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**Agenda - Final**

**Thursday, September 15, 2022**

**11:00 AM**

To give written or live public comment, please see the top of page 4

## **Construction Committee**

*Fernando Dutra, Chair*

*Janice Hahn, Vice Chair*

*Mike Bonin*

*Jacquelyn Dupont-Walker*

*Sheila Kuehl*

*Gloria Roberts (Interim), non-voting member*

*Stephanie Wiggins, Chief Executive Officer*

**METROPOLITAN TRANSPORTATION AUTHORITY BOARD RULES**  
(ALSO APPLIES TO BOARD COMMITTEES)

**PUBLIC INPUT**

A member of the public may address the Board on agenda items, before or during the Board or Committee's consideration of the item for one (1) minute per item, or at the discretion of the Chair. A request to address the Board must be submitted electronically using the tablets available in the Board Room lobby. Individuals requesting to speak will be allowed to speak for a total of three (3) minutes per meeting on agenda items in one minute increments per item. For individuals requiring translation service, time allowed will be doubled. The Board shall reserve the right to limit redundant or repetitive comment.

The public may also address the Board on non agenda items within the subject matter jurisdiction of the Board during the public comment period, which will be held at the beginning and/or end of each meeting. Each person will be allowed to speak for one (1) minute during this Public Comment period or at the discretion of the Chair. Speakers will be called according to the order in which their requests are submitted. Elected officials, not their staff or deputies, may be called out of order and prior to the Board's consideration of the relevant item.

Notwithstanding the foregoing, and in accordance with the Brown Act, this agenda does not provide an opportunity for members of the public to address the Board on any Consent Calendar agenda item that has already been considered by a Committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the Committee on the item, before or during the Committee's consideration of the item, and which has not been substantially changed since the Committee heard the item.

In accordance with State Law (Brown Act), all matters to be acted on by the MTA Board must be posted at least 72 hours prior to the Board meeting. In case of emergency, or when a subject matter arises subsequent to the posting of the agenda, upon making certain findings, the Board may act on an item that is not on the posted agenda.

**CONDUCT IN THE BOARD ROOM** - The following rules pertain to conduct at Metropolitan Transportation Authority meetings:

**REMOVAL FROM THE BOARD ROOM** The Chair shall order removed from the Board Room any person who commits the following acts with respect to any meeting of the MTA Board:

- a. Disorderly behavior toward the Board or any member of the staff thereof, tending to interrupt the due and orderly course of said meeting.
- b. A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting.
- c. Disobedience of any lawful order of the Chair, which shall include an order to be seated or to refrain from addressing the Board; and
- d. Any other unlawful interference with the due and orderly course of said meeting.

**INFORMATION RELATING TO AGENDAS AND ACTIONS OF THE BOARD**

Agendas for the Regular MTA Board meetings are prepared by the Board Secretary and are available prior to the meeting in the MTA Records Management Department and on the Internet. Every meeting of the MTA Board of Directors is recorded and is available at [www.metro.net](http://www.metro.net) or on CD's and as MP3's for a nominal charge.

## DISCLOSURE OF CONTRIBUTIONS

The State Political Reform Act (Government Code Section 84308) requires that a party to a proceeding before an agency involving a license, permit, or other entitlement for use, including all contracts (other than competitively bid, labor, or personal employment contracts), shall disclose on the record of the proceeding any contributions in an amount of more than \$250 made within the preceding 12 months by the party, or his or her agent, to any officer of the agency, additionally PUC Code Sec. 130051.20 requires that no member accept a contribution of over ten dollars (\$10) in value or amount from a construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity that has contracted with the authority in the preceding four years. Persons required to make this disclosure shall do so by filling out a "Disclosure of Contribution" form which is available at the LACMTA Board and Committee Meetings. Failure to comply with this requirement may result in the assessment of civil or criminal penalties.

## ADA REQUIREMENTS

Upon request, sign language interpretation, materials in alternative formats and other accommodations are available to the public for MTA-sponsored meetings and events. All requests for reasonable accommodations must be made at least three working days (72 hours) in advance of the scheduled meeting date. Please telephone (213) 922-4600 between 8 a.m. and 5 p.m., Monday through Friday. Our TDD line is (800) 252-9040.

## LIMITED ENGLISH PROFICIENCY

A Spanish language interpreter is available at all Committee and Board Meetings. All other languages must be requested 72 hours in advance of the meeting by calling (213) 922-4600 or (323) 466-3876. Live Public Comment Instructions can also be translated if requested 72 hours in advance.



**323.466.3876**

x2 *Español (Spanish)*

x3 *中文 (Chinese)*

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TDD line (800) 252-9040

**NOTE: ACTION MAY BE TAKEN ON ANY ITEM IDENTIFIED ON THE AGENDA**

**Live Public Comment Instructions:**

Live public comment can only be given by telephone.

The Committee Meeting begins at 11:00 AM Pacific Time on September 15, 2022; you may join the call 5 minutes prior to the start of the meeting.

Dial-in: 888-251-2949 and enter  
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***Public comment will be taken as the Board takes up each item. To give public comment on an item, enter #2 (pound-two) when prompted. Please note that the live video feed lags about 30 seconds behind the actual meeting. There is no lag on the public comment dial-in line.***

**Instrucciones para comentarios publicos en vivo:**

Los comentarios publicos en vivo solo se pueden dar por telefono.

La Reunion de la Junta comienza a las 11:00 AM, hora del Pacifico, el 15 de Septiembre de 2022. Puedes unirte a la llamada 5 minutos antes del comienso de la junta.

Marque: 888-251-2949 y ingrese el codigo  
Codigo de acceso en ingles: 8231160#  
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***Los comentarios del público se tomara cuando se toma cada tema. Para dar un comentario público sobre una tema ingrese # 2 (Tecla de numero y dos) cuando se le solicite. Tenga en cuenta que la transmisión de video en vivo se retrasa unos 30 segundos con respecto a la reunión real. No hay retraso en la línea de acceso telefónico para comentarios públicos.***

**Written Public Comment Instruction:**

Written public comments must be received by 5PM the day before the meeting.  
Please include the Item # in your comment and your position of "FOR," "AGAINST," "GENERAL COMMENT," or "ITEM NEEDS MORE CONSIDERATION."

Email: BoardClerk@metro.net

Post Office Mail:

Board Administration

One Gateway Plaza

MS: 99-3-1

Los Angeles, CA 90012



**CALL TO ORDER****ROLL CALL**

APPROVE Consent Calendar Items: 25 and 26.

Consent Calendar items are approved by one vote unless held by a Director for discussion and/or separate action.

**CONSENT CALENