



AFFILIATED AGENCIES

Orange County
Transit District

Local Transportation
Authority

Service Authority for
Freeway Emergencies

Consolidated Transportation
Service Agency

Congestion Management
Agency

March 13, 2019

Yelena Voronel
City of Fullerton
303 W. Commonwealth Avenue
Fullerton, CA 92832

SUBJECT: OCTA'S AMENDMENT NO. 7 TO AGREEMENT NO. C-9-0576

Dear Yelena Voronel:

Enclosed is one original of the above-mentioned subject for your review and signature.

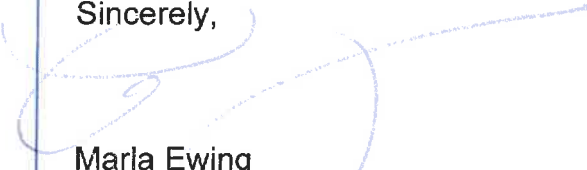
Please sign the original of this Amendment where indicated, in blue ink and return.

Please send the executed document to:

Meena Katakia
Department Manager – Capital Projects
OCTA
550 South Main Street
P.O. Box 14184
Orange, CA. 92863-1584

Should you have any contractual related questions, please feel free to contact Meena Katakia at (714) 560-5694 or by e-mail at mkatakia@octa.net.

Sincerely,


Marla Ewing
Senior Office Specialist
Contract Administration and Materials Management

Enclosure(s)

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1 **AMENDMENT NO. 7 TO**
2 **AGREEMENT NO. C-9-0576**

3 **BETWEEN**

4 **ORANGE COUNTY TRANSPORTATION AUTHORITY**

5 **AND**

6 **CITY OF FULLERTON**

7 **FOR**

8 **RAYMOND AVENUE AND STATE COLLEGE BOULEVARD**

9 **RAILROAD GRADE SEPARATION PROJECTS**

10 **THIS AMENDMENT NO. 7**, is effective this _____ day of _____, 2019
11 ("Effective Date"), by and between the Orange County Transportation Authority, a public corporation of
12 the State of California (hereinafter referred to as "AUTHORITY"), and the City of Fullerton, a California
13 Charter City and a municipal corporation (hereinafter referred to as "CITY"), which are sometimes
14 individually referred to as "Party", and collectively referred to as "Parties".

15 **WITNESSETH:**

16 **WHEREAS**, by Agreement No. C-9-0576 dated December 31, 2009, as last changed by
17 Amendment No. 6 dated March 21, 2017, AUTHORITY and CITY entered into a cooperative agreement
18 to define the roles and responsibilities related to the funding between the AUTHORITY and CITY for
19 environmental, final design, right-of-way acquisition, and construction administration of the two grade
20 separation projects located at Raymond Avenue and State College Boulevard (hereinafter referred to as
21 "PROJECTS"); and

22 **WHEREAS**, AUTHORITY and CITY have agreed to amend the terms of this Agreement to
23 modify the roles and funding responsibilities of the Parties for PROJECTS; and

24 **WHEREAS**, AUTHORITY agreed to amend this Agreement to reflect a change in the funding
25 plan for the State College Boulevard, for an increase in total funds in the amount of Two Million Six
26 Hundred and Sixty-Two Dollars (\$2,662,000); and

1 **WHEREAS**, AUTHORITY has agreed to increase the overall funding for State College Boulevard
2 Project by Two Million Six Hundred and Sixty-Two Thousand Dollars (\$2,662,000), for a total Agreement
3 value of Ninety-Nine Million Six Hundred and Thirty-One Thousand Dollars (\$99,631,000); and

4 **WHEREAS**, the increased cost for the State College Boulevard Project is attributed to the right-
5 of-way matters related to property and business impacts; and

6 **WHEREAS**, AUTHORITY shall be responsible for the Renewed Measure M (M2) funding on the
7 PROJECTS; and

8 **WHEREAS**, the costs for the Raymond Avenue Project remains unchanged at \$124,833,000;
9 and

10 **WHEREAS**, the AUTHORITY's Board of Directors authorized this Amendment No. 7 on February
11 11, 2019; and

12 **WHEREAS**, the CITY's City Council approved this Amendment No. 7 on _____.

