c. Designate a City representative to the Garfield/Gisler Bridge Crossing Technical Advisory Committee (TAC) and ensure that the designated representative attends monthly meetings thereof.
- d. Designate a City representative to the Garfield/Gisler Bridge Crossing Policy Advisory Committee (PAC) and ensure that the designated representative and City Manager attend quarterly meetings thereof.
- e. Provide input for quarterly progress reports to the OCTA Board of Directors.
- f. Attend and participate in all public meetings, as discussed above.
- g. Provide City Council recommendations to the OCTA Board of Directors regarding certification of the Program EIR and accompanying PE/SEIR prior to the date established for certification of these documents.

Section 3. Amendment/Termination

3.1 Amendment

This MOU may be amended by the written consent of all three parties which are signatories hereto.

3.2 Termination

This MOU may be terminated by any party which is a signatory hereto upon written notification to both of the other parties. Termination shall have no impact on the allocation of GMA funding provided herein, however, if funds have been expended on project-related activities up to the date of termination, pro-rata deductions shall be drawn from the GMA 6 fund, GMA 8 fund, and City of Fountain Valley Measure M local turnback allocation.

THE ORANGE COUNTY TRANSPORTATION AUTHORITY

(Date)

CITY OF COSTA MESA

(Date)

CITY OF FOUNTAIN VALLEY

(Date)