Will Kempton - Testimony
Little Hoover Commission
September 25, 2012

Thank you for the opportunity to speak before you today. I am Will Kempton, Chief Executive Officer of the Orange County Transportation Authority. As you begin to update your report on the state's infrastructure system, I appreciate the opportunity to share my thoughts about the state of our current transportation system and what we need going forward to ensure that California remains a premier place to live, work, and play.

Your letter asked 5 specific questions which I will address in my comments today.

What are California's ongoing and emerging transportation infrastructure needs?

At one time, California had one of the most advanced and innovative transportation systems in the country. Unfortunately due to consistent underinvestment due to persistent state budget deficits, our transportation system continues to degrade year after year. The California Transportation Commission recently completed its first Needs Assessment since 1999. This was a tremendous effort to bring together stakeholders from all across the state to accurately document and quantify the state's transportation infrastructure needs going forward.

The report concluded that California's transportation investment need through 2020 is $538.1 billion. Of that, $341.1 billion is for current system preservation alone. Sadly, the current available funding to meet those needs is only $242.4 billon, leaving a $295.7 billion shortfall. If we assume that funding levels remain unchanged, nearly $150 billion of all available revenues go towards system preservation. This means that less than $95 billion would be left for system expansion and management projects, less than 50 percent of the projected need.

What should the state's strategy for planning and meeting those needs look like?

There are several strategies that the state could undertake to help meet the state's transportation needs, but probably none as significant as addressing the chronic funding shortage. The state's investment in transportation yields multiple returns for the state's economic and job growth strategies. If $1 billion in transportation investment yields 18,000 jobs as studies have shown, imagine the economic growth that could be fueled by full investment in the state's infrastructure needs. There is a significant return on investment for the state for infrastructure.

In addition, by focusing on innovative project delivery methods and process streamlining such as those outlined in OCTA's Breaking Down Barriers report, the state can advance the benefits of these investments by delivering these projects to commuters faster, cheaper and more efficiently. Many of the current processes for project approvals were put into place decades ago, when the funding and project delivery landscape was dramatically different. Not only have funding sources shifted from the federal and state levels downward, but state and local agencies have become more sophisticated and innovative. When agencies at multiple levels partner together and focus on outcomes, rather than process, we can move quickly and deliver high quality projects that protect the taxpayer, the environment, and the local communities.

What kinds of financing strategies should the state adopt to address its infrastructure needs?

California's transportation funding strategy is heading for a fiscal cliff and deserves the attention of your commission. While the gas tax has been the historic funding source for transportation, increasing fuel efficiency and rates that haven't increased in decades, this is not a sustainable financing mechanism going forward. We have heavily relied on bond funding and federal stimulus funds to bridge the gap over the last few years, these programs are fading away quickly.

There has been talk of a vehicle miles traveled fee, modified vehicle license fee programs, public-private partnerships, and value capture systems for transit projects. Each one of these deserves your attention and action, but none of these should be viewed as a single panacea for our state.

We need a multi-faceted approach to transportation funding that covers all modes of transportation, accounts for population growth and changing transportation needs, and also recognizes that the voters are increasingly demonstrating a distaste for general funding sources, instead opting for funding programs that are specific, accountable, and have a specified duration. This last component is why local transportation measures have been quite successful in California.

One thing in particular that needs to be addressed in the next legislative session is fixes to the state's existing public-private partnership authority. Due to confusion over the local design-build slots and controversy surrounding the limited use of the public-private partnership authority, it is clear that the programs need to both be clarified and extended so that they can be effectively used and evaluated by the state and local agencies. The lack of clarification has led to limited use and thus the program cannot be properly evaluated in the time remaining.

How has Orange County identified and addressed its needs as a region, and how can the state learn from regional approaches such as this?

Earlier, I referenced the CTC's Needs Assessment report. One of the striking findings of this report is frankly not "news" to those of us who have been in the industry for a while. What I am referring to is the finding that infrastructure investment in California is increasingly funded from local or regional initiatives. Year after year we see this number climb. The CTC's report holds this number at 65%, with the state following at 22%, and the federal government at 11%. With the majority of funding now coming from local sources, the state should reconsider its approach to doing business and evaluate where project risk, control, and oversight should properly reside given the significant shift in how projects are funded.