13 **NOW, THEREFORE**, it is mutually understood and agreed by the AUTHORITY and CITY that
14 Agreement No. C-9-0576 is hereby amended in the following only:

15 1. Amend **ARTICLE 2. RESPONSIBILITIES OF AUTHORITY**, page 3 of 14, paragraph D,
16 as last changed by Amendment No. 6 dated March 21, 2017, to delete in its entirety and in lieu thereof
17 insert:

18 "D. AUTHORITY shall remit to CITY within thirty (30) days of receipt of an acceptable invoice,
19 reimbursement for environmental, design, right-of-way acquisition, utilities, and construction of eligible
20 M2, PTMISEA, and TSSSDRA project costs in accordance with funding schedule shown in Exhibit C for
21 Raymond Avenue and Exhibit D for State College Boulevard. Funds will be released on a periodic basis
22 based on the project needs as requested by CITY and approved by AUTHORITY. Such project costs
23 shall not exceed Seventy One Million, Four Hundred Four Thousand Dollars (\$71,404,000) for Raymond
24 Avenue and Nine Million, One Hundred Twenty Thousand Dollars (\$9,120,000) for State College
25 Boulevard."

26 2. Amend **ARTICLE 3. RESPONSIBILITY OF CITY**, page 4 of 14 Paragraph H, as last

1 changed by Amendment No. 6 dated March 21, 2017, to delete in its entirety, and in lieu thereof, insert:

2 "H. CITY agrees that the budget for Raymond Avenue is a not-to-exceed amount of One
3 Hundred Twenty Four Million, Eight Hundred Thirty Three Thousand Dollars (\$124,833,000) and the
4 budget for State College Boulevard is a not-to-exceed amount of Ninety Nine Million, Six Hundred Thirty
5 One Thousand Dollars (\$99,631,000), for a total overall budget of Two Hundred Twenty Four Million,
6 Four Hundred Sixty Four Thousand Dollars (\$224,464,000)."

7 3. Amend ARTICLE 4. PAYMENT, page 8 of 14, paragraph A, as last changed by
8 Amendment No. 6 dated March 21, 2017, to delete in its entirety, and in lieu thereof, insert:

9 "A. Funds will be released on a periodic basis based on the project needs as requested by
10 the CITY and approved by AUTHORITY. Such PROJECTS costs shall not exceed the sum of Seventy-
11 One Million, Four Hundred Four Thousand Dollars (\$71,404,000) of M2, PTMISEA, TSSSDRA, and
12 Surplus Property and Rental Income funds for Raymond Avenue and Nine Million, One Hundred Twenty
13 Thousand Dollars (\$9,120,000) of M2 and TSSSDRA funds for State College Boulevard. Any costs in
14 excess of the amounts specified herein shall not be incurred without approval and a written amendment
15 to this Agreement from AUTHORITY. CITY shall submit final invoices no later than ninety (90) days after
16 final acceptance of PROJECTS. Invoices for all work performed shall be submitted by CITY and in
17 duplicate to AUTHORITY's Account Payable Office. Each invoice shall include the following information:

- 18 a) Agreement Number C-9-0576:
19 b) The time period covered by the invoice and the work for which payment is being requested;
20 c) Progress Report which includes a detailed description of the progress of PROJECTS;
21 d) Total invoice amount; and
22 e) Such other information as requested by AUTHORITY."

23 4. Amend "Funding Schedule, Raymond Avenue, Exhibit C – Amendment No. 6", as last
24 changed by Amendment No. 6 dated March 21, 2017, to delete in its entirety and, in lieu thereof, insert
25 the attached "Revised Funding Schedule, Raymond Avenue, Exhibit C – Amendment No. 7".

26 5. Amend "Funding Schedule, State College Boulevard, Exhibit D – Amendment No. 6", as

1 last changed by Amendment No. 6 dated March 21, 2017, to delete in its entirety and, in lieu thereof,
2 insert the attached "Revised Funding Schedule, State College Boulevard, Exhibit D – Amendment No. 7".

