



ORANGELINE HIGH SPEED MAGLEV

REPORT TO THE EXECUTIVE COMMITTEE

TO: Members of the Orangeline Development Authority Executive Committee

FROM: Albert Perdon, Executive Director

DATE: August 28, 2008

SUBJECT: Proposal to Restructure the Direction of the Authority's Program

RECOMMENDATION

That the Executive Committee considers this report and provides direction to staff.

SUMMARY

At its meeting of July 9, 2008, the Authority Board approved the agreement with DLA Piper for legal services aimed at securing private funding for the Orangeline High Speed Maglev Corridor Development Project, subject to review and concurrence of the Executive Committee. Chairman Cartozian held meetings of the Executive Committee on July 23 and July 31 to review the DLA Piper agreement.

Based upon input received at these meetings, the Executive Committee requested that the City Managers attending the July 31 meeting recommend for the Committee's consideration an alternative mechanism to fund the DLA Piper agreement. On August 20, 2008, South Gate City Manager Ron Bates transmitted by email a letter to Chairman Cartozian, with copies to Authority Board members and others, recommending that the Executive Committee consider a restructuring and re-direction of the Authority's program.

The recommendation to re-align the Authority's program with public agency funding and leadership appears to be well intentioned. However, it calls for a major change in direction that does not appear to be consistent with the purpose for which the Authority was created, or with the provisions of the Authority Joint Powers Agreement approved by each of the Authority's Member Cities.

In considering the recommendations presented in the letter to Chairman Cartozian, the Executive Committee should consider the considerable progress that has been achieved since the Authority's formation just five years ago.

- Efforts to explore the feasibility of, and local interest in, the development of a high-speed maglev along the Orangeline corridor were initiated by City of Cerritos Mayor Pro-Tem and Authority Vice Chair Bruce Barrows in 2000.
- Discussions with local elected officials and city managers, presentations at city council meetings and initial SCAG-based feasibility studies by IBI Group from

The Orangeline Development Authority is a joint powers agency formed to pursue deployment of the Orangeline High Speed Maglev system in Southern California. The Authority is composed of the following public agencies:

City of Artesia
City of Bell
City of Bellflower
City of Cerritos
City of Cudahy
City of Downey
City of Glendale
City of Huntington Park
City of Los Alamitos**
City of Maywood
City of Palmdale
City of Paramount
City of Santa Ana*
City of Santa Clarita
City of South Gate
City of Vernon

Chair

Kirk Cartozian
Councilmember,
City of Downey

Vice Chair

Bruce Barrows
Mayor Pro Tem,
City of Cerritos

Secretary/Treasurer

W. Michael McCormick
Councilmember,
City of Vernon

Auditor

Scott A. Larsen
Councilmember,
City of Bellflower

General Counsel

Yvette Abich
Colantuono & Levin, PC

Executive Director

Albert Perdon, P.E.

Supporting Agencies

Gateway Cities Council
of Governments
Southern California
Association of Governments
City of Garden Grove
City of Long Beach
City of Stanton

*City Council has approved
City joining the Authority

**City membership is
currently inactive

2000 to 2003 led to formation of the Orangeline Development Authority in 2003 for the specific purpose of constructing and maximizing the benefits of the Orangeline High Speed Maglev. Fifteen cities have approved the Authority Joint Powers Agreement expressing their interest in and commitment to the Project.

- Studies by the ARCADIS Team of independent consultants in 2006 confirmed the potential feasibility of the Orangeline High Speed Maglev Corridor Development Project as a primarily privately-funded infrastructure/real-estate improvement project.
- Authority actions to pursue the Orangeline High Speed Maglev Corridor Development Project have been consistent with Southern California Association of Governments policy adopted in December 2000 and with its 2004 Regional Transportation Plan.
- The DLA Piper agreement culminates an 8-year effort to advance the Orangeline High Speed Maglev Corridor Development Project; it offers the most realistic opportunity to implement the Project within the lifetimes of the Authority Board Members.

