

Eco-Rapid Transit, formerly known as the Orangeline Development Authority, is a joint powers authority (JPA) created to pursue development of a high speed, grade separated transit system that is environmentally friendly and energy efficient. The system is designed to enhance and increase transportation options for riders of this region utilizing safe, advanced transit technology to expand economic growth that will benefit Southern California. The Authority is composed of the following public agencies:

City of Artesia

City of Bell

City of Bell Gardens

City of Bellflower

City of Cerritos

City of Cudahy

City of Downey

City of Glendale

City of Huntington Park

City of Maywood

City of Paramount

City of Santa Clarita

City of South Gate

City of Vernon

Burbank-Glendale-Pasadena
Airport Authority

Chairman

Luis Marquez
Council Member
City of Downey

Vice Chairman

Maria Davila
Council Member
City of South Gate

Secretary

Rosa E. Perez
Vice Mayor
City of Huntington Park

Treasurer

Michael McCormick
Mayor
City of Vernon

Auditor

Scott A. Larsen
Council Member
City of Bellflower

Executive Director

Michael R. Kodama

General Counsel

Teresa L. Highsmith

Ex-Officio

Rene Bobadilla
City Manager Representative

AGENDA REPORT

TO: Members of Eco-Rapid

FROM: Teresa L. Highsmith, General Counsel

DATE: January 8, 2014

SUBJECT: **APPROVAL OF MODIFICATION OF ECO-RAPID TRANSIT PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL KODAMA INCREASING SCOPE OF WORK, COMPENSATION AND TERM**

ISSUE

At the Board's December 11, 2013 meeting in Maywood, the Professional Services Agreement with Michael Kodama was modified to increase the term by one year, or until December 31, 2014. At that meeting there was some discussion about increasing the Scope of Work for Mr. Kodama, given that Eco-Rapid Transit ("the Authority") has seen a welcome increase in available grant funding to support new and expanded projects to facilitate the purpose of the Authority to plan, finance and construct an environmentally-friendly, grade-separated, high speed transit system in Southern California.

A sub-committee comprised of Chair Luis H. Marquez, Auditor Scott Larsen and Eco-Rapid Transit City Manager Representative Rene Bobadilla, was assigned to negotiate the terms of an expanded Scope of Work and compensation for the Consultant Agreement. As a result, Amendment #7 to the Professional Services Agreement between the Authority and Michael Kodama is before the Authority for consideration and action.

BACKGROUND

Mr. Kodama acts as the Board's Executive Director in an independent consultant relationship. Under his current Professional Services Agreement, Mr. Kodama receives \$5,000 per month as a flat rate monthly compensation for services and \$5,000 on a time and materials basis for grant funding project under his existing Scope of Work. Additionally, because the Authority has no employees or administrative staff, Mr. Kodama must provide for the costs of administrative support necessary to enable him to perform monthly services to the Authority. Under the current Agreement, Mr. Kodama may invoice the Authority up to an additional \$4,000/month as reimbursement for his administrative support costs.

Under the proposed Amendment #7, Mr. Kodama's Scope of Work (Exhibit A) would increase to provide services to:

- Oversee and manage the implementation of plans and provision of services to develop Metro TOD II Planning Grant and Guidebook, which will outline corridor-wide and station specific policies for consideration in transit system planning and local land use regulations for use by each local agency within the Eco-Rapid Transit corridor;

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- City of Maywood
- City of Paramount
- City of Santa Clarita
- City of South Gate
- City of Vernon
- Burbank-Glendale-Pasadena Airport Authority

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City of Downey

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- Oversee and manage test-case implementation of TOD II Planning Grant and Guidebook at Huntington Park/Pacific Station ("Huntington Park Transit Oriented Development/Parking Station Project");
- Oversee and manage new projects associated with alternative analysis and potential increase in Antelope Valley Line

Compensation under the Agreement (Exhibit B) has also been increased to a maximum monthly amount of \$13,000, which generally would be paid as follows: \$5,000 per month for existing "flat rate services" under the Scope of Work and \$8,000 per month for new additional grant-funded services, which are billed at a rate of \$125/hour. To the extent that more than 64 hours of grant-funded services are performed in a month (which equals \$8,000 at \$125/hour), the Agreement requires that the \$5,000 flat rate be reduced for that month so that the Authority will not receive more than a \$13,000 invoice for combined flat rate and grant-funded services. To the extent that more grant-funded work can be performed with available grant funding, the general fund of the Authority will benefit by transferring more of the \$13,000/month maximum invoicing to an appropriate grant source.

Similarly, the Agreement provides for a maximum of \$7,000 per month for administrative cost reimbursement for both flat rate services and grant-funded services. To the extent that more of the total \$7,000 can be moved to an appropriate grant source, this will reduce the amount of administrative cost reimbursement presently charged to the Authority's general fund.

Finally, the sub-committee is recommending that the Professional Services Agreement with Mr. Kodama be a three-year term, rather than a one-year term. To reflect this proposal, the termination date of the Agreement is proposed to be December 31, 2016.

Both a redline version of Amendment #7 to the Professional Services Agreement, as well as a "clean copy" are attached for your review and proposed approval.

RECOMMENDATION

It is recommended that the Board:

1. Consider the amended Professional Services Agreement negotiated by its appointed sub-committee and approve Amendment #7; or
2. Direct additional changes to be made to the Professional Services Agreement.

MODIFICATION NO. 67 TO
PROFESSIONAL SERVICES AGREEMENT

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THIS MODIFICATION NO.6 TO PROFESSIONAL SERVICES AGREEMENT (this "Modification") is made and entered into as of the ~~811~~th day of ~~January~~~~December~~, 201~~43~~, by and between the Orangeline Development Authority ("Authority"), a joint powers entity established pursuant to the California Joint Powers Act, and Michael R. Kodama, an Individual ("Consultant") with respect to the following facts:

W I T N E S S E T H:

WHEREAS, on or about June 15, 2009, the Authority and Consultant entered into a Professional Services Agreement (herein the "Agreement") to retain Consultant to serve as Executive Director of the Authority and to perform services in furtherance of the Authority's business activities;

WHEREAS, the Authority and Consultant approved and executed Modification No. 1 to the Agreement, extending the expiration date to December 31, 2010;

WHEREAS the Authority and Consultant approved and executed Modification No. 2 to the Agreement, extending the Agreement to cover the management and oversight of the SAFETEA-LU federal funding;

WHEREAS the Authority and Consultant approved and executed Modification No. 3 to the Agreement, further extending the Agreement for an additional term to December 31, 2011 and modifying the scope of services and fee structure;

WHEREAS the Authority and Consultant approved and executed Modification No. 4 to the Agreement, further extending the Agreement for an additional term to December 31, 2012;

WHEREAS, the Authority and Consultant approved and executed Modification No. 5 to the Agreement, further extending the Agreement for an additional term to December 31, 2013 and modifying the compensation provisions;

WHEREAS, the Authority and Consultant approved and executed Modification No. 6 to the Agreement, further extending the Agreement~~wish to extend the agreement~~ for an additional term to December 31, 2014;

WHEREAS, given the increase in available grant funding to support new and expanded projects to facilitate the purpose of the Authority to plan, finance and construct an environmentally-friendly, grade-separated, high speed transit system in Southern California, the parties desire to further modify the Agreement to expand the Scope of Services and increase the compensation accordingly.

~~WHEREAS, the Authority and Consultant agree to modify the Agreement as set forth in this Modification.~~

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. Section 3.4 (“Expiration Date”) of the Agreement is modified in its entirety to read as follows:

“3.4 “Expiration Date: December 31, 20164.”

Section 2. Exhibit A (Scope of Services) and Exhibit B (Approved Fee Schedule) shall be replaced in their entirety with Exhibits A and B attached hereto.

Section 3. Except as specifically amended by this Modification, the terms and provisions of the Agreement entered into on or about June 15, 2009 between the Authority and Consultant as amended by Modifications 1, 2, 3, 4, ~~5~~5 and ~~56~~56 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Modification as of the day
and year first above written, in the City of ~~Maywood~~Paramount, California.

ORANGELINE DEVELOPMENT AUTHORITY, a
Joint Powers Entity (“Authority”)

By: _____
Luis Marquez, Chairman

MICHAEL R. KODAMA
 (“Consultant”)

By: _____
Michael R. Kodama

Attest:

Rosa E. Perez
Authority Secretary

Approved as to form:

Teresa L. Highsmith
Authority Counsel

EXHIBIT A SCOPE OF WORK

- Coordinate and attend all Authority Board meetings;
- Prepare and assemble all staff reports and their respective attachments subject to the review and approval of the Authority Secretary or his designees, post the agenda and agenda reports on the Authority website, and post agendas at designated posting places.
- Attend to the day-to-day administrative matters of the Authority and manage and operate the affairs of the Authority;
- Communicate and interact with members of the Authority Board and staff as appropriate;
- Secure funding for an environmentally friendly, grade-separated, high speed transit system in Southern California;
- Oversee and manage contracts with Authority contractors, including the Authority's development partners and environmental consultants.
- Oversee and manage the implementation of plans and provision of services for which the Authority has obtained grant funding (including but not limited to SAFETEA-LU federal funding, the Bob Hope Airport Ground Access Study, [FTA/Transportation Land Use Grant, FTA/Bob Hope Airport Project](#), the Caltrans Environmental Justice Planning Grant and the Metro Transit Oriented Development Grants.
- [Oversee and manage the implementation of plans and provision of services to develop Metro TOD II Planning Grant and Guidebook, which will outline corridor-wide and station specific policies for consideration in transit system planning and local land use regulations for use by each local agency within the Eco-Rapid Transit corridor;](#)
- [Oversee and manage test-case implementation of TOD II Planning Grant and Guidebook at Huntington Park/Pacific Station \("Huntington Park Transit Oriented Development/Parking Station Project"\);](#)
- [Oversee and manage new projects associated with alternative analysis and potential increase in Antelope Valley Line;](#)

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**EXHIBIT B
APPROVED FEE SCHEDULE**

1. Authority shall pay Consultant up to a maximum of \$13,000 per month for all services described in Exhibit A ("Scope of Work"). While time spent on grant-funded projects and services will generally not exceed a total of 64 hours per month (as described in paragraph 2 below), if Consultant performs more than 64 hours per month in grant-funded services such that compensation on a time and materials basis exceeds \$8,000 for that month, Consultant shall reduce the flat monthly rate for all other work (described in paragraph 4 below) so that the total invoiced amount for both grant-funded and flat rate services shall not exceed \$13,000.

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2. Grant Funded Projects and Services. Authority shall pay Consultant on a time and materials basis, up to a maximum of \$58,000.00 per month, for all services provided that are reimbursable through approved grant funding (including but not limited to SAFETEA-LU federal funding, the Bob Hope Airport Ground Access Study, FTA/Transportation Land Use Grant, FTA/Bob Hope Airport Project, the Caltrans Environmental Justice Planning Grant, ~~and~~ the Metro Transit Oriented Development Grants, and funding supplied by Huntington Park for Huntington Park Transit Oriented Development/Parking Station Project). Consultant's hourly rate for such services shall be \$125 per hour.

a, Authority recognizes that certain additional administrative costs will be incurred by the Consultant related to the performance of grant-funded services. Accordingly, Authority shall reimburse Consultant for Consultant's actual cost of administrative support and services reasonably necessary to perform the grant-funded services, to the extent such services are reimbursable through approved grant funding, up to a maximum amount of \$3,000.00 per month. To the extent that the cost for administrative services for grant funded work exceeds \$3,000 per month, Consultant shall reduce the administrative costs billed for flat rate services (described in paragraph 7c. below) such that the total amount billed for administrative support shall not exceed \$7,000 for combined grant-funded services and flat rate services.

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~~2.3.~~ Invoices. Each invoice shall itemize the services rendered during the billing period. Within ten (10) business days of receipt of each invoice, Authority shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty (30) calendar days of receipt of each invoice, Authority shall pay all undisputed amounts included on the invoice.

~~3.4.~~ Flat Monthly Rate for Other Services. Authority shall pay Consultant for all other services within the scope of services at a flat rate of \$ 5,000.00 per month.

~~4.5.~~ Taxes. Consultant shall be responsible for the payment of all applicable taxes. Authority shall not withhold applicable taxes or other authorized deductions from payments made to Consultant.

~~5.6.~~ Reasonable Travel Expenses. Authority recognizes that certain travel expenses outside the Southern California Association of Government ("SCAG") region related to the business of the Authority may be incurred by Consultant. Authority agrees to reimburse Consultant for reasonable travel expenses outside the SCAG region which are authorized in advance by the Authority and that are supported by receipts, statements or personal affidavits and audited therein like manner as other demands.

~~6.7.~~ Reimbursable Costs: Authority recognizes that certain additional costs will be incurred by the Consultant related to the business of the Authority and the scope of services, other than grant-funded services described above in paragraph 2. Authority shall reimburse Consultant for the following actual costs as shown by receipts, reports and/or invoices.