3 6. Amend **ARTICLE 9. MAXIMUM OBLIGATION**, page 13 of 14, as last changed by
4 Amendment No. 6 dated March 21, 2017, to delete in its entirety and, in lieu thereof, insert:

5 "AUTHORITY's maximum obligation for all costs under this Agreement shall not exceed Seventy
6 One Million, Four Hundred Four Thousand Dollars (\$71,404,000) for Raymond Avenue and Nine Million,
7 One Hundred Twenty Thousand Dollars (\$9,120,000) for State College Boulevard, unless such
8 maximum obligation is modified by an amendment to this Agreement."

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The balance of Agreement No. C-9-0576 remains unchanged.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 7 to Agreement No. C-9-0576 to be executed as of the date of the last signature below.

CITY OF FULLERTON

ORANGE COUNTY TRANSPORTATION AUTHORITY

By: _____
Ken Domer
City Manager

By: _____
Darrell E. Johnson
Chief Executive Officer

Date: _____

Date: _____

APPROVAL AS TO FORM:

APPROVAL AS TO FORM:

By: _____
Richard D. Jones
City Attorney

By: _____
James M. Donich
General Counsel

Date: _____

Date: 3/14/19

APPROVAL RECOMMENDED:

By: _____
James G. Beil, P.E.
Executive Director, Capital Programs

Date: _____

Attachments:

Exhibit C – Revised Funding Schedule for Raymond Avenue, Amendment No. 7

Exhibit D – Revised Funding Schedule for State College Boulevard, Amendment No. 7

**AMENDMENT NO. 7 TO
AGREEMENT NO. C-9-0576
EXHIBIT C**

**REVISED FUNDING SCHEDULE
Raymond Avenue**

Funding Source	Fiscal Year (FY) Funding Available	Funding Amount	Phase	Direct Funding Recipient	OCTA's Project Expenses
Public Transportation Modernization, and Service Enhancement Account (PTMISEA) ^{1,4}	FY 2011-12 and FY 2012-13	\$77,010,000	Design, ROW, Utilities, Construction, Project Management and Support	OCTA is the direct recipient	\$25,172,000 -OCTA will withhold this amount from City
Renewed Measure M (M2) (OCTA) ^{2,4}	FY 2010-11, FY 2011-12, and FY2012-13	\$26,350,000	Environmental, Design, ROW, Utilities, Construction, Project Management and Support	OCTA is the direct recipient	\$15,723,000 -OCTA will withhold this amount from City
Surplus Property and Rental Income	FY 2016-17	\$5,216,000	Construction, Project Management, and Support	OCTA is the direct recipient	
BNSF Reimbursement ³	FY 2016-17	\$700,000	Project Management and Support	City is the direct recipient	\$700,000 -OCTA will invoice this amount from City
Metropolitan Water District (MWD) Reimbursement	FY 2014-15	\$1,800,000	Construction, Project Management and Support	City is the direct recipient	
Trade Corridor Improvement Fund (TCIF)	FY 2013-14	\$10,034,000	Construction, Project Management and Support	City is the direct recipient	
Transit System Safety, Security & Disaster Response Account (TSSSDRA) ⁴	FY 2012-13 and FY 2013-14	\$3,723,000	Construction, Project Management and Support	OCTA is the direct recipient	
Total		\$124,833,000			\$41,595,000

Notes:

- OCTA is the direct recipient of the PTMISEA funds, in the amount of 77,010,000. Of this amount, \$25,172,000 will be withheld and used by OCTA, to cover for right-of-way related expenditures including, but not limited to, acquisition, relocation, support, and legal costs.
- OCTA is the direct recipient of the M2 funds, in the amount of \$26,350,000. Of this amount, \$4,401,000 will be withheld and used by OCTA, to cover for project, project support, public outreach, program management consultant costs and \$11,322,000 will be withheld and used by OCTA, to cover for right-of-way related expenditures including, but not limited to, acquisition, relocation, support, and legal costs, for a total amount of \$15,723,000 of M2 funds.
- Per Construction and Maintenance Agreement, BNSF will reimburse City for their contribution cost share, in the amount of \$700,000, at project completion. OCTA will invoice City for the full amount when fund is received from BNSF.
- Advance amount of \$8,500,000 comes from portion of the PTMISEA, TSSSDRA, and M2 funds for construction.