Staff recommends that the Authority continues its efforts to advance the Orangeline High Speed Maglev Corridor Development Project. The approach is one of commitment and diplomacy – commitment to the ideals and vision that the Authority is founded upon, and has worked hard and relentlessly on to achieve, and diplomacy to demonstrate respect for the public process and gain strengthened support of regional transit agencies.

Rather than “re-aligning” the Authority’s program in a way that abandons the current Project, the Authority should adopt a number of positive recommendations presented in the letter to Chairman Cartozian as “Guiding Principles” that are aimed at working collaboratively with SCAG and the two County Transportation Commissions. They would include stepped-up efforts to gain support of these agencies for the Authority’s Project. Part-time staff could be engaged to assist in coordinating these efforts, which would be funded from the federal grant currently being negotiated with Caltrans or from other outside funding sources.

Authority Board Members should increase efforts to advocate for the Project among policy leaders of the regional agencies, as well as among state and federal representatives of the Authority’s Member Cities. The Authority also needs to engage Member City staff to get them more informed about the Project and to address their concerns.

Staff further recommends that, in parallel with the above efforts to strengthen the already growing public support, the Authority continues current efforts to secure private funding for the Orangeline High Speed Maglev Corridor Development Project. It is recommended that the Authority Board re-affirm and give final approval of the DLA Piper Agreement conditionally approved by the Authority Board on July 9th.

The recommended approach best achieves the overall purpose set out in the Authority’s First Amended Joint Powers Agreement. This approach offers the Authority the best chance to advance the goals and policy direction established by the Authority Board over the past 5 years to “put in place and maximize the benefits of the Orangeline Project”.

Staff has prepared the attached briefing paper to provide further background on this issue.

ATTACHMENT

1. Future Direction of the Orangeline High Speed Maglev Corridor Development Project

**Future Direction
of the
Orangeline High Speed Maglev Corridor Development Project**

INTRODUCTION

Recommendations have been presented for consideration by the Authority's Executive Committee to institute "a major change in the direction of the Orangeline Project," meaning a major change in the current and planned activities to plan, put in place, maintain and maximize the benefits of, the Orangeline High Speed Maglev, as it is currently envisioned.

Currently, the Orangeline is defined as a high-speed maglev system extending from Palmdale to Irvine. The route follows the I-14 Freeway corridor from Palmdale to Santa Clarita, the I-5/MetroLink rail alignment from Santa Clarita to Burbank, Glendale and downtown Los Angeles, the Salt Lake rail road alignment from downtown Los Angeles to Paramount, the former Pacific Electric Rail Road West Santa Ana Branch alignment from Paramount to Santa Ana, and finally the I-5/MetroLink alignment from Santa Ana to Irvine.

Since the Authority's inception in 2003, Orangeline Project activities have focused on: 1) organizing and securing participation of all cities along the Orangeline corridor as members of the Authority; 2) completing planning studies to assess the feasibility of the Orangeline as a privately-funded transit improvement; 3) developing a practical and realistic financial plan and implementation plan to put the Orangeline in place; 4) inter-governmental liaison to build public agency support for the Project, and; 5) activities to secure private partners and private investment.

The Project has achieved positive results leading to a current membership of 14 active member cities and over \$5 million in private funding investment/commitments, a project plan, and a proposal by DLA Piper to serve as the Authority's legal adviser and partner in securing the private investment required to put the Orangeline in place. Next Project steps are aimed at securing proposals that are intended to lead to selection of private infrastructure and real estate developer partners. These partners will join with the Authority to complete remaining planning activities and subsequently put the \$20 billion Orangeline High Speed Maglev in place, along with station-area, mixed-use, transit-oriented developments at each of the stations along the 105-mile Orangeline High Speed Maglev route.

