



**Mitigation and Resource Protection Program Oversight Committee
Environmental Oversight Committee**

**Orange County Transportation Authority
600 S. Main Street, Orange CA**

**Feb. 4, 2009
10 – 11:30 a.m.**

AGENDA

- 1. Welcome**
- 2. Approval of January 2009 Minutes**
- 3. Presentation Items**
 - A. Trabuco Ranch
Jennifer Robertson, Robert Martin Company, LLC
Lance Lundberg, Prospect Capital Group
 - B. Trabuco Properties
Ed Sauls, The Sauls Company
Jack Dangelo, GDC
 - C. Restoration and Invasives Control Opportunities in OC Wildlands
Michael O'Connell, Irvine Ranch Conservancy
- 4. Master Agreement and Planning Agreement Update**
Monte Ward, OCTA Director of Special Projects
- 5. Conservation Strategic Implementation Plan Scope of Work**
Hal McCutchan, OCTA Environmental Program Manager
- 6. Property Inventory Update**
Ellen Burton, OCTA Executive Director of External Affairs
- 7. Public Comments**
Public comments on all items take place at this time.
- 8. Next Meeting – March 4, 2009**
- 9. Committee Member Reports**
- 10. Adjournment**

Public Comments: The Agenda descriptions are intended to give notice to members of the public of a general summary of items of business to be transacted or discussed. Members from the public wishing to address the Committee will be recognized by the Chairman at the time the Agenda item is to be considered. A speaker's comments shall be limited to three (3) minutes. Any person with a disability who requires a modification or accommodation in order to participate in this meeting should contact the OCTA at (714) 560-5725, no less than two (2) business days prior to this meeting to enable OCTA to make reasonable arrangements to assure accessibility to this meeting.

Environmental Oversight Committee Meeting Minutes

January 7, 2009

Committee Members Present:

Chair Patricia Bates, OCTA Board of Directors
Vice-Chair Melanie Schlotterbeck, Measure M Support Groups
Rose Coffin, Taxpayers Oversight Committee
Cathy Green, OCTA Board of Directors
Steve Juarez, CA Department of Fish and Game
Adam Probolsky, Probolsky Research
Dan Silver, Endangered Habitats League
Sylvia Vega, Caltrans
Erinn Wilson, CA Department of Fish and Game

Committee Members Present via Teleconference:

Judy McKeehan, SWCA Environmental Consultants
Debbie Townsend, California Wildlife Conservation Board

Committee Members Absent:

Stephanie Hall, US Army Corps of Engineers
Jonathan Snyder, US Fish and Wildlife Services

Orange County Transportation Authority Staff Present:

Ellen Burton
Marissa Espino
Janice Kadlec
Monte Ward

Members of the Public:

Sean Skaggs, Ebbin Moser & Skaggs LLP

1. Welcome

Chair Patricia Bates welcomed everyone to the meeting and led the pledge of allegiance. Chair Bates welcomed new member Rose Coffin from the OCTA Taxpayers Oversight Committee to the meeting.

2. Minutes

Chair Patricia Bates asked if there were any corrections or changes to the November 2008 Meeting Minutes. There being no corrections, a motion was made by Cathy Green and seconded by Sylvia Vega to approve the November 5, 2008 minutes. The motion passed unanimously.

3. Master Agreement and Planning Agreement Update

Monte Ward, OCTA Director of Special Projects introduced Sean Skaggs of Ebbin Moser & Skaggs LLP who went over the changes to the Draft Master Agreement

and presented a detailed copy of the changes being made to the Draft Planning Agreement.

Monte noted on page 5, section 4 of the Draft Planning Agreement the Geographic Scope reads "includes all of Orange County as well as adjacent areas outside of the County that are appropriate to consider for preserve design purposes". This is not an explicit commitment to fund acquisitions outside of Orange County however the wording was thought to be appropriate because habitats don't always observe political jurisdictional boundaries. When funding is considered then there will need to be a more careful look at County boundaries. This wording in the Planning Agreement is only for planning purposes.

Erinn Wilson suggested the planning area needed to say Orange County only since the jurisdiction for this document is only Orange County. Monte said input is still being received on language for the Planning Agreement and additional meetings are set to clarify the language, but eventually the Committee will need to determine what language they want in the Agreement.

Cathy Green asked if there is a possibility of using funds to buy property outside of Orange County. Monte said even if you justify an acquisition for conservation purposes you might not be able to justify the acquisition for use of M2 funds. Monte said the purpose of the language in the Planning Agreement is to say that within the planning process projects that include property outside of Orange County will be considered.

Monte Ward said at the next EOC meeting the Planning Agreement will be presented as a completed document. It will be submitted for approval with several other recommended pieces of a package.

Chair Patricia Bates said it would be helpful to get a timeline for approval of the document. Monte said it will be included in the package of documents to be approved at the next meeting.

4. Public Outreach Update

Marissa Espino, OCTA Senior Community Relations Specialist gave the Committee members a list of people who had made presentations to the EOC during 2008. She informed the Committee the public outreach package had been distributed on December 17th and the deadline to receive forms from interested property owners is January 31, 2009. OCTA has received one form back at this time. There has been one request received to make a presentation to the Committee and this will be scheduled as soon as possible.

Vice-Chair Melanie Schlotterbeck asked if the outreach package information could be obtained from the OCTA web page. Marissia said yes, it can be found on the website.

Vice-Chair Melanie Schlotterbeck requested the EOC receive a presentation at the next meeting on the Brown Act. Monte Ward said OCTA Legal Counsel could make a presentation to the Committee on the Brown Act and discuss specific areas that pertain to the Committee

5. Committee Recommendations to OCTA Board

Monte Ward, OCTA Director of Special Projects presented a Draft Staff Report encompassing a series of actions to give permission to do the HCP/NCCP planning and authorize funding for acquisitions for the next two fiscal years. At the next EOC meeting the Committee will be asked to approve the final staff report for presentation to the OCTA Board of Directors.

Dan Silver asked for further explanation of how much money would be available and when it would be available. Monte Ward clarified the first \$30 million would be available starting in July 2009 for distribution in Fiscal Year 2009-10 and Fiscal Year 2010-11. The money could be spent all in the first fiscal year if the Committee wanted to but the next \$30 million would not be available until July 2011 as it is designated for Fiscal Year 2011-12 and Fiscal Year 2012-13.

Dan Silver suggested something the Sub-Committee should start to look into was to not only have criteria to evaluate projects fairly but to look into a standard criteria to evaluate the property needed for the projects. Another question would be how are the properties purchased, what standards were used, and who does the appraisal. Monte Ward said these items will be addressed in the "Next Steps" section of the completed staff report.

Vice-Chair Melanie Schlotterbeck, Measure M Support Groups reported three of the Sub-Committee members are working on the Evaluation Form and expect to have a Draft for the Master Agreement sub group on January 15th.

Chair Patricia Bates asked if there has been any interaction with property owners. Monte said there appears to be interest; property owners and property management companies have contacted OCTA.

6. 2009 EOC Meeting Calendar

Marissa Espino, OCTA Senior Community Relations Specialist presented the 2009 EOC Meeting Calendar. Marissa said the location of the meetings would change to room 103-104 in March.

7. Public Comments

No one from the public asked to address the Committee

8. Next Meeting – February 4, 2009

9. Committee Member Reports

Monte Ward directed the Committee's attention to the letter attached to the agenda from the Wildlife Corridor Conservation Authority commenting on a study being conducted between Los Angeles County and Orange County. The letter identifies areas they think are sensitive habitat areas in various transportation project proposals. Only one proposed Measure M project is an element of the study and it involves the truck lanes on SR-57. OCTA is preparing a response.

Ellen Burton reported on a recent press conference related to the Economic Stimulus Package and the possibility of receiving money for transportation purposes.

Vice-Chair Melanie Schlotterbeck reported on her presentation to the OCTA Environmental Cleanup Allocation Committee (ECAC) on December 11, 2008. Melanie suggested the ECAC be invited to give a presentation to the EOC on what their committee is involved in.

10. Adjournment

The meeting adjourned at 10:50 am.

APPROVAL SCHEDULE FOR MASTER & PLANNING AGREEMENTS

EOC Approves Drafts March 4	2020 Approves Drafts March 16	OCTA Approves Drafts March 23	CDFG Notice Availability March 23	CDFG Mail & Posting April 6	21 Day Public Review April 27	Response to Comments	Agreements Approved by OCTA May 25	CDFG Counsel Approval June 15	Agreements Approved by CDFG June 30
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Memorandum of Agreement (MOA) and Master Agreement Among the Orange County Transportation Authority (“OCTA”), the United States Fish and Wildlife Service (“USFWS”), the California Department of Fish and Game (“CDFG”), and the California Department of Transportation (“CALTRANS”) Regarding the Mitigation for Freeway Improvement Projects Under the Renewed Measure M Ordinance Environmental Mitigation Program

WHEREAS, in 2006 the Renewed Measure M Transportation Ordinance and Investment Plan was approved by the voters to provide for the continuation of a half-cent transportation transaction and use tax for an additional thirty years;

WHEREAS, Renewed Measure M includes a list of thirteen freeway improvement projects that are intended to improve the quality of life by increasing the mobility of people and goods throughout the region;

WHEREAS, Renewed Measure M establishes an Environmental Mitigation Program that will provide for the allocation of at least five percent of net freeway program revenues for environmental mitigation of freeway projects (estimated at \$243.5 million);

WHEREAS, the early acquisition/restoration and management of high quality habitat is more cost-effective and more beneficial biologically than project-by-project mitigation;

WHEREAS, Renewed Measure M is intended to provide for early large-scale acquisition/restoration and management of important habitat areas for sensitive species and to create a reliable approach for funding required mitigation for future transportation improvements, thereby enabling the purchase of habitat that may become more scarce in the future, reducing future costs, and accelerating project delivery;

WHEREAS, USFWS has jurisdiction over the conservation, protection, restoration, enhancement, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species pursuant to the provisions of various federal laws including the Endangered Species Act (“ESA”) and the Fish and Wildlife Coordination Act (“FWCA”);

WHEREAS, CDFG is a department of the California Resources Agency with jurisdiction over the conservation, protection, restoration, enhancement and management of fish, wildlife, native plants and habitat necessary for biologically sustainable populations of those species under various state laws, including the California Endangered Species Act (“CESA”) and the Natural Community Conservation Planning Act (“NCCPA”);

WHEREAS, OCTA has been designated by the Orange County Board of Supervisors as the authority responsible for implementing Renewed Measure M;

WHEREAS, the Parties have determined that entering into this MOA does not constitute the adoption of, or a commitment to carry out, the mitigation plan as those terms are used in the California Environmental Quality Act (“CEQA”), that entering into this MOA does not constitute a major federal action significantly affecting the human environment as those terms are used in the National Environmental Policy Act (“NEPA”) and that completion of CEQA and NEPA compliance, where applicable, is a condition precedent to any party being committed to carry out any obligations set forth in this MOA;

NOW, THEREFORE, BE IT RESOLVED that the Parties agree to implement the Environmental Mitigation Program as follows:

1. OCTA will develop a Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP”) that will include a conservation strategy to fully mitigate adverse effects to sensitive species and habitat as a result of construction of the freeway improvement projects.
2. The Parties agree to execute an HCP/NCCP Planning Agreement (Attachment A) that will outline the roles and responsibilities of each Party in the development and review of the OCTA HCP/NCCP.
3. The Parties agree to work closely together through the Environmental Oversight Committee to develop guidelines and criteria for directing habitat acquisition and/or restoration under Renewed Measure M as part of the conservation strategy for the OCTA HCP/NCCP.
4. OCTA has adopted a Plan of Finance that will allow up to \$60 million to be expended on habitat acquisition and/or restoration by 2013. Expenditures for sensitive species habitat may commence upon execution of the MOA and the HCP/NCCP Planning Agreement by the Parties.
5. OCTA will receive advance credit for acquisition and/or restoration of sensitive species habitat that occurs prior to the permitting of the thirteen freeway improvement projects, as provided in the HCP/NCCP Planning Agreement.
6. Regulatory assurances for Renewed Measure M projects will be provided through the issuance of ESA and NCCP Act permits for the OCTA HCP/NCCP, provided that USFWS and CDFG determine that their respective permit issuance criteria have been satisfied by the OCTA HCP/NCCP.
7. In developing the HCP/NCCP, OCTA will determine the implementing structure for long-term management and monitoring of habitat acquired through the Environmental Mitigation Program, including selecting the entity that will oversee

management and monitoring of the habitat areas. OCTA will work closely with Caltrans, USFWS, and CDFG in the development of the habitat management program.

8. USFWS and CDFG will actively partner will OCTA during the permitting process for Renewed Measure M projects impacting wetlands and waters of the United States regulated by the U.S. Army Corps of Engineers (“Corps”), the Environmental Protection Agency (“USEPA”), the Regional Water Quality Control Boards (“RWQCB” [i.e., Santa Ana RWQCB & San Diego RWQCB]), and CDFG in the interest of ensuring that OCTA habitat acquisitions and/or restoration in wetland habitat prior to the wetland permitting process would receive credit by those agencies when developing wetland banking agreements, master streambed alteration agreements, regional general permits, and other appropriate permits or mechanisms.

9. The signatories agree in good faith to provide the legal, financial, technical, and staff resources necessary to implement the provisions of this MOA. Nothing in this MOA shall be construed, however, as obligating the signatories to expend funds, or for the future payment of money, in excess of appropriations authorized by law, nor does this MOA guarantee the issuance of permits.

10. This MOA may be amended only with the written consent of all of the Parties.

11. Any Party may withdraw from this MOA upon 30 days written notice to the other Parties

Nothing in this MOA shall supersede those provisions adopted by the voters in 2006 under the Renewed Measure M Transportation Ordinance and Investment Plan.

ORANGE COUNTY TRANSPORTATION AUTHORITY

Date

UNITED STATES FISH AND WILDLIFE SERVICE

Date

CALIFORNIA DEPARTMENT OF FISH AND GAME

Date

CALIFORNIA DEPARTMENT OF TRANSPORTATION

Date

ATTACHMENT A

**DRAFT
Planning Agreement**

by and among

**Orange County Transportation Authority, California Department of
Transportation**

California Department of Fish and Game, and

United States Fish and Wildlife Service

for the

**Orange County Transportation Authority
Natural Community Conservation Plan (NCCP)/ Habitat Conservation
Plan (HCP)**

Draft

January 2009

TABLE OF CONTENTS

1.0	Definitions.....	1
2.0	Background.....	2
2.1	Compliance with State and Federal Fish and Wildlife Protection Laws	2
2.2	Purposes of this Agreement	3
2.3	Future ESA Section 7 Consultations.....	3
2.4	Other Fish and Wildlife Protection Laws	4
2.5	Concurrent Planning for Wetlands and Waters of the United States.....	4
2.6	Assurances	4
2.6.1	Regulatory Assurances Under the ESA	4
2.6.2	Regulatory Assurances Under the NCCP Act	4
3.0	Planning Goals.....	5
4.0	Planning Area and Plan Participants.....	5
4.1	Geographic Scope	5
4.2	Local Agencies.....	6
4.4	California Department of Fish and Game.....	6
4.5	United States Fish and Wildlife Service	6
5.0	Preliminary Conservation Objectives	6
5.1	Conservation Elements	7
5.1.1	Ecosystems, Natural Communities, and Covered Species List	7
5.1.2	Conservation Areas and Viable Habitat Linkages	7
5.1.3	Project Design.....	7
6.0	Preparing the NCCP/HCP.....	7
6.1	Best Available Scientific Information	8
6.2	Data Collection	8
6.3	Independent Scientific Input.....	8
6.4	Public Participation.....	9
6.4.1	Steering Committee	9
6.4.2	Outreach.....	9
6.4.3	Availability of Public Review Drafts.....	9
6.4.4	Public Hearings.....	9
6.4.5	Public Review and Comment Period Prior to Adoption.....	9
6.5	Covered Activities	9
6.6	Interim Project Processing	12
6.7	Protection of Habitat and other Resources During Planning Process.....	12
6.7.1	Conservation Actions.....	12
6.8	Implementing Agreement	13
7.0	Commitment of Resources.....	13
7.1	Funding	13
8.0	Miscellaneous Provisions.....	13
8.1	Public Officials Not to Benefit	13
8.2	Statutory Authority	13
8.3	Multiple Originals.....	14
8.4	Effective Date	14
8.5	Duration	14

8.6	Amendments	14
8.7	Termination and Withdrawal	14
8.7.1	Funding	14
8.8	No Precedence	15

**Orange County Transportation Authority Habitat Conservation Plan
(HCP)/Natural Community Conservation Plan (NCCP)
Planning Agreement**

This agreement regarding the planning and preparation of the Orange County Transportation Authority Natural Community Conservation Plan and Habitat Conservation Plan (Planning Agreement) is entered into as of the Effective Date by and among the Orange County Transportation Authority (OCTA), the California Department of Transportation (Caltrans), the California Department of Fish and Game (CDFG), and the United States Fish and Wildlife Service (USFWS). These entities are referred to collectively as “Parties” and each individually as a “Party.” CDFG and USFWS are referred to collectively as “Wildlife Agencies.”

1.0 Definitions

The following terms as used in this Planning Agreement will have the meanings set forth below.

- 1.1 “CEQA” means the California Environmental Quality Act, Public Resources Code, section 21000, *et seq.*
- 1.2 “CESA” means the California Endangered Species Act, California Fish and Game Code, section 2050 *et seq.*
- 1.3 “Covered Activities” means those certain activities that will be addressed in the NCCP/HCP and for which the OCTA and Caltrans may seek take authorizations pursuant to the California Fish and Game Code section 2835 and the Federal Endangered Species Act (“ESA”).
- 1.4 “Covered Species” means those species identified in the NCCP/HCP, both listed and non-listed, whose conservation and management are provided for in the NCCP/HCP, and which may be authorized for take under State and/or federal law once the NCCP/HCP is approved.
- 1.5 “Effective Date” means the date on which this Planning Agreement has been executed by the Parties.
- 1.6 “ESA” means the Federal Endangered Species Act, 16 United States Code section 1530, *et seq.*
- 1.7 “Habitat Conservation Plan” or “HCP” means a conservation plan prepared pursuant to section 10(a)(1)(B) of the ESA.

- 1.8 “Implementing Agreement” or “IA” means an agreement that defines the terms for implementing the NCCP/HCP.
- 1.9 “Listed Species” means those species designated as candidate, threatened or endangered pursuant to CESA and/or listed as threatened or endangered under the ESA.
- 1.10 “Natural Community Conservation Plan” or “NCCP” means a conservation plan created to meet the requirements of Fish and Game Code, section 2800, *et seq.*
- 1.11 “NCCP Act” means the Natural Community Conservation Planning Act, Fish and Game Code section 2800 *et seq.*
- 1.12 “NEPA” means the National Environmental Policy Act, 42 United States Code section 4321, *et seq.*
- 1.13 “Party” means an entity that is a signatory to this Planning Agreement. Such entities may be referred to individually as “Party” or collectively as “Parties.”
- 1.14 “Planning Area” means the geographic are proposed to be addressed in the NCCP/HCP as described in section 5.
- 1.15 “Renewed Measure M” means the Orange County Renewed Measure M Transportation Ordinance and Investment Plan.
- 1.16 “Section 7” means 16 United States Code section 1536.
- 1.17 “Section 10” means 16 United States Code section 1539.
- 1.18 “Steering Committee” means the committee established in accordance with section 7.4.1 of this Planning Agreement.

2.0 Background

2.1 Compliance with State and Federal Fish and Wildlife Protection Laws

The Planning Area contains valuable biological resources, including native species of fish and wildlife and their habitats. Among the species within the Planning Area are certain species that are protected, or may be protected in the future, under CESA or the ESA. The Parties intend for the NCCP/HCP to meet the requirements of state and federal fish and wildlife protection laws that apply to Covered Activities and to provide a basis for state and federal authorizations for the take of Covered Species that may be caused by the Covered Activities.

Under state law, take of species listed pursuant to CESA may be authorized under Fish and Game Code section 2080.1 or section 2081, or section 2835 of the NCCP Act. The NCCP Act provides that after the approval of an NCCP, CDFG may permit the taking of any identified species, listed or non-listed, whose conservation and management is provided for in the NCCP. Take of listed species may also be authorized under CESA.

The Parties intend for the NCCP/HCP to be sufficient to support the issuance of take authorizations for Covered Activities under the NCCP Act and the ESA. The Parties acknowledge that the NCCP/HCP may be used to address other state and federal statutes.

The ESA provides that after the approval of an HCP, USFWS may permit the taking of fish and wildlife species covered in the HCP if the HCP and permit application meet the requirements of section 10(a)(2)(A) and (B) of the ESA. Take authorization for federally listed species covered in the HCP are generally effective upon approval of the HCP and issuance of an incidental take permit. Take authorization for any non-listed species covered in the HCP becomes effective if and when the species is listed pursuant to the ESA.

2.2 Purposes of this Agreement

The purposes of this Planning Agreement are to:

- Define the Parties' goals and commitments with regard to development of the OCTA NCCP/HCP;
- Define the initial geographic scope of the Planning Area;
- Identify a preliminary list of natural communities and species known or reasonably expected to be found in those communities that are intended to be the initial focus of the NCCP/HCP;
- Identify preliminary conservation objectives for the Planning Area;
- Establish a process for the inclusion of independent scientific input into the planning process;
- Ensure coordination among CDFG, USFWS, Caltrans, and OCTA;
- Establish a process to review interim projects within the Planning Area that will help achieve the preliminary conservation objectives and maintain viable conservation objectives and alternatives for the NCCP/HCP;
- Establish a process to ensure funding of the mitigation measures identified in the NCCP/HCP are consistent with Renewed Measure M; and
- Ensure public participation and outreach throughout the planning process.

2.3 Future ESA Section 7 Consultations

To the extent allowed under law, the Parties intend that the measures adopted to meet regulatory standards included in the NCCP/HCP, once approved by USFWS, will serve as the range of measures to be incorporated into biological opinions associated with future section 7 consultations between USFWS and a federal action agency regarding Covered Activities that may adversely affect listed Covered Species or that may result in the destruction or adverse modification of critical habitat.

2.4 Other Fish and Wildlife Protection Laws

Based on the NCCP/HCP, OCTA may seek approval or authorization under other state or federal fish and wildlife protection laws, including, but not necessarily limited to the Migratory Bird Treaty Act, the Bald and Golden Eagle Protection Act, and various provisions of the Fish and Game Code. The Parties agree to collaborate to explore the feasibility of developing the NCCP/HCP to serve as the means by which Covered Activities may comply with these additional laws.

2.5 Concurrent Planning for Wetlands and Waters of the United States

Based on the NCCP/HCP, OCTA may seek future programmatic permits or other form of authorization under the Clean Water Act, section 1600 *et seq.* of the Fish and Game Code as necessary for Covered Activities. The Parties agree to work together to explore the feasibility of undertaking concurrent but separate planning regarding these permits. Such programmatic permits or other forms of authorization are not necessary, however, for approval of the NCCP/HCP or for issuance of take permits.

2.6 Assurances

2.6.1 Regulatory Assurances Under the ESA

Upon approval of the HCP and issuance of an incidental take permit for Covered Activities, USFWS will provide assurances to OCTA that the USFWS will not require the commitment of additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources beyond the level otherwise agreed upon for Covered Species, without the consent of OCTA, in accordance with 50 C.F.R. §§ 17.22(b)(5) and 17.32(b)(5).

2.6.2 Regulatory Assurances Under the NCCP Act

If the OCTA NCCP/HCP meets the criteria for issuance of an NCCP permit under section 2835 of the Fish and Game Code, CDFG will approve the NCCP and provide assurances consistent with its statutory authority upon issuance of the NCCP permit. Under section 2820(f) of the Fish and Game Code, CDFG may provide assurance for the Covered

Activities commensurate with the level of long-term conservation and associated implementation measures provided in the NCCP. Assurances include that if unforeseen circumstances arise during implementation of the NCCP, CDFG will not require additional land, water, or financial compensation or additional restrictions on the use of land, water, or other natural resources without the consent of OCTA as long as the NCCP is being implemented consistent with the terms of the Implementation Agreement and associated take permit.

3.0 Planning Goals

The planning goals for the OCTA NCCP/HCP include the following:

- Provide for the conservation and management of Covered Species within the Planning Area;
- Preserve, restore and enhance aquatic, riparian and terrestrial natural communities and ecosystems that support Covered Species within the Planning Area;
- Provide a means to implement Covered Activities in a manner that complies with applicable state and federal fish and wildlife protection laws, including CESA and the ESA;
- Provide a basis for permits necessary to lawfully take Covered Species;
- Provide a comprehensive means to coordinate and standardize mitigation and compensation requirements for Covered Activities within the Planning Area;
- Provide an accounting process that will document net environmental benefit from regional, programmatic mitigation in exchange for net benefit in the delivery of transportation improvements through streamlined and timely approvals and permitting;
- Provide a less costly, more efficient project review process that results in greater conservation values than project-by-project, species-by-species review; and
- Provide clear expectations and certain regulatory assurances regarding Covered Activities occurring within the Planning Area.

4.0 Planning Area and Plan Participants

4.1 Geographic Scope

The Planning Area includes all of Orange County. Regardless of the scope of the Planning Area, nothing in this Planning Agreement shall be construed to limit the consideration of adjacent areas outside of the County that are appropriate to take into account for preserve design purposes.

4.2 Local Agencies

The OCTA is the local sponsor of the NCCP/HCP. As part of this planning process, the OCTA has committed to undertake a collaborative, systematic approach to protecting the Planning Area's ecologically significant resources, including candidate, threatened and endangered species and their habitats, open space, and working landscapes, and to ensure that the Covered Activities comply with applicable federal and state laws.

4.3 California Department of Transportation

Caltrans is the owner and operator of the state highway system. It is the lead agency for construction and rehabilitation projects undertaken on the State highway system.

4.4 California Department of Fish and Game

CDFG is the agency of the State of California authorized to act as trustee for the state's wildlife. CDFG is authorized to approve NCCPs pursuant to the NCCP Act, administer and enforce CESA and other provisions of the Fish and Game Code, and enter into agreements with federal and local governments and other entities for the conservation of species and habitats pursuant to CESA and the NCCP Act.

4.5 United States Fish and Wildlife Service

The USFWS is an agency of the United States Department of the Interior authorized by Congress to administer and enforce the ESA with respect to terrestrial wildlife, non-anadromous fish species, insects and plants, and to enter into agreements with states, local governments, and other entities to conserve threatened, endangered, and other species of concern. The NCCP Act and this Planning Agreement require coordination with USFWS with respect to the ESA.

5.0 Preliminary Conservation Objectives

The preliminary conservation objectives the Parties intend to achieve through the NCCP/HCP are to:


- Provide meaningful comprehensive environmental mitigation;
- Provide for habitat connectivity to ensure reserves maintain their biological functions and values;
- Provide for the protection of Covered Species and associated natural communities and ecosystems that occur within the Planning Area;
- Preserve the diversity of fish, wildlife, plant and natural communities in the Planning Area through the preservation and/or restoration of habitat;
- Avoid, minimize, and/or mitigate the take of Covered Species and their habitat; and

- Implement an adaptive management and monitoring program to respond to changing ecological conditions.

5.1 Conservation Elements

5.1.1 Ecosystems, Natural Communities, and Covered Species List

The NCCP/HCP will employ a strategy that focuses on the conservation of ecosystems, natural communities, and ecological processes in the Planning Area. In addition, the NCCP/HCP will establish species-specific minimization, mitigation, conservation and management measures where appropriate.

Natural communities that are likely to be addressed by the NCCP/HCP include, but are not limited to California Walnut Woodland, Canyon Live Oak Ravine Forest, Riversidian Alluvial Fan Scrub, Southern Coast Live Oak Riparian Forest, Southern Cottonwood Willow Riparian Forest, Southern Mixed Riparian Forest, Southern Willow Scrub, and Valley Needlegrass Grassland. 

Species that are intended to be covered by the NCCP/HCP include, but are not limited to Braunton's milkvetch, San Fernando valley spineflower, Santa Ana River woollystar, Santa Ana sucker, coastal California gnatcatcher, southwestern willow flycatcher, coastal cactus wren, grasshopper sparrow, northern harrier, least Bell's vireo, pond turtle, arroyo toad, and spadefoot toad. Issuance of state and federal take authorizations for any particular Covered Species will require an individual determination by the applicable Wildlife Agency that the NCCP/HCP meets applicable state or federal permit issuance requirements.

5.1.2 Conservation Areas and Viable Habitat Linkages

The NCCP/HCP will protect, enhance, or restore habitat and provide or enhance habitat linkages throughout the Planning Area. The NCCP/HCP conservation strategy will address a range of environmental gradients and ecological functions, and will address appropriate principles of ecosystem management, ecosystem restoration, and population biology.

5.1.3 Project Design

Where applicable, the NCCP/HCP will ensure that each Covered Activity is appropriately designed to avoid and minimize impacts to Covered Species and their habitats.

6.0 Preparing the NCCP/HCP

The Parties intend that this Planning Agreement will establish a mutually agreeable process for preparing the NCCP/HCP that meets the procedural requirements of the NCCP Act and the ESA. The process used to develop the NCCP/HCP will incorporate independent scientific input and analysis and include public participation with ample opportunity for comment from the general public and from key groups of stakeholders.

6.1 Best Available Scientific Information

The NCCP/HCP will be based on the best available scientific information, including, but not limited to:

- Principles of conservation biology, community ecology, individual species ecology, and other appropriate scientific data and information;
- Thorough information about all natural communities and proposed Covered Species within the Planning Area; and
- Advice from well-qualified, independent scientists.

6.2 Data Collection

The Parties agree that information regarding species and the effect of Covered Activities is important for preparation of the NCCP/HCP. The Parties therefore agree that data collection for preparation of the NCCP/HCP should be prioritized to develop more complete information on these subjects. Preference should be given to collecting data essential to address conservation requirements of natural communities and proposed Covered Species. The science advisory process and analysis of existing information may reveal data gaps currently not known that are necessary for the full and accurate development of the NCCP/HCP. Data needed for preparation of the NCCP/HCP may not be known at this time nor identified herein. Therefore, the Parties anticipate that data collection priorities may be adjusted from time to time during the planning process. All data collected for the preparation and implementation of the NCCP/HCP will be made available to the Wildlife Agencies in hard and digital formats, as requested and available.

6.3 Independent Scientific Input

A group of independent scientists will be convened to provide input on :

- Species and natural communities covered by the NCCP/HCP
- Adequacy of existing data and methods for filling any data gaps
- Conservation guidelines and preserve design principles
- Conservation analytical methods
- Management and monitoring guidelines

6.4 Public Participation

The Parties will ensure an open and transparent process with an emphasis on obtaining input from a balanced variety of public and private interests. The planning process will utilize the Environmental Oversight Committee and the public outreach plan established under Renewed Measure M as well as publication of notices and draft documents to provide opportunities for thorough public participation.

6.4.1 Steering Committee

The Mitigation and Resource Protection Program Oversight Committee (Environment Oversight Committee) will serve as the Steering Committee for the NCCP/HCP.

6.4.2 Outreach

OCTA will establish a public outreach plan to ensure that information concerning the development of the NCCP/HCP reaches landowners, local governments, conservation organizations, community groups, and the general public.

6.4.3 Availability of Public Review Drafts

The Parties will designate and make available for public review online in a reasonable and timely manner “public review drafts” of pertinent planning documents.

6.4.4 Public Hearings

Public hearings regarding development of the NCCP/HCP will be planned and conducted in a manner that satisfies the requirements of CEQA, NEPA, and any other applicable state or federal laws.

6.4.5 Public Review and Comment Period Prior to Adoption

OCTA will make the draft NCCP/HCP available for public review and comment a minimum of 60 days before adoption. The draft NCCP/HCP and Implementing Agreement will be distributed with the draft Environmental Impact Report (EIR) prepared for the NCCP pursuant to CEQA and the draft Environmental Impact Statement (EIS) prepared for the HCP pursuant to NEPA.

6.5 Covered Activities

The NCCP/HCP will identify the Covered Activities carried out by OCTA that may result in take of Covered Species within the Planning Area. Anticipated Covered Activities currently consist of thirteen freeway improvement projects as follows:

- 1) **Project A: I-5 Improvements between SR-55 and SR-57**
Reduce freeway congestion through improvements at the SR-55/I-5 interchange area between the Fourth Street Newport Boulevard ramps on I-5, and between Fourth Street and Edinger Avenue on SR-55. Also, add capacity on I-5 between SR-55 and SR-57 to relieve congestion at the “Orange Crush.”
- 2) **Project B: I-5 Improvements from SR-55 to El Toro “Y”**
Build new lanes and improve the interchanges in the area between SR-55 and the SR-133 (near the El Toro “Y”). The project will also make improvements at local interchanges, such as Jamboree Road.
- 3) **Project C: I-5 Improvements south of the El Toro “Y”**
Add new lanes to I-5 from the vicinity of the El Toro Interchange in Lake Forest to the vicinity of SR-73 in Mission Viejo. Also add new lanes on I-5 between Coast Highway and Avenida Pico interchanges to reduce freeway congestion in San Clemente.
- 4) **Project D: I-5 Local Interchange Upgrades**
Update and improve key I-5 interchanges such as Avenida Pico, Ortega Highway, Avery Parkway La Paz Road, El Toro Road, and others to relieve street congestion around older interchanges and on ramps.
- 5) **Project E: SR-22 Access Improvements**
Construct interchange improvements at Euclid Street, Brookhurst Street and Harbor Boulevard to reduce freeway and local street congestion.
- 6) **Project F: SR-55 Improvements (between SR-22 and I-405)**
Add new lanes to SR-55 between SR-22 and I-405, generally within existing right-of-way, including merging lanes between interchanges to smooth traffic flow. This project also provides for freeway operational improvements for the portion of SR-55 between SR-91 and SR-22.
- 7) **Project G: SR-57 Improvements**
Build a new northbound lane between Orangewood Avenue and Lambert Road. Other projects include improvements to the Lambert interchange and the addition of a northbound truck-climbing lane between Lambert and the county line.
- 8) **Project H: SR-91 Improvements from I-5 to SR-57**

Add capacity in the westbound direction and provide operational improvements at on and off ramps to the SR-91 between I-5 and SR-57.

9) **Project I: SR-91 Improvements from SR-57 to SR-55 Interchange Area**

Improve the SR-91/SR-55 to SR-91/SR-57 interchange complex, including nearby local interchanges such as Tustin Avenue and Lakeview, as well as adding freeway capacity between SR-55 and SR-57.

10) **Project J: SR-91 Improvements from SR-55 to Orange/Riverside County Line**

This project adds capacity on SR-91 beginning at SR-55 to the Orange/Riverside County Line. This will be done in coordination with the Riverside County Transportation Commission's (RCTC) plans to improve the SR-91 freeway into Riverside County. The first priority will be to improve the segment of SR-91 east of SR-241. The goal is to provide up to four new lanes of capacity between SR-241 and Riverside County Line by making best available use of freeway property, adding reversible lanes, building elevated sections and improving connections to SR-241. This project also includes improvements to the segment of SR-91 between SR-241 and SR-55. The concept is to generally add one new lane in each direction and improve the interchanges.

11) **Project K: I-405 Improvements between I-605 freeway in Los Alamitos area and SR-55**

Add new lanes to I-405 between I-605 and SR-55. The project will make best use of available freeway property, update interchanges and widen various local overcrossings according to city and regional plans. The improvements will be coordinated with other planned I-405 improvements in the I-405/SR-22/I-605 interchange area to the north and I-405/SR-73 improvements to the south.

12) **Project L: I-405 Improvements between SR-55 and I-5**

Add new lanes to the freeway from SR-55 to the I-5. The project will also improve chokepoints at interchanges and add merging lanes near on/off ramps such as Lake Forest Drive, Irvine Center Drive and SR-133 to improve the overall freeway operations in the I-405/I-5 El Toro "Y" area.

13) **Project M: I-605 Freeway Access Improvements**

Improve freeway access at I-605/Katella Avenue serving the communities of Los Alamitos and Cypress. The project will be coordinated with other planned improvements along SR-22 and I-405. Specific improvements will be subject to approved plans developed in cooperation with local jurisdictions and affected communities. This improvement will connect to interchange improvements at I-405 and SR-22 as well as new freeway lanes between I-405 and I-605.

6.6 Interim Project Processing

The Parties recognize that before the Wildlife Agencies approve the NCCP/HCP, certain projects and activities may be proposed within the Planning Area. The Parties agree to the following interim project process to: (1) ensure that development, construction, and other projects or activities approved or initiated in the Planning Area before completion of the NCCP/HCP are consistent with the preliminary conservation objectives and do not compromise successful completion and implementation of the NCCP/HCP; (2) facilitate ESA/CESA compliance for interim projects that require it; and (3) ensure that processing of interim projects is not unduly delayed during preparation of the NCCP/HCP.

The OCTA will notify the Wildlife Agencies about proposed projects or activities requiring discretionary approvals from the OCTA that have the potential to adversely impact proposed Covered Species and natural communities.

If the OCTA proposes to undertake or approve a project, it will notify the Wildlife Agencies of the project prior to the time the project application is deemed complete. The OCTA will notify the Wildlife Agencies of interim projects, and will provide (1) a depiction of the project location on a USGS 7.5 minute quadrangle map with the quadrangle name and section, township, and range identified; (2) a description of the project along with the land cover types present on the project site using the most current land cover data available; and (3) any other biological information available to the OCTA about the project area.

The Wildlife Agencies will use reasonable efforts to review interim projects in a timely manner. The Wildlife Agencies will recommend mitigation measures or project alternatives that would help achieve the preliminary conservation objectives and will not preclude important conservation planning options or connectivity between areas of high habitat values. Any take of listed or candidate species arising out of a reportable interim project must be authorized pursuant to applicable State and federal law.

6.7 Protection of Habitat and other Resources During Planning Process

6.7.1 Conservation Actions

OCTA may elect to acquire and preserve, enhance, or restore habitat in the Planning Area that will support native species of fish, wildlife, or natural communities prior to approval of the NCCP/HCP. OCTA will confer with the Wildlife Agencies regarding potential resources to be protected. The Wildlife Agencies agree to credit such resources towards the habitat protection, enhancement and restoration requirements of the NCCP/HCP provided that these resources are appropriately conserved, restored, or enhanced and managed. Resources that will be credited to OCTA will be determined and agreed upon by the Parties prior to the acquisition of particular habitat parcels.

6.8 Implementing Agreement

An Implementing Agreement that includes specific provisions and procedures for the implementation, monitoring, and funding of the NCCP/HCP will be developed by the Parties. A draft of the Implementing Agreement will be made available for public review and comment with the final public review draft of the NCCP/HCP. The Implementing Agreement will contain provisions for:

- Conditions of species coverage;
- The long-term protection of habitat reserves;
- Implementation of conservation measures;
- Adequate funding to implement the NCCP/HCP;
- Terms for suspension or revocation of the permits;
- Procedures for amendment of the NCCP/HCP, Implementing Agreement, and take authorizations;
- Implementation of monitoring and adaptive management;
- Oversight of the NCCP/HCP's effectiveness;
- Reporting frequency and general content.

7.0 Commitment of Resources

7.1 Funding

Funding for the planning effort will be provided through Renewed Measure M revenues. OCTA, with the assistance of the Wildlife Agencies, will also seek grant support under the federal Endangered Species Act (e.g., Section 6 non-traditional planning grant) and State grants such as the NCCP Local Assistance Grants program. Additionally, to assist in prioritizing this NCCP/HCP, OCTA will provide CDFG with funding to support one staff position to assist with the planning effort.

8.0 Miscellaneous Provisions

8.1 Public Officials Not to Benefit

No member of or delegate to Congress will be entitled to any share or part of this Planning Agreement, or to any benefit that may arise from it.

8.2 Statutory Authority

The Planning Agreement is not intended, nor will it be construed, to modify any authority granted by statute, rule or regulation.

8.3 Multiple Originals

This Planning Agreement may be executed by the Parties in multiple originals, each of which will be deemed to be an official original copy.

8.4 Effective Date

The Effective Date of this Planning Agreement will be the date on which it is fully executed by the parties.

8.5 Duration

This Planning Agreement will be in effect until the NCCP/HCP is approved and permitted by the Wildlife Agencies, but shall not be in effect for more than 36 months following the Effective Date, unless extended by amendment. The Parties intend to initiate and complete the NCCP/HCP process as well as the necessary NEPA/CEQA environmental compliance document within a 24-month period from the Effective Date. This Planning Agreement may be terminated pursuant to Section 9.7 below.

8.6 Amendments

This Planning Agreement can be amended only by written agreement of all Parties.

8.7 Termination and Withdrawal

This Planning Agreement can be terminated only by written agreement of all Parties. Any Party may withdraw from this Planning Agreement upon 30 day's written notice to the other Parties. Any mitigation credits acquired by OCTA prior to termination or withdrawal from this Planning Agreement would remain available to OCTA to offset the potential impacts of OCTA projects.

8.7.1 Funding

In the event that federal or State funds have been provided to assist with NCCP/HCP preparation or implementation, any Party withdrawing from this Planning Agreement shall return to the granting agency unspent funds awarded to that Party prior to withdrawal. A withdrawing Party shall also provide the remaining Parties with a

complete accounting of the use of any federal or State funds it received regardless of whether unspent funds remain at the time of withdrawal. In the event of termination of this Planning Agreement, all Parties who received funds shall return any unspent funds to the grantor prior to termination.

8.8 No Precedence

This Planning Agreement is not intended, and shall not be construed, to modify any existing or subsequently amended law, rule, regulation, or other legal authority, or requirements established thereunder.

The Parties' execution of this Planning Agreement and participation in the development of the NCCP/HCP is voluntary. The Parties recognize that participation in this Planning Agreement or in the NCCP/HCP planning process does not constitute, expressly or implicitly, an authorization by any of the Wildlife Agencies to take any species listed under CESA or the ESA or endorsement by the Wildlife Agencies of the Covered Activities. The parties further recognize that such participation does not reflect or represent an acknowledgment by any Party that the NCCP/HCP is necessary to comply with CESA or the ESA.

SIGNATURES:

Dated: _____, 2009

ORANGE COUNTY TRANSPORTATION
AUTHORITY

By: _____

Title: _____

Dated: _____, 2009

CALIFORNIA DEPARTMENT OF FISH
AND GAME

By: _____

Title: _____

Dated: _____, 2009

U.S. FISH AND WILDLIFE SERVICE

By: _____

Title: _____

Date: _____, 2009

CALIFORNIA DEPARTMENT OF
TRANSPORTATION

By: _____

Title: _____

Agenda
Renewed Measure M
FREEWAY ENVIRONMENTAL MITIGATION PROGRAM

Master Agreement Working Group
and
Impact and Mitigation Working Group

January 15, 2009
1:30 p.m. – 3 p.m.
600 South Main Street
Orange, CA 92863
Room 710

1. Introductions

Master Agreement Working Group 10 to 11:30 a.m.

2. Review of Master Agreement Draft
3. Review of Planning Agreement Draft
4. Review of Conservation Strategic Implementation Plan
Scope of Work
5. Species List
6. Timetables for Approval of Draft Agreement
7. HCP/NCCP Cost Estimates

The group reviewed and provided input on the draft Master and Planning Agreements. Specifically, Claire Schlotterbeck of Friends, Harbors, Beaches, and Parks and Winter King of Shute Mihaly & Weinberger went over the substantive comments on the Draft Planning Agreement. Erinn Wilson from CDFG provided her comments on the Draft Planning Agreement.

Hal McCutchan provided an overview of the draft scope of work for the Conservation Strategic Implementation Plan and requested input if needed by the February meeting. This Plan will provide the framework for the implementation of the HCP/NCCP including the roles and responsibilities, completing the GIS database, developing an ecological baseline assessment, and strategizing on land restoration, acquisition, and management approaches. The group acknowledged there may be redundancy in the process and they will need to determine if it is needed. The next steps are to bring this item to the Environmental Oversight Committee and ultimately issue a request for proposals for consultant solicitation.

Agenda
Renewed Measure M
FREEWAY ENVIRONMENTAL MITIGATION PROGRAM

Dan Phu provided a draft of the threatened, endangered, and species of concern list to the group. Melanie Schlotterbeck and Erinn suggested that a new category, “fully protected species” be added to the list. The group will provide comments/input on the list.

Monte Ward provided a brief synopsis of the timetable in implementing the Master and Planning agreements, and initiation of the HCP/NCCP processes. The package, consisting of the agreements, scope of work for the HCP/NCCP, and implementation schedule, is anticipated to go through the Environmental Oversight Committee, Transportation 2020, and OCTA Board in Feb/Mar '09 timeframe. Monte, please elaborate.

Hal provided an overview of the costs for the HCP/NCCPs from various counties. The majority of the counties have implemented the HCP/NCCP in various phases due to availability of funding, which has led to a higher overall cost. Due to M2 Funding in place, the timeframe to complete the HCP/NCCP process will be shorten, subsequently lowering costs. In addition, 65% of Orange County has undergone the HCP/NCCP process via the Southern and the Central/Coastal Subregions, which will provide invaluable information the can be readily utilized or if needed, updated. Projected costs and scheduling of the HCP/NCCP process are currently being analyzed and will be made available within the month.

Action Items	Responsible Party	Status
Prepare a list of potentially affected federal/state listed species. Group will refine.	OCTA – Dan	Working group to provide comments
Follow-up discussion with group to refine species list.	OCTA – Dan to set up meeting	Meeting after Working group comments
Comments on scope of work for Strategic Implementation Plan	Working Group	
Agencies and legal review of MOA and Planning Agreement.	OCTA – Monte/Dan to coordinate. Marissa to send out to group.	Need to take to Environmental Oversight Committee
Draft Implementing Agreement	Sean Skaggs	TBD

Agenda
Renewed Measure M
FREEWAY ENVIRONMENTAL MITIGATION PROGRAM

Impact and Mitigation Working Group 11:30 to 1 p.m.

8. Property Assessment Tools and Process
9. Santa Ana Canyon Projects
10. Next Meeting

Due to time constraints the above items will be deferred to the February meeting.

Action Items	Responsible Party	Due Date
Develop property information form	Erinn/Melanie/Jonathan	
Create sample property information form for discussion at follow-up meeting	Melanie	
Augment HCP / NCCP scope of work to include Master Streambed Alteration Agreement	OCTA – Hal	
Participants / Affiliation	Email Contact Information	
Director Cathy Green / OCTA Board Member	cgreen@surfcity-hb.org	
Monte Ward / OCTA	mward@octa.net	
Marissa Espino / OCTA	mespino@octa.net	
Dan Phu / OCTA	dphu@octa.net	
Hal McCutchan / OCTA	hmccutchan@octa.net	
Melanie Schlotterbeck / Measure M Support Group	melanie@schlotterbeck.net	
Dan Silver / Endangered Habitat League	dsilverla@earthlink.net	
Erinn Wilson / CDFG	EWilson@dfg.ca.gov	
Arianne Preite / Caltrans	Arianne.Preite@dot.ca.gov	
Cathy Nowak / County of Orange	Cathy.nowak@rdmd.ocgov.com	



SCOPE OF WORK

Professional Support Services for the Renewed Measure M Environmental Mitigation Program (Conservation Strategic Implementation Plan)

I. BACKGROUND

On November 7, 2006, Orange County voters approved the renewal of the Measure M one-half cent sales tax for transportation improvements by a vote of 69.7 percent. Measure M was originally passed in 1990 (M1) with a sunset in 2011. With the approval of the Renewed Measure M (M2), the voters agreed to continue investment of local tax dollars in Orange County's transportation infrastructure for another 30 years.

Subject to a Master Agreement between Orange County Transportation Authority (OCTA) and federal and state resource agencies, an Environmental Mitigation Program will be implemented. The Environmental Mitigation Program will provide for high-value environmental benefits such as habitat protection and/or resource preservation in exchange for streamlined project approvals for M2 thirteen freeway improvement projects, which are described in the Renewed Measure M Transportation Investment Plan. A minimum of 5 percent of the total M2 freeway expenditures (currently estimated at \$243.5 million) would be dedicated to this environmental mitigation effort.

The Environmental Oversight Committee (EOC) is responsible for developing the Environmental Mitigation Program and recommending it along with the allocation of environmental mitigation funds. The roster of the EOC is attached herein as Attachment A.

The Environmental Mitigation Program has the potential to minimize or reduce regulatory delays in the implementation of the M2 thirteen freeway improvement projects and result in greater environmental benefits than could be achieved through a traditional project-by-project approach. The specific type of mitigation will be determined by OCTA working in conjunction with various stakeholders. The various forms of mitigation may include purchasing of land for the purposes of mitigation banking, habitat restoration, and/or maintenance and monitoring.

II. OBJECTIVE

OCTA is soliciting proposals through this procurement to retain a firm to provide professional support services for the development of a Conservation Strategic Implementation Plan, herein referenced as the Plan, as a precursor to the Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) process. The Plan is not an official environmental document pursuant to the California Environmental Quality Act/National Environmental Policy Act (CEQA/NEPA); however, it will utilize guidance, procedures, and methodologies as a tool to analyze biological resources common to these environmental laws. The intent of the Plan is to provide a comprehensive strategic approach on the execution of the environmental mitigation

program, including details on how to proceed with land restoration, acquisition, and management processes.

To date, OCTA staff has compiled a Geographic Information System (GIS) on several of the M2 thirteen freeway improvement projects as they pertain to direct and indirect impacts. Biological data sources such as the California Natural Diversity Database (CNDDDB), California Native Plant Society (CNPS), and other data provided by various external parties are also included in the GIS maps. In addition, detailed engineering-level data is available for several of the projects that are either in the environmental or final design phases.

The CONSULTANT shall utilize OCTA's GIS and engineering-level data, and build upon the information provided in the Orange County's Green Vision Map, which was developed by the Friends of Harbors, Beaches, and Parks. This information shall be utilized to further formulate an ecological baseline assessment and derive a Conservation Strategic Implementation Plan for HCP/NCCP development. OCTA's GIS and engineering level data will be made available to interested bidders for this procurement via a non-disclosure agreement. The planning area includes all of Orange County, which consists of approximately 798 square miles encompassing 34 cities and unincorporated areas. Subsequent phases related to the HCP/NCCP process may be subject to separate RFPs and consultant contracts, which will be developed by OCTA. Development of the Conservation Strategic Implementation Plan shall be completed by no later than five (5) months from date of execution of contract.

The ideal firm shall possess knowledge of:

CEQA/NEPA: the ideal firm shall possess advanced knowledge of laws/regulations pertaining to the CEQA/NEPA as well as environmental requirements from various federal and state agencies (i.e., Army Corps of Engineers [ACOE], California Department of Fish and Game [CDFG], United States Fish and Wildlife Service [USFWS], Regional Water Quality Control Boards [RWQCB], etc.).

Biological Resources: the ideal firm shall possess an understanding of the State of California's Natural Community Conservation Planning Act (Fish and Game Code Section 2800-2840) and the Federal Five Point Policy Guidance for preparing habitat conservation plans and conducting the incidental take permit program under Section 10(a)(1)(B) of the Endangered Species Act. In addition, knowledge of various environmental laws such as Sections 401 and 404 of the federal Clean Water Act, Section 10 of the Rivers and Harbors Act, and Section 1600 of the California Fish and Game Code is preferred. The firm shall have general knowledge of biological assessment, vegetation mapping, habitat restoration, endangered species surveys, and biological construction monitoring. The firm shall also have good practical knowledge of plant and animal species listed as either endangered, threatened, or species of concern per the Federal Endangered Species Act (FESA) and/or California Endangered Species Act (CESA).

Land Conservation Processes: The ideal firm shall possess an understanding of land conservation processes as it relates to acquisition, restoration, and management. The firm shall be able to make recommendations to OCTA and the Environmental Oversight Committee on the best course of action to implement a strategy that fits the needs of the Environmental Mitigation Program.

III. Task 1 - Coordination, Preparation for Meetings and Attendance at Meetings

Purpose:

To prepare for and attend meetings. The CONSULTANT may need to attend up to three (3) Environmental Oversight Committee Meetings, up to six (6) meetings for their associated working group, and up to three (3) public meetings.

Approach:

When a meeting has been requested for attendance by the CONSULTANT, the CONSULTANT shall appropriately prepare and present the progress and findings related to the Plan. Such preparation may entail research into environmental case laws and/or regulation pertaining to the subject matter.

Deliverables:

- Research materials for the meeting's topic, if applicable,
- Attendance at required Meetings, which is assumed to be three (3) Environmental Oversight Committee Meetings, up to six (6) meetings for their associated working group, and up to three (3) public meetings.
- Monthly progress report, and
- Monthly invoices.

IV. Task 2 - Follow-up Action Items Resulting from Meetings

Purpose:

To follow-up on action items resulting from meetings.

Approach:

CONSULTANT shall provide follow-up items to OCTA's Project Manager in a timely manner (i.e., approximately five to seven days following the meeting or other timing agreed upon by the CONSULTANT and OCTA Project Manager). If this deadline cannot be met, then the CONSULTANT shall discuss with the OCTA Project Manager and agree upon an alternate course of action.

Deliverables:

- Data and information pertaining to the action item,
- All electronic data produced and supporting documentation shall be provided on electronic media (CD, DVD or portable hard drive) in formats consistent with OCTA software programs, and
- All vector geographic data layers shall be delivered in either ESRI Shapefile or Personal Geodatabases (MS Access) format. Aerial photography shall be delivered in tiled Tagged Image File Format (TIFF) with “world” files or Joint Photographic Experts Group (JPEG) with “world” files or Mr. Sid mosaics with OCTA’s prior approval. Raster data can be delivered in ArcGRID format using OCTA’s standard coordinate system.

V. Task 3 - Develop Ecological Baseline Assessment

Purpose:

Biological, physical, and land use information that is necessary and sufficient for the development of the HCP/NCCP will be compiled. The development of the Ecological Baseline Assessment will include accomplishing the following tasks:

- Compilation of existing data on biological and physical resources within the project area,
- Determination of suitability of data for the Plan needs, and
- Acquisition of available aerial photography that is sufficient to verify existing vegetation and land cover classifications and mapping of the Plan Area and to facilitate new mapping areas not previously identified.

Approach:

The CONSULTANT shall review existing information on the biological and physical resources in the Plan Area. Information sources will include the CNDDB, CNPS, other pertinent scientific literature describing the biological resources within the Plan Area, and environmental studies. Subsequent to the initial review, the CONSULTANT will recommend an approach to compilation of existing biological information and will determine whether additional data will be required.

The Ecological Baseline Assessment will include a draft list of species recommended for coverage under ESA and CESA as it relates to M2 thirteen freeway improvement projects. Key criteria in recommending a species for coverage include:

- Listing status and potential to be listed
- Potential to occur in the Plan Area,
- Potential to be affected by covered activities, and
- Potential to benefit from conservation measures.

Specific information obtained from existing sources will include ecological and status profiles of covered species; description of vegetation types and land cover (including wetlands); species habitat conditions; and description of topography, soils, streams, watersheds, and floodplains. Wetland and other waters of the United States that will be identified based on existing data include seasonal, vernal pool, and deep wetlands, perennial, intermittent, and ephemeral drainages; and woody riparian vegetation.

The CONSULTANT will use existing data to determine acreage and distribution of habitat for covered species.

Deliverable:

- Ecological baseline assessment

VI. Task 4 - Completion of a Geographic Information Systems (GIS) Database

Purpose:

As indicated in Section II, OCTA staff has compiled a GIS and engineering-level data on the M2 thirteen freeway improvement projects as they pertain to direct and indirect impacts. The purpose of this task is to build upon the existing GIS with information that was derived from the Ecological Baseline Assessment and shall include, but not limited to aerial photos and/or satellite imagery, plan area boundaries, and biological data sets (i.e., vegetative coverage by habitat type, land use, existing conserved lands, and species occurrence data.)

Approach:

The GIS shall be sufficient to support the planning, implementation and monitoring needs of the HCP/NCCP. The GIS will be used to identify data gaps, movement corridors, and to produce comprehensive maps that are essential to understanding the conservation opportunities in Orange County. Where needed, the CONSULTANT shall be responsible for augmenting available data with other sources.

Deliverable:

- GIS database

VII. Task 5 – Land Value Estimation and Acquisition/Restoration Approach

Purpose:

To develop a strategy on how land should be targeted with an estimate of their market value costs for acquisition or restoration.

Approach:

The Environmental Oversight Committee has approved a resource and conservation guidance criteria to assist property owners and conservation organizations in evaluating available land for acquisition and/or restoration. The Consultant shall utilize these criteria, which are attached herein as Attachments B and C, to format an approach on how land restoration and/or acquisition should be pursued within the HCP/NCCP process. As part of this task, land valuation estimates on a market value basis in relationship to acquisition and restoration criteria shall be derived for the types of land areas that may potentially be conserved as part of the HCP/NCCP process. These per acre land values shall represent planning level estimates of average land values via acquisition and restoration. Land value determination shall be made in accordance with the California State Board Equalization's Assessor's Section 521 Handbook, "Assessment of Agricultural and Open-Space Properties." In addition, the potential of available land on a countywide basis that can be potentially conserved through acquisition and restoration shall be determined.

Deliverables:

- Land acquisition and restoration approach
- Land value estimation

VIII. Task 6 - Draft Conservation Strategic Implementation Plan

Purpose:

To develop a draft Conservation Strategic Implementation Plan, interpreting the findings of the ecological baseline assessment and GIS database environmental impacts and evaluate other available environmental data sources as it relates to the M2 freeway improvement projects. The report should also document wildlife corridors and any other factors that affect biological resources as they may relate to the M2 freeway improvement projects.

Approach:

The CONSULTANT shall translate the findings that were derived in Tasks 3 through 5 into recommendations as a basis for developing a Conservation Strategic Implementation Plan on how to proceed with the HCP/NCCP process. The Plan should document wildlife corridors and any other factors that affect biological resources as they may relate to the M2 freeway improvement projects. The CONSULTANT will need to incorporate tabulations, graphs and figures into the Plan to support recommendations for consideration by OCTA's Board of Directors and the Environmental Oversight Committee. A sample table of contents has been provided to outline the preliminary objectives of the Plan, which is included in Attachment D. The CONSULTANT is expected to further develop on the topics outlined and augment the Plan as necessary to put together a comprehensive plan.

Deliverables:

- Draft Conservation Strategic Implementation Plan

IX. Task 7 - Finalize Conservation Strategic Implementation Plan

Purpose:

To develop a final Plan, interpreting the findings in Tasks 3 through 5 based on input from the Environmental Mitigation Committee members.

Approach:

The CONSULTANT shall finalize the report based on input from the Environmental Mitigation Committee members and OCTA staff.

Deliverable:

- Final Conservation Strategic Implementation Plan

ATTACHMENT A

Environmental Oversight Committee Roster

- Patricia Bates, OCTA Director, Chair
- Melanie Schlotterbeck, Vice Chair
- Cathy Green, OCTA Director
- Mark Cohen, U.S. Army Corps of Engineers
- Rose Coffin, Measure M Taxpayers Oversight Committee
- Judy McKeehan, SWCA Environmental Consultants
- Adam Probolsky, Probolsky Research
- Dan Silver, Endangered Habitats League
- Jonathan Snyder, U.S. Fish and Wildlife Service
- Debbie Townsend, California Wildlife Conservation Board
- Sylvia Vega, Caltrans
- Erinn Wilson, California Department of Fish and Game

ATTACHMENT B

Renewed Measure M Property Acquisition Criteria

BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of sites for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential acquisitions.

- Aligns with Impacted Habitats**
An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as coastal sage scrub, riparian woodlands, grasslands, etc.
- Conserves Sensitive Habitats**
The property's habitat includes the conservation and possible restoration of species, sub-species, and natural communities ranked as sensitive under California Natural Diversity Database (CNDDDB).
- Considers Property Acreage**
Generally larger properties are better.
- Contains Target Species**
The potential property includes the presence of endangered, threatened, species of special concern, and other sensitive species impacted by freeway projects.
- Considers the Threat of Development and Urgency**
The evaluation considers where the landowner is in CEQA and other permitting processes, quantifies the degree of the development threat, and determines if this acquisition creates an opportunity for leveraging expiring conservation funding.
- Enhances Natural Lands Connectivity, including significant Wildlife Corridors**
Acquisition of this property would connect to existing protected areas, examine the effects on multiple taxa (such as birds, large mammals) and could be identified as an essential habitat linkage in regional or local plans.
- Enhances Natural Lands Contiguity**
The property borders existing open spaces and acquisition increases the amount of core habitat or reduces edge effects.

- Includes Species/Habitat Diversity**
The property includes a wide variety of habitat types and species (including subspecies, if known). Special emphasis would be provided for properties with examples of various stages of vegetative structural diversity and functional ecosystem diversity present (e.g., habitat with a natural flood regime).
- Provides for Quality Habitat or Potential for Quality Habitat**
The property includes mature habitats or property constraints are minimal and property has a high potential to support high-quality habitat after acquisition.