**AMENDMENT NO. 7 TO
AGREEMENT NO. C-9-0576
EXHIBIT D**

**REVISED FUNDING SCHEDULE
State College Boulevard**

Funding Source	Fiscal Year (FY) Funding Available	Funding Amount	Phase	Direct Funding Recipient	OCTA's Project Expenses
Trade Corridor Improvement Fund (TCIF)	FY 2012-13	\$32,800,000	Construction, Project Management	City is the direct recipient	
Demonstration Safe, Accountable, Flexible, efficient Transportation Equity Act – A Legacy for Users (DEMO-SAFTEEA-LU) ¹	FY 2010-11 and FY 2012-13	\$12,381,000	ROW	City is the direct recipient	\$12,381,000 -OCTA will invoice this amount from City
Local (CITY)	FY 2010-11	\$6,458,000	Environmental, Design, ROW and Utilities	City is the direct recipient	
Regional Surface Transportation Program (RSTP)/ Congestion Mitigation and Air Quality (CMAQ) ²	FY 2010-11 and FY 2012-13	\$13,815,000	Construction and Project Management	City is the direct recipient	
Surface Transportation Block Grant (STBG) ⁵	FY 2018-19	\$14,457,000	ROW, Construction, and Project Management	City is the direct recipient	\$12,674,000 -OCTA will invoice this amount from City
Renewed Measure M (M2) (OCTA) ³	FY 2012-13 and 2017-18	\$13,153,000	Design, ROW, Utilities, Construction, and Project Management	OCTA is the direct recipient	\$6,018,000 -OCTA will withhold this amount from City
BNSF Railway Reimbursement ⁴	FY 2017-18	\$1,100,000	Construction, Project Management	City is the direct recipient	\$1,100,000 -OCTA will invoice this amount from City
Orange County Sanitation District (OCSD) Reimbursement	FY 2014-15	\$3,482,000	Design, Construction, Project Management	City is the direct recipient	
Transit System Safety, Security & Disaster Response Account (TSSSDRA)	FY 2012-13 and FY 2013-14	\$1,985,000	Construction, Project Management and Support	OCTA is the direct recipient	
Total		\$99,631,000			\$32,173,000

**AMENDMENT NO. 7 TO
AGREEMENT NO. C-9-0576
EXHIBIT D**

Notes:

1. Subject to federal appropriations. City is the direct recipient of the federal DEMO-SAFETEA-LU funds, in the total amount of \$12,381,000. OCTA will invoice City, in the amount of \$12,381,000, for all right-of-way related expenditures not covered by funds received directly by OCTA including, but not limited to, acquisition, relocation assistance, support, and legal costs.
2. Subject to federal appropriations. City is the direct recipient of the federal RSTP and CMAQ funds, in the total amount of \$13,815,000 for construction expenditures.
3. OCTA is the direct recipient of the M2 funds, in the amount of \$13,153,000. Of this amount, \$3,322,000 will be withheld and used by OCTA, to cover for project management, project support, public outreach, and program management consultant costs and \$2,696,000 will be withheld and used by OCTA, to cover costs related to right-of-way expenditures not covered by funds received directly by OCTA including, but not limited to, acquisition, relocation assistance, support, and legal costs, for a total amount of \$6,018,000 of M2 funds.
4. Per Construction and Maintenance Agreement, BNSF will reimburse City for their contribution cost share of \$1,100,000, at project completion. OCTA will invoice City for the full amount when fund is received from BNSF.
5. Federal STBG funds will be a new fund source to the project. OCTA will advance to the City the amount of \$12,674,000 from M2 funds for right-of-way related expenditures through a separate Reimbursement Agreement. City to reimburse this entire amount of \$12,674,000 back to OCTA when invoiced.