In Orange County, we have our local sales tax measure, Measure M, which was renewed by the voters in 2006 and will carry us through to 2041. Measure M2, as we call it, will bring $15 billion to our county for transportation investments over the next 30 years. M2 is a multi-modal approach to our county's future that also preserves and protects our local environment. M2 also includes funding for OCTA's innovative and comprehensive environmental mitigation program. This proactive program provides greater environmental benefits overall through habitat protection, resource preservation and water quality enhancement.

As we looked forward to the implementation of our renewed measure, the OCTA Board of Directors approved an M2 Early Action Plan (EAP) which infused $5 billion into the economy through the advancement of funding for freeway, grade separation, environmental mitigation, and transit projects. One of the things that we are most proud of is that even before the first dollar of M2 sales tax revenue was collected, OCTA began work on the M2 plan for freeway improvements. In fact, our first M2 project was completed in December 2010. But that's not all, we have also advanced our environmental protection efforts, having already acquired 950 acres of open space and $57.5 million has been allocated to water quality improvement projects through the early action plan.

Beyond M2, OCTA is also known for its innovative project delivery approach, having utilized tolling and design-build authority to deliver critical transportation projects to our region. Our nationally renowed 91 Express Lanes offers commuters a time-saving alternative to travel through the corridor while using revenues from the facility to deliver improvements to the general purpose lanes. As an example, in 2010-2011, we saw drivers take their 100 millionth trip through the facility since OCTA took ownership in 2003, reporting an average travel time savings of 30 minutes. That same year, we opened a new eastbound general purpose lane between State Route 241 and State Route 71, partially funded by toll revenues.

We also were able to deliver the State Route 22 freeway improvement project utilizing design-build well in advance of the timeframes projected under traditional design-bid-build methods. This innovation helped deliver these improvements to commuters faster, saving them valuable time and money.

OCTA looks forward to continuing to improve mobility in our county through our local funding and innovation efforts and hopes that the state continues to be a valuable partner in this effort.

How do regional responses to SB 375 change the state's role in transportation planning?

Over the last two years, regions have begun to adopt sustainable communities strategies to comply with the first phase of SB 375 implementation. With the adoption of these plans, and the scheduled adoption of additional plans in the year ahead, some challenges with implementation have become readily apparent.

As demonstrated by the first adopted plans, unique challenges exist in each region, requiring the State to allow flexibility in how the regions determine priority investments and projects for reducing greenhouse gas emissions. Going forward, funding sources and any adopted guidelines will have to include such flexibility to ensure that each region can continue to meet its infrastructure needs while reducing emissions. SB 375 recognized the need for such flexibility by allowing for broad discretion at the regional (and subregional level) in creating the plans.

Funding and expedited project delivery methods also need to be more widely available to help deliver projects in the timeframe required to meet state emission reduction mandates. In the Southern California Association of Governments (SCAG) SCS, which includes the subregional SCS created by OCTA and the Orange County Council of Governments, future funding shortages, if not addressed, will prevent full implementation. In addition, although SB 375 included environmental streamlining provisions for certain infill projects, the authority has proven limited in its reach. Exploration of further permit and environmental streamlining authority should be explored for all projects needed to meet SB 375 mandates, as well as more efficient project delivery methods such as expanded design-build authority.

Finally, there currently exists various efforts to integrate other planning requirements into the SCS which are beyond the jurisdiction of transportation planning agencies. While increased cooperation among state level agencies, such as what takes place at the Strategic Growth Council, is a welcome development, the State should be cautious about imposing additional requirements on transportation agencies that do not traditionally fall under the purview of transportation agencies, and/or do not include associated funding for implementation.

In summary, I believe that California's transportation system is at a crossroads, and we have the responsibility to set the system on a path to long term growth and sustainability. Thank you again for your time and attention, I am available to answer any questions you may have.