- a. Office Printing and Supplies: Not to exceed the amount budgeted by the Authority for such costs;
- b. Local Travel: Only actual mileage at the rate set by the IRS. A monthly mileage report must be submitted to the Authority prior to reimbursement for local travel. Mileage to and from OLDA offices shall not be included. Consultant shall be reimbursed for actual mileage in an amount not to exceed \$ 300.00 per month.
- c. Administrative Support and Services: Actual cost of

administrative support and services reasonably necessary to perform the Scope of Services, not to exceed \$4,000.00 per month. This is an amount in addition to the reimbursable administrative costs of performing grant-funded services, as described in paragraph 2a. above.

MODIFICATION NO. 7 TO
PROFESSIONAL SERVICES AGREEMENT

THIS MODIFICATION NO.7 TO PROFESSIONAL SERVICES AGREEMENT (this "Modification") is made and entered into as of the 8th day of January, 2014, by and between the Orangeline Development Authority ("Authority"), a joint powers entity established pursuant to the California Joint Powers Act, and Michael R. Kodama, an Individual ("Consultant") with respect to the following facts:

W I T N E S S E T H:

WHEREAS, on or about June 15, 2009, the Authority and Consultant entered into a Professional Services Agreement (herein the "Agreement") to retain Consultant to serve as Executive Director of the Authority and to perform services in furtherance of the Authority's business activities;

WHEREAS, the Authority and Consultant approved and executed Modification No. 1 to the Agreement, extending the expiration date to December 31, 2010;

WHEREAS the Authority and Consultant approved and executed Modification No. 2 to the Agreement, extending the Agreement to cover the management and oversight of the SAFETEA-LU federal funding;

WHEREAS the Authority and Consultant approved and executed Modification No. 3 to the Agreement, further extending the Agreement for an additional term to December 31, 2011 and modifying the scope of services and fee structure;

WHEREAS the Authority and Consultant approved and executed Modification No. 4 to the Agreement, further extending the Agreement for an additional term to December 31, 2012;

WHEREAS, the Authority and Consultant approved and executed Modification No. 5 to the Agreement, further extending the Agreement for an additional term to December 31, 2013 and modifying the compensation provisions;

WHEREAS, the Authority and Consultant approved and executed Modification No. 6 to the Agreement, further extending the Agreement for an additional term to December 31, 2014;

WHEREAS, given the increase in available grant funding to support new and expanded projects to facilitate the purpose of the Authority to plan, finance and construct an environmentally-friendly, grade-separated, high speed transit system in Southern California, the parties desire to further modify the Agreement to expand the Scope of Services and increase the compensation accordingly.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

Section 1. Section 3.4 (“Expiration Date”) of the Agreement is modified in its entirety to read as follows:

“3.4 “Expiration Date: December 31, 2016.”

Section 2. Exhibit A (Scope of Services) and Exhibit B (Approved Fee Schedule) shall be replaced in their entirety with Exhibits A and B attached hereto.

Section 3. Except as specifically amended by this Modification, the terms and provisions of the Agreement entered into on or about June 15, 2009 between the Authority and Consultant as amended by Modifications 1, 2, 3, 4, 5 and 6 shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have entered into this Modification as of the day and year first above written, in the City of Paramount, California.

ORANGELINE DEVELOPMENT AUTHORITY, a
Joint Powers Entity (“Authority”)

By: _____
Luis H. Marquez, Chairman

MICHAEL R. KODAMA
 (“Consultant”)

By: _____
Michael R. Kodama

Attest:

Rosa E. Perez
Authority Secretary

Approved as to form:

Teresa L. Highsmith
Authority Counsel

EXHIBIT A SCOPE OF WORK

- Coordinate and attend all Authority Board meetings:
- Prepare and assemble all staff reports and their respective attachments subject to the review and approval of the Authority Secretary or his designees, post the agenda and agenda reports on the Authority website, and post agendas at designated posting places.
- Attend to the day-to-day administrative matters of the Authority and manage and operate the affairs of the Authority;
- Communicate and interact with members of the Authority Board and staff as appropriate;
- Secure funding for an environmentally friendly, grade-separated, high speed transit system in Southern California;
- Oversee and manage contracts with Authority contractors, including the Authority's development partners and environmental consultants.
- Oversee and manage the implementation of plans and provision of services for which the Authority has obtained grant funding (including but not limited to SAFETEA-LU federal funding, the Bob Hope Airport Ground Access Study, FTA/Transportation Land Use Grant, FTA/Bob Hope Airport Project, the Caltrans Environmental Justice Planning Grant and the Metro Transit Oriented Development Grants.
- Oversee and manage the implementation of plans and provision of services to develop Metro TOD II Planning Grant and Guidebook, which will outline corridor-wide and station specific policies for consideration in transit system planning and local land use regulations for use by each local agency within the Eco-Rapid Transit corridor;
- Oversee and manage test-case implementation of TOD II Planning Grant and Guidebook at Huntington Park/Pacific Station ("Huntington Park Transit Oriented Development/Parking Station Project");
- Oversee and manage new projects associated with alternative analysis and potential increase in Antelope Valley Line;

EXHIBIT B
APPROVED FEE SCHEDULE

1. Authority shall pay Consultant up to a maximum of \$13,000 per month for all services described in Exhibit A ("Scope of Work"). While time spent on grant-funded projects and services will generally not exceed a total of 64 hours per month (as described in paragraph 2 below), if Consultant performs more than 64 hours per month in grant-funded services such that compensation on a time and materials basis exceeds \$8,000 for that month, Consultant shall reduce the flat monthly rate for all other work (described in paragraph 4 below) so that the total invoiced amount for both grant-funded and flat rate services shall not exceed \$13,000.
2. Grant Funded Projects and Services. Authority shall pay Consultant on a time and materials basis, up to a maximum of \$8,000.00 per month, for all services provided that are reimbursable through approved grant funding (including but not limited to SAFETEA-LU federal funding, the Bob Hope Airport Ground Access Study, FTA/Transportation Land Use Grant, FTA/Bob Hope Airport Project, the Caltrans Environmental Justice Planning Grant, the Metro Transit Oriented Development Grants, and funding supplied by Huntington Park for Huntington Park Transit Oriented Development/Parking Station Project). Consultant's hourly rate for such services shall be \$125 per hour.
 - a. Authority recognizes that certain additional administrative costs will be incurred by the Consultant related to the performance of grant-funded services. Accordingly, Authority shall reimburse Consultant for Consultant's actual cost of administrative support and services reasonably necessary to perform the grant-funded services, to the extent such services are reimbursable through approved grant funding, up to a maximum amount of \$3,000.00 per month. To the extent that the cost for administrative services for grant funded work exceeds \$3,000 per month, Consultant shall reduce the administrative costs billed for flat rate services (described in paragraph 7c. below) such that the total amount billed for administrative support shall not exceed \$7,000 for combined grant-funded services and flat rate services.
3. Invoices. Each invoice shall itemize the services rendered during the billing period. Within ten (10) business days of receipt of each invoice, Authority shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty (30) calendar days of receipt of each invoice, Authority shall pay all undisputed amounts included on the invoice.
4. Flat Monthly Rate for Other Services. Authority shall pay Consultant for all other services within the scope of services at a flat rate of \$ 5,000.00 per month.
5. Taxes. Consultant shall be responsible for the payment of all applicable taxes. Authority shall not withhold applicable taxes or other authorized deductions from

payments made to Consultant.

6. Reasonable Travel Expenses. Authority recognizes that certain travel expenses outside the Southern California Association of Government (“SCAG”) region related to the business of the Authority may be incurred by Consultant. Authority agrees to reimburse Consultant for reasonable travel expenses outside the SCAG region which are authorized in advance by the Authority and that are supported by receipts, statements or personal affidavits and audited therein like manner as other demands.
7. Reimbursable Costs: Authority recognizes that certain additional costs will be incurred by the Consultant related to the business of the Authority and the scope of services, other than grant-funded services described above in paragraph 2. Authority shall reimburse Consultant for the following actual costs as shown by receipts, reports and/or invoices.
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 - b. Local Travel: Only actual mileage at the rate set by the IRS. A monthly mileage report must be submitted to the Authority prior to reimbursement for local travel. Mileage to and from Eco-Rapid Transit offices shall not be included. Consultant shall be reimbursed for actual mileage in an amount not to exceed \$ 300.00 per month.
 - c. Administrative Support and Services: Actual cost of administrative support and services reasonably necessary to perform the Scope of Services, not to exceed \$4,000.00 per month. This is an amount in addition to the reimbursable administrative costs of performing grant-funded services, as described in paragraph 2a. above.