The recommendations presented to the Executive Committee propose a new project – that is a new set of activities – identified as the, "Pacific Electric R.O.W. to North County Transit Corridor Project." They also recommend "aligning the Authority's operation with public funding and leadership, beginning with the Orangeline Alignment Transit Study to be undertaken by regional transit agencies and "supported by" the Orangeline Development Authority, which would serve as a "sounding board" for this study.

This report presents an assessment of the recommendations contained in the August 18th letter, and additional information to assist the Executive Committee in deciding upon a future course of action.

BACKGROUND

At its meeting of July 9, 2008, the Orangeline Development Authority Board considered the staff recommendation that the Authority Board adopt a Resolution approving the Legal Services Agreement with DLA Piper LLP entitled:

A RESOLUTION OF THE AUTHORITY BOARD OF DIRECTORS OF THE
ORANGELINE DEVELOPMENT AUTHORITY APPROVING THE LEGAL SERVICES
AGREEMENT WITH DLA PIPER LLP

Following discussion, Authority Vice Chair and City of Cerritos Councilmember Bruce Barrows moved to adopt the Resolution, unless there are substantive changes made by the Executive Committee. City of Palmdale Councilmember Steve Hofbauer seconded the motion.

City of Glendale Councilmember Weaver commented on the need to be a risk taker and felt there was a need to obtain answers and move ahead.

Discussion followed regarding giving City Managers the opportunity to review the item.

Mr. Hofbauer suggested Executive Director Perdon send emails to City Managers expressing the Authority Board's urgency and the need to move forward with this item. In addition, it was recommended that the matter be brought to the City Managers' attention and brought before the Executive Committee within two weeks time. It was indicated that, if the Executive Committee intends to incorporate major changes to the DLA Piper agreement, it would be brought back before the Authority Board at the next meeting. The motion carried, unanimously.

Subsequent to the Authority Board action, Chairman Cartozian held two meetings of the Executive Committee to discuss this matter. The Executive Committee asked the City Managers attending the July 31 meeting to recommend a financial mechanism to fund the DLA Piper agreement. On August 20, 2008, South Gate City Manager Ron Bates transmitted by email to Authority Board members, City Managers and others a letter with attachments proposing a restructuring of the direction the Authority might take to pursue high-speed transit on the Pacific Electric Right-of-way. Limited federal grant funding would be used to fund an agreement with DLA Piper. The letter does not detail the proposed changes to the DLA Piper agreement. The letter goes well beyond proposing a mechanism to fund the DLA Piper agreement – it proposes major changes to the Authority's program.

DISCUSSION

Staff Response to Recommendations Presented in the August 18, 2008 letter to Chairman Cartozian

The recommendations contained in the letter to Chairman Cartozian raise significant policy issues pertaining to the Authority's program and future direction. The following discussion identifies potential concerns and risks that the recommendations could impose on the Authority and its Member Cities; also identified are positive benefits that potentially could be derived from the recommendations and a possible course of action for consideration of the Executive Committee.

1. The recommendations presented in the letter appear to be inconsistent with the Authority's mission and purpose.

The letter to Chairman Cartozian raises a fundamental question about how the recommendations relate to the Authority's mission and purpose. The question arises as to whether the Authority Board can legally consider and approve the proposal to institute a major change in the Authority's program as proposed in the letter, in light of the terms set out in the Authority's enabling legislation approved by each Member City. Implementing the proposed changes would likely require a revision of the First Amended Joint Powers Agreement and adoption of the revised document by each Member City.

The Orangeline Development Authority was created for the specific purpose of implementing the Orangeline High Speed Maglev. The purpose is defined in the First Amended Joint Powers Agreement (JPA) establishing the Orangeline Development Authority. The JPA describes the purpose of the Authority and defines the Orangeline and the Orangeline Project as follows:

“The purpose of the Authority is to pursue its stated objective to use the common powers of its Members to enter into one or more public-private partnerships to finance, acquire, design, construct, reconstruct, improve, and operate the facilities and improvements to the Orangeline as may be approved by action of the Authority.