OTHER CRITERIA

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

- Aligns with Resource Agency Priorities**
The property is included on the DFG & USFWS's list of acquisition priorities.
- Includes a Cooperative Landowner**
The landowner effectively coordinates with the entity responsible for acquisition to complete tasks required for acquisition.
- Includes Support from Local and State Governments**
This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.
- Includes Support from the Community**
This acquisition is supported by the public, environmental and community organizations.
- Utilizes Partnership & Leveraging Opportunities**
Working on this acquisition would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

CO-BENEFITS

The following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Watershed Protection

- Proximity to Underserved Area
- Scenic/Viewshed
- Trail Connectors
- Economic Benefits (supports local businesses)

PROPERTY CONSTRAINTS

The following criteria are potential constraints to property acquisition, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

- Considers Cost**
In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential acquisitions will be an important factor in selecting mitigation sites.
- Consider Conflicting Easements or Inholdings**
The property may have restrictive deeds, easements, other agreements, and/or inholdings that would limit management/public use options.
- Considers Neighboring Land Uses**
Neighboring land uses may decrease the habitat mitigation value of the mitigation property.
- Considers Other Complications**
The property may have unidentified complications associated with acquisition and management including, vector control, vandalism, inadequate access, significant obstacles to restoring water quality (toxics, pesticides, salts), etc.
- Considers the extent of Isolation or Habitat Fragmentation**
The property may be fragmented or isolated from other valuable habitats that may impede its long-term biological value. Fragmented or isolated habitats would make it challenging to have a variety of flora and fauna.
- Determines Hazardous Conditions**
Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.
- Understands Management Encroachments**
The property may have unauthorized users; there are adopted plans for future infrastructure that may be inconsistent with habitat mitigation; or the type and quantity of public use inside or adjacent to the property. (e.g. vegetative fuel modification zones are adjacent)

ATTACHMENT C

Renewed Measure M Restoration Criteria

BIOLOGICAL ASSESSMENT CRITERIA

The following criteria are intended to guide the permitting/resource agencies in the recommendation of restoration for the mitigation of habitat impacts by Renewed Measure M freeway projects. Each criterion includes a brief definition to clarify any potential misunderstandings. At a future date, and after more research and input, it is expected these criteria will include a mechanism for evaluating potential restoration projects.

- Benefits Targeted Species**

The potential restoration site includes a net benefit (both immediate and long term) in the ecological value for target species through increased breeding/foraging habitat and increases connectivity between areas of suitable habitat.
- Considers the Threat of Habitat Degradation and Urgency**

The threat of increasing the amount and coverage of non-native species determines restoration urgency, and there may be unique opportunities for restoration, such as burn areas.
- Enhances Natural Lands Contiguity**

Restoration of this site will limit edge effect, supplement existing open space and improve the quantity and quality of core habitat.
- Enhances of Already Conserved Lands for Habitat and Wildlife Connectivity**

Allows funding of restoration and management endowments on previously conserved lands to benefit species and wildlife connectivity in situations deemed appropriate by the permitting/resource agencies.
- Evaluates Adequacy of Protection and Management**

The existing level of protection, anticipated public use inside and adjacent to the restoration site should be considered.
- Restores Impacted Habitats**

An inventory of the property shows it includes the same vegetative communities as those habitats lost to freeway projects, including habitats such as: coastal sage scrub, riparian woodlands, grasslands, etc. and possibly includes ties to historical land coverage.

Restores Sensitive Habitats

The property's habitat restoration includes the restoration of species, sub-species, and natural communities ranked as sensitive under CNDDDB (California Natural Diversity Database).

OTHER CRITERIA

This list includes the secondary tier of evaluation criteria after the biological criteria are considered. It is expected that these criteria would require a simpler evaluation (such as yes, no, maybe) and the answers may merely play an informational role.

Aligns with Resource Agency Priorities

Proposed restoration meets resource agencies' particular requirements (e.g., the restoration satisfies the agencies' (ACOE, RWCB, and DFG) definition of habitat creation for the purposes of no-net loss policies for wetlands) and/or is determined to otherwise benefit fish and wildlife resources and the habitats upon which they depend.

Includes Support from Local and State Governments

This acquisition is supported by local cities, appropriate JPA's, the county or other governmental entities.

Includes Support from the Community

This acquisition is supported by the public, environmental and community organizations.

Utilizes Partnership & Leveraging Opportunities

Working on this restoration project would be enhanced by existing conservation efforts, partnerships and/or includes existing funding.

CO-BENEFITS

Where applicable, the following criteria would assist in the event the above criteria are roughly equal. These may take on a simpler evaluation (such as yes, no, or maybe) and the answers may merely play an informational role.

Includes:

- Watershed Protection
- Proximity to Underserved Area
- Scenic/Viewshed/Enhanced recreation experience
- Economic Benefits (supports local businesses)
- Public Access
- Archeological Sites
- Cultural and Historical Sites
- Paleontological Sites
- Trail Connectors

RESTORATION CONSTRAINTS

The following criteria are potential constraints to restoration, but detailed information regarding some of these constraints may not be available until later in the evaluation process.

Considers Cost

In addition to streamlining OCTA's regulatory process, the intent of the comprehensive environmental mitigation program is to provide the greatest possible biological benefit for the region with the available funding. Consequently, the cost of potential restoration will be an important factor in selecting mitigation sites.

Determines Hazardous Conditions

Through a Phase I – Environmental Site Assessment, determine the property's historical use and any potential or known hazardous materials on-site.

Includes Access to Site

The restoration site is accessible for restoration work, maintenance and management.

Includes Availability and Delivery of Water

The water used for the restoration is available, does not increase environmental impacts when delivered to the site and works with local water agencies to ensure groundwater sources are not impacted by water withdrawal.

ATTACHMENT D

Conservation Strategic Implementation Plan

Table of Contents

Executive Summary

1.0 Background

- 1.1 Overview of Renewed M Environmental Program
- 1.2 Overview of Renewed Measure M Projects
- 1.3 Stakeholders and Community Involvement Process

2.0 Environmental Mitigation Program

- 2.1 Need & Purpose
- 2.2 Environmental Mitigation Program Purpose
- 2.3 Freeway Projects Covered under Environmental Mitigation Program
- 2.4 Participants and Member Agencies
- 2.5 Master Agreements
- 2.6 Draft Environmental Mitigation Program Guidelines & Processes
- 2.7 Environmental Compliance Management
- 2.8 Potential Right-of-Way Requirements
- 2.9 Right-of-Way Costs
- 2.10 Future Implications of Environmental Mitigation Program

3.0 Ecological Baseline Assessment

- 3.1 Methodology
- 3.2 Habitats
- 3.3 Hydrologic Conditions
- 3.4 Other Conservation Plans within County

4.0 Land Restoration, Acquisition, and Management Approach

5.0 HCP/NCCP Decision-Making Process

6.0 References

Environmental Oversight Committee Orange County Property Inventory Recommendations

Property Name	Property Acreage	Property Owner/Manager	Property Location	Property City
Aliso & Wood Canyons Wilderness Park	4,000	County of Orange	28373 Alicia Pkwy	Laguna Niguel
Edwards Thumb	59.7	New Henley Holdings, Inc.	Edwards St. and Ellis Ave.	Huntington Beach
Fairview Park	208	City of Costa Mesa	2525 Placentia Ave.	Costa Mesa
Ferber Ranch	444	Trabuco Canyon Co., LLC	Live Oak Canyon Road and Rose Canyon Road	Unincorporated East Orange
Goodell	6.22	D.E. Goodell	Los Patos and Bolsa Chica St.	Huntington Beach
Irvine Ranch	40,000	Multiple	Central Orange County	
Mitchell Properties	101.7 and 40	Steven Parker, Mark Parker, Linda Jane Laval	Trabuco Creek Road and Trabuco Canyon Road	Trabuco Canyon
No name	56	Anacapa Real Estate Investments, LLC	Lavender Lane	Laguna Beach
Orange County Great Park	1,125	City of Irvine	7000 Trabuco Road	Irvine
Saddle Creek South	85.97	Rutter Santiago, LP	Live Oak Canyon Road/Santiago Canyon Road	Trabuco Canyon
Sky Ranch	526.87	Rutter Santiago, LP	Tranuco Creek Road and Trabuco Canyon Road	Trabuco Canyon
Ventanas	5	LB/Centra Tirador, LLC	Between Calle Arroyo & San Juan Creek (east of the I-5 fwy)	San Juan Capistrano
Watson	98.32	Rutter Santiago, LP	Live Oak Canyon Road/Santiago Canyon Road	Trabuco Canyon

Additional Properties*				
Banning Ranch	—	City of Newport Beach	—	Newport Beach
Beach and Bay Mobile Home Park	—	City of Newport Beach	—	Newport Beach
Bolsa Chic Wetlands	—	State Lands Commission	—	Huntington Beach
Lower Buck Gully	—	City of Newport Beach	—	Newport Beach
South Coast Wilderness	20,000	—	—	Laguna Beach
Upper Buck Gully	—	City of Newport Beach	—	Newport Beach

*OCTA staff received initial contact with regard to the listed additional properties, but has not received a formal request.