

Eco-Rapid Transit, formerly known as the Orangeline Development Authority, is a joint powers authority (JPA) created to pursue development of a transit system that moves as rapidly as possible, uses grade separation as appropriate, and 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 maximizes ridership in 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 Cudahy

City of Downey

City of Glendale

City of Huntington Park

City of Maywood

City of Paramount

City of South Gate

City of Vernon

Burbank-Glendale-Pasadena
Airport Authority

Chair

Zareh Sinanyan
President
Hollywood Burbank Airport
Mayor
City of Glendale

Vice-Chair

Pedro Aceituno
Council Member
City of Bell Gardens

Secretary

Karina Macias
Council Member
City of Huntington Park

Treasurer

Ali Sajjad Taj
Council Member
City of Artesia

Internal Auditor

Cristian Markovich
Council Member
City of Cudahy

Executive Director
Michael R. Kodama

General Counsel
Teresa L. Highsmith

Ex-Officio
William Rawlings
City Manager Representative

AGENDA REPORT

TO: Members of Eco-Rapid Transit

FROM: Michael Kodama, Executive Director

DATE: January 9, 2019

SUBJECT: **SELECTION OF MEMBER CITY TO ASSUME PROVISION OF FINANCIAL SERVICES TO ECO-RAPID TRANSIT, PURSUANT TO FORM OF MEMORANDUM OF UNDERSTANDING**

Public comments on items on the agenda will be taken at the time the item is called and are limited to 3 minutes per speaker

ISSUE

Eco-Rapid Transit seeks your assistance regarding financial and administrative support for Eco-Rapid Transit.

BACKGROUND

The City of Bellflower has been providing financial and administrative support services for Eco-Rapid Transit since July 1, 2014. These services were previously supplied by the City of Vernon.

The City of Bellflower is reimbursed for these services (\$1,000 per month) and for other related administrative services related to other grants.

Effective immediately, it has been requested that another member take over this function. The Board of Directors can select a member or volunteer to perform this role. It may choose to direct staff to take over this function as well. The new financial administrator will still need approval by its own City Council.

RECOMMENDATION

It is recommended that the Board:

1. Discuss information presented and offer action items

**MEMORANDUM OF UNDERSTANDING
BETWEEN
ECO-RAPID TRANSIT AUTHORITY
AND
CITY OF _____
REGARDING
PROVISION OF FINANCIAL SERVICES FOR THE ECO-RAPID TRANSIT
AUTHORITY**

This Memorandum of Understanding (the "Agreement") is made by and between the Orangeline Development Authority, dba Eco-Rapid Transit (the "Authority"), a Joint Powers Authority, and the City of _____, a municipal corporation, individually as a "party" and collectively as "the parties."

Recitals

A. The purpose of the Authority is to finance, acquire, design, construct, reconstruct, improve, and operate the facilities and improvements to the Eco-Rapid Transit system, as may be approved by action of the Authority.

B. Section 3.1 of the Third Amended Joint Exercise of Powers Agreement authorizes the Authority to, in part, "invest any money in the treasury pursuant to California Government Code Section 6505.5 that is not required for the immediate necessities of the Authority, as the Authority determines is advisable, in the same manner and upon the same conditions as local agencies, pursuant to Section 53601 of the California Government Code as it now exists or may hereafter be amended"

C. Under Government Code section 6505.5, the Authority may designate one of its member public agencies to serve as its Treasurer and otherwise direct the deposit and custody of all the money of the Authority

D. Prior to mid-2014, the City of Vernon ("Vernon") provided services to the Authority pursuant to Government Code Section 6505.5, including holding funds owned by the Authority, disbursing funds as directed by the Authority and its authorized agents, and issuing annual tax forms, including Internal Revenue Service Form 1099 ("financial services").

E. From mid-2014 until mid-January 2019, the City of Bellflower succeeded the City of Vernon to continue the financial services previously performed by Vernon, and additionally contract with independent certified public accountants for the audit of the Authority's books and records including grant-funded projects; however, the City of Bellflower has expressed its intent to terminate the provision of financial services.

F. The City of _____ is willing to take over and continue the financial services previously performed by the City of Bellflower, and additionally contract with independent

certified public accountants for the audit of the Authority's books and records including grant-funded projects.

NOW, THEREFORE, in consideration of the foregoing recitals which are incorporated into the operative provisions of this Agreement by reference and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Effective Date. This Agreement shall be effective as of _____, 2019 (the "Effective Date").

2. City to Provide Financial Services to Authority. the City of _____ agrees to provide the financial services described below for Authority, in accord with the provisions of Section 3.1(m) of the Third Amended Joint Exercise of Powers Agreement and Government Code section 6505.5:

- a) Receive and hold all funds owned by the Authority in _____'s treasury in a separate account, to the credit of the Authority
- b) Be responsible for the safekeeping of the Authority's funds and disburse the Authority's funds upon request by the Board of Directors or its lawful designee;
- c) Pay, when due, out of money of the Authority held by _____, all sums payable as authorized by the Authority Board of Directors or its lawful designee;
- d) Provide the Authority with a report in or about the first week of each month stating the amount of funds available to the Authority as of the last day of the preceding month, the amount of funds received since the last report, and the amounts of funds paid out;
- e) Cooperate with any audit of the Authority and its funds;
- f) Issue Internal Revenue Service Form 1099s pursuant to the United States Tax Code and applicable regulations of the Internal Revenue Service, as they now exist or may be hereafter amended.

3. City to Contract for Authority's Audit. _____ agrees to contract with an independent certified public accountant, approved by Board of Directors, (the "CPA") to audit the Authority's books and records including grant-funded projects. _____ will maintain invoices, both as received and paid, for all Authority expenditures including grant-funded projects to document a grant is in place for each project, and, to the extent feasible and reasonable, the expenditure for which the invoice was presented complies with the grant's requirements. _____ will coordinate with the CPA for completion of audits of specific grant-funded projects, as requested by the Authority or required by any granting agency.

4. Authority to Transfer Funds to City. The Authority agrees to transfer all funds owned by it to _____ on the Effective Date, to be held by _____ for the safekeeping and disbursement by the Authority, consistent with _____'s obligations under Government Code Section 6505.5 and paragraph 2 of this Agreement.

5. Document Requests. The Authority agrees to provide all information and documents necessary for _____ to perform its functions under this Agreement as requested by _____r.

6. Reimbursement. The Authority shall reimburse _____ for the services provided hereunder in an amount of up to \$300 per month. _____'s Finance Director shall submit a monthly invoice for administrative costs of up to \$300/month and upon Authority approval, may disburse that amount from the Authority's account.

7. Compliance With Applicable Law. The Authority and _____ shall comply with all applicable laws, ordinances and codes of the federal, State, County and city governments.

8. Independent Contractor. This Agreement is by and between _____ and the Authority and is not intended, nor shall it be construed, to create the relationship of agency, servant, employee, partnership, joint venture or association, as between _____ and the Authority.

9. Notices. Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

TO _____:

City Manager
City of _____

Telephone: _____

TO AUTHORITY:

Michael R. Kodama
Executive Director
Orangeline Development Authority
16401 Paramount Boulevard
Paramount CA 90723
Telephone: 562.663.6850

10. Amendments. This Agreement may be amended only by a writing signed by an authorized representative of each party.

11. Severability. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of the other provisions of this Agreement. The remainder of this Agreement shall remain in effect as if this Agreement had been executed without the invalid part and, to that end, the paragraphs, subparagraphs, sentences, clauses and phrases of this Agreement are hereby declared to be severable.

12. Entire Agreement. This Agreement represents the entire agreement between the Parties and supersede all prior agreements and understandings, whether oral or written, between

the Parties with respect to its subject matter. No other representations, covenants, undertakings or other prior or contemporaneous agreements, oral or written, respecting those matters, which are not specifically incorporated herein, may be deemed in any way to exist or to bind either Party with respect to that subject matter. Each Party acknowledges for the benefit of the other that it has not executed this Agreement in reliance on any promise, representation or warranty not reflected in this Agreement.

13. No Presumption Regarding Drafter. The parties acknowledge and agree that the terms and provisions of this Agreement have been negotiated and discussed among them, and that this Agreement reflects their mutual agreement. Because of the nature of the negotiations and discussions, it would be inappropriate to deem any party to be the drafter of this Agreement, and therefore no presumption for or against validity or as to any interpretation hereof based on the identity of the drafter, shall be applicable in interpreting or enforcing the Agreement.

14. Section Headings. Section headings in this Agreement are for convenience and identification only and shall not be deemed to limit or define the contents to which they relate.

15. Governing Law; Venue. This Agreement shall be governed by California law and venue for any action under this Agreement shall lie in Los Angeles County, California.

16. Waiver. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against which enforcement is sought.

17. Indemnification. In lieu of and notwithstanding the pro rata risk allocation which might otherwise be imposed between the parties pursuant to California Government Code Section 895.6, the parties agree all losses or liabilities incurred by a party shall not be shared pro rata but instead each parties agree that pursuant to California Government Code Section 895.4, each of the parties hereto shall fully indemnify and hold harmless the other party, its officers, employees and agents, from any claim, expense or cost, damage or liability imposed for injury (as defined by California Government Code Section 810.8) occurring by reason of the negligent acts or omissions or willful misconduct of the indemnifying party, or any of its officers, board members, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such party under this Agreement. No party, nor any officer, employee or agent, thereof, shall be responsible for any damage or liability occurring by reason of the negligent acts or omissions or willful misconduct of the other party or any of its officers,, employees or agents, under or in connection with or arising out of any work, authority or jurisdiction delegated to such other parties under this Agreement.

18. Assistance of Counsel. Each Party warrants to the other as follows:
(1). It had the assistance of counsel in the negotiation and execution of this Agreement; and
(2). It actually authorized the execution of this Agreement in the manner required by law. To effectuate this Agreement, the Parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

IN WITNESS WHEREOF, the parties have each executed this Agreement as of the dates indicated below.

CITY OF _____

Approved as to Form:

By: _____
Name: _____
Its: _____
Date: _____

By: _____
City Attorney

**ORANGELINE DEVELOPMENT
AUTHORITY dba Eco-Rapid Transit**

Approved as to Form:

By: _____
Name: _____
Its: _____
Date: _____

By: _____
General Counsel