“Orangeline” means a high-speed ground transportation service that is provided by an advanced technology, elevated, magnetically levitated (“Maglev”) ground transportation system for moving people and cargo, and comprised of passenger and cargo vehicles, elevated guideways and support columns, power distribution system, vehicle control system, stations, maintenance and operation center, and related facilities.

“Orangeline Project” means the activities required to plan, put in place, maintain and maximize the benefits of, the Orangeline.

The letter to Chairman Cartozian states that the purpose of the proposed re-direction is, “to advance a major transit project on the Pacific Electric Right-of-Way”. The letter does not specifically support advancing the Orangeline Project or support putting in place the Orangeline High Speed Maglev, as it is defined in the Joint Powers Agreement. Its recommendations are thus inconsistent with the purpose for which the Authority was created.

2. The recommendations call for “a major change” in direction to “align the Authority’s operation with public (SCAG, OCTA and MTA) funding and leadership” but does not indicate how the recommendations will maximize the benefits of the Orangeline.

The letter raises a second fundamental concern. The “major change” in direction to “align the Authority’s operation with public funding and leadership” appears to be a return to the status quo, to a public process that relies on substantial public funding and leadership of regional transit agencies, with the Authority used as a “sounding board”. This is distinguished from the Authority’s approach in which local agencies, through the Orangeline Development Authority, are leading the efforts to carry out the Project using Project revenues and private financing. A major advantage of the Authority’s approach is that it maintains Member City control over the Project, it facilitates the integration of Maglev and station-area development and it maximizes the potential benefit of the Orangeline Maglev.

The recommendations call for initiating a new project - that is, a new set of activities – to carry out a “high-speed transit project”. This new project may or may not be intended to cause, or result in, construction and implementation of a high-speed maglev system. According to the proposed schedule, the first segment of this undefined transit system would not be completed until 2021, at the earliest. There is no way to assess the reality of this schedule or of the prospects for securing the public and private funding needed to build the transit system, since there is no project definition, there is no financial analysis and there is no funding plan. Technology selection would not occur until +or- 2014.

Technology selection would likely depend upon the outcome of the proposed “federal alternatives analysis”, thereby indicating a role for the federal government in the technology selection process. Funding and leadership of the project and major decision-making would shift from the Authority and its member cities to regional agencies and the federal government. This shift will result in significant delays to completion of any project along the corridor.

The likely delay in project implementation would increase costs by more than the most optimistic expectations for public funding for the project. By way of example, the \$5.2 billion Metrorail extension to Dulles endured years of uncertainty and delay as federal officials questioned its rising costs and required elimination of significant project features to reduce costs. Denver’s FasTracks light rail project has experienced extensive delays and seen its costs jump from a 2004 estimate of \$4.7 billion for a 2027 completion to a current estimate of \$7.9 billion if it were taken out to a possible 2034 completion date to accommodate public funded constraints .

Aside from likely funding-induced delays are the delays resulting from indecision and lack of consensus on a project definition. It was asserted at the July 31st Executive Committee meeting that, “All other agencies are dead set against maglev, including the federal agencies. No one believes in maglev. The ridership estimate is outlandish.” It was also stated that, “The \$3 million study will look at options.” It is a “preliminary study” to develop a recommendation for the corridor. “It may not be maglev.” “There may be 3 sections that are bid separately. There is different ridership – like the IOS maglev being built right now. That will be part of the analysis.” The recommendations, if approved, would instill a major set-back in the consensus that has been achieved to date.

The recommendations appear to unnecessarily rely upon granting leadership of a new transit project to other agencies, one that may not be maglev, with the Authority in a support role. The recommendations, which essentially call for the end to the Authority’s current program, would likely result in the Authority’s Member Cities losing the substantial benefits and income to be generated by the Orangeline High Speed Maglev Corridor Development Project.

The recommendations, therefore, do not appear to be aimed at putting in place the Orangeline High Speed Maglev or of maximizing its benefits to the Member Cities, as called for in the Authority JPA.

3. The recommendations are based upon questionable assumptions and draw conclusions that may not be accurate or reliable.

The letter to Mr. Cartozian raises a third fundamental question relating to the underlying assumptions that form the basis for the recommendations. The letter states that “significant public funding” is becoming available for a “high-speed transit project on the Pacific Electric Right-of-Way to North County”. Note that the letter does not state that significant public funding is becoming available for the Orangeline High Speed Maglev. The assumption that “significant public funding” is likely to be made available for a project on the West Santa Ana Branch right-of-way, and the concern that we not disrupt the public process to deliver this funding, appears to be the primary basis for re-directing the Authority’s program.

At the July 23 Executive Committee meeting, Authority Vice Chair Bruce Barrows asked what Authority Board approval of the July 9 meeting agenda Items #8 - DLA Piper agreement, #9 - Developer RFP and #10 – extending the term of ARCADIS agreement would do to the public process. The response was that, “It would be inconsistent with

actions of SCAG, OCTA and MTA to undertake the \$3 million OATS study; it would cause these agencies heartburn.”

It was also stated that, “We’ll never have a public private partnership. It will never happen. No transit project pays for itself.” Also, the question was asked of DLA Piper, “How do you advise us to move the process without alienating the people with the money?”

Thus, the apparent assumptions leading to the recommendations are that the Authority is reliant on public funding from regional transit agencies to cover a significant portion of the cost of a transit project; that these agencies “are dead set against maglev”; that there will never be a public private partnership, and that, if we alienate the regional transit agencies that have the money, “we’ll never move up on” the waiting list for public funds.

The prospect of receiving “significant funding” referenced in the letter appears to be based upon the “Expenditure Plan” for the Proposed One-Half Cent Sales Tax for Transportation ballot measure that the MTA is putting before the voters in November. The measure identifies \$240 million in the Expenditure Plan for the West Santa Ana Branch Corridor beginning in 2015-17, or possibly sooner, as a match to other funds needed to cover the total cost of the new transit project serving the Corridor. The amount is approximately the same amount that DLA Piper feels confident can be secured from private sources in 2009 for the Orangeline.

The Authority assumption that the \$20 billion needed to build the Orangeline High Speed Maglev will likely not be made available from public sources has proven to be correct, as evidenced in the funding plans and recent actions of regional transit agencies. In contrast to the lack of required financial support for new projects that are dependent upon significant public funding, there is growing support and funding availability for privately-funded projects such as the Orangeline High Speed Maglev.

Governor’s Schwarzenegger’s administration has indicated support for the Project and has requested that the Authority secure private sector proposals for its consideration that show what the private sector is willing to do and what is required of the State. At the Authority’s Investor/Developer conference held in Sacramento earlier this year, Governor Schwarzenegger’s Deputy Chief of Staff and Cabinet Secretary, Dan Dunmoyer, made very positive remarks about the Project, indicating that the Authority’s approach is the approach of the future; he indicated a strong possibility of gaining the Governor’s support if we can present solid evidence of private funding commitments.

The Authority’s private funding approach has been a fundamental assumption in the Authority’s work plan and financial plan, as adopted by Authority Board policy. It is consistent with the region’s public planning process for development of a regional high speed maglev system, and with the premises of the 2004 Southern California Association of Governments (SCAG) Regional Transportation Plan (RTP); the 2004 RTP identifies the Orangeline High Speed Maglev segments from Palmdale to Irvine as part of an adopted regional high-speed maglev network to be funded primarily from private funds. It is also consistent with the MTA Long Range Transportation Plan, which identifies the Orangeline segment along the West Santa Ana Branch corridor as a privately-funded maglev project.

4. There is no evidence to support the assumption that a public private partnership for construction and operation of the proposed but undefined transit project is a possibility; the assumption is highly speculative.

At the Executive Committee meeting of July 31, 2008, it was stated that we would “never have a public private partnership” for the Orangeline High Speed Maglev. “It will never happen.” The letter to Chairman Cartozian, never-the-less, asserts “the possibility of a

Public-Private partnership for construction and operation” (of the proposed project). Since the “project” proposed in the letter is undefined, the assumption that a public-private partnership is possible is much more a hope than a potential reality evidenced by analysis and input/commitments from private investors and developers.

According to the letter to Chairman Cartozian, an RFQ/RFP for a “Public – Private Partnership Process” would not be issued until 2013-2015; after the OATS study, Federal Alternatives Analysis and EIR Process/Preliminary Engineering are all completed. Bringing in a private partner after all the critical decisions are made that impact the economic viability of the project, and the viability of a successful public private partnership, is risky at best and will likely not result in a successful project in which the private sector partner is expected to assume significant financial risk.

The Authority’s plan is to bring in the private partner now so that the transit system and related station-area development can be planned and implemented jointly by the Authority, its Member Cities and the private partner. It makes more sense, and it is less risky, to spend \$200 million on further planning and environmental studies of a project for which there is a conditional funding commitment, than to spend a similar amount on a project that is yet to be defined and has no plan or commitment for construction funding. The Authority’s approach is a more sound business approach that reduces risk for the regional agencies, for the Authority’s member cities and for the general public.

At the Executive Committee meeting of July 31, 2008, it was asserted that, “No transit project pays for itself, even for operation, let alone capital construction.” This assertion is not correct. No concrete evidence has been presented to repudiate the findings of the independent planning work performed by the ARCADIS Team demonstrating the potential viability of the Orangeline High Speed Maglev Project financial plan.

Privately-funded transit projects do exist throughout the world, including in the U.S. Past and prospective private sector funding commitments verify the veracity of the Authority’s financial plan. The ARCADIS Team has already invested over \$1.25 million in the Project. DLA Piper has committed to invest over \$2.25 million. Combined with other private risk investment, over \$4 million in private funding has already been invested in or committed to the Orangeline Project. Staff is not aware of any other similar project that has been as successful in securing this level of private-sector financial commitment for a project that is at this early stage of development.

The private-sector commitment that has already been secured for the Authority’s Project demonstrates a high level of private-sector confidence in the Project and in the Authority. The Authority risks losing this private-sector confidence, and future private investment, if it adopts the recommendations contained in the letter to Chairman Cartozian. The assumption that private funding can be secured for a new, undefined project on the West Santa Ana Branch is highly speculative. Re-directing the Authority’s program on the basis of this assumption is very risky.

5. The proposed Revised Budget is aimed at a low-level planning study process and is not adequate to administer a \$20 billion infrastructure improvement project, integrated with station-area development potentially valued at \$40 billion over the next 30 years.

The proposed budget does not provide the means to manage the Orangeline High Speed Maglev Corridor Development Project. At best, it is adequate to only coordinate and provide input to planning studies undertaken by other agencies. The Authority would merely serve as a “sounding board” for the proposed studies by other agencies. The Authority would

totally lose control of the Project and not have qualified staff to properly and successfully direct the Authority's administrative functions or to properly advise the Authority Board.

Staff Response to Key Concerns that arose at the July 31 Executive Committee Meeting.

The Authority Board Executive Committee meetings raised a number of concerns. Staff responses to key points of view and concerns that have not already been addressed previously are discussed below, particularly the concerns relating to the DLA Piper agreement.

The agreement with DLA Piper provides that fees to be collected from the Infrastructure and Real Estate Developer RFP process will fund DLA Piper costs. While there is no risk to the Authority or its Member Cities to cover DLA Piper's costs, the agreement assumes that the Authority intends to prepare and, following Authority Board approval, release an RFP to infrastructure and real estate developers. Concerns raised regarding the release of the RFP at this time are described below, along with staff response.

1. We are not sure if the process is legal for giving development rights to the Orangeline Development Authority, as described in the draft RFP presented in the report to the Authority Board on July 9, 2008. The development rights are identified in the RFP as a potential source of funding for the next phase of Project costs. How do we pay DLA Piper to determine if giving the rights to the Authority is legal? Can we get an assessment/contribution from each city to pay DLA Piper to work out the process? Can the transfer of development rights be done?
 - a. DLA Piper's response was that they believe it can be done; that there is a variety of ways to address the concerns raised.
 - b. The terms of the agreement with DLA Piper demonstrate that they are willing to take the risk to find a means to come up with a legal solution that is practical and acceptable to the Authority's Member Cities. They have confidence that this can be done.
 - c. No financial contribution is required from Member Cities to undertake the work. Thus, the proposal suggested at the meeting to impose a special assessment on Member Cities is unnecessary.
2. Everything is based upon up-zoning. Value is created. That's the engine. The legal question is: Who owns the value increase?
 - a. DLA Piper responded that the value is likely to be allocated by the Member Cities among various participants. We could begin immediately with the tools that are in place.
 - b. Development rights are made possible through up-zoning that is enabled with the Orangeline Maglev. Up-zoning, creating the opportunity to focus a portion of future development into higher-density, station-area, mixed-use development, is the leverage that cities have and that regional transit agencies do not have; it is what gives the Authority and its Member Cities the means to build the Orangeline Maglev that the regional agencies do not have.
3. It will take 2 years to develop the mechanism/model for station-area development. There is no way to pay DLA Piper to perform this work.
 - a. The DLA Piper agreement will enable performance of the work using Developer RFP fees and the anticipated \$200 million initial private investment in the Project for the preliminary engineering and entitlement phase.
4. We will not get an honest response to the RFP from the construction industry until we take the risk out of the project; that will take 10-to-15 years.
 - a. The concern is mere speculation and is not based upon a clear understanding of what is being proposed.

- b. Based upon Authority staff investigations and experience and DLA Piper's experience and contacts in the industry, it is anticipated that there will be positive response from the developer industry.
 - c. We know that interest exists. We won't know what the response will be to the RFP unless we issue the RFP. There is no risk in issuing the RFP.
- 5. We need to find some way to engage DLA Piper. The question is, how do we get them engaged? How do we do the real estate deal?
 - a. The DLA Piper agreement provides the way to get the firm engaged. By executing the DLA Piper agreement, work can begin immediately to address the concerns that have been raised and to put in place the mechanism to do the real estate deal. The agreement maintains the Project's momentum.
- 6. The opinion was expressed that we will never have a public private partnership.
 - a. DLA Piper responded, "If there is a will to do it, there is a way to do it."
- 7. It was suggested that we should use DLA Piper as little as possible now – only on critical areas. Also, that we should use DLA Piper during construction of the project. It was suggested that we need DLA Piper now on all levels.
 - a. The range of opinions reflects the lack of consensus on when and how best to use DLA Piper.
 - b. Staff believes that now is the time to bring DLA Piper on-board. Without the assistance of this outstanding legal firm, the Authority is severely limited in its ability to move the Project forward.
 - c. By not approving the DLA Piper agreement, we find ourselves in a "Catch 22" situation. We can't bring DLA Piper on-board until we resolve all the issues. We can't resolve all the issues until we bring DLA Piper on-board.
- 8. The Public Private Partnership (PPP) agreement may make sense in 2015 after a 'big public monster agency' takes the risk out. Would you rush in?
 - a. DLA responded, "We considered the question of should we slow it down? We will get one shot at this. While there are risks, the upside for us is to be involved in the Project. The Orangeline Project is the biggest and best one. We want to be involved. We have top management support."
 - b. Authority staff believes that far from rushing in, the Authority has been very methodical in its approach and that the schedule for moving forward is sound and achievable. Delaying the PPP to 2015 would be a big mistake and offers the Authority no positive value – only added risk and increased costs.
- 9. The statement was made, "I want to see the Orangeline in operation before we retire."
 - a. Execution of the DLA Piper agreement now is the means for achieving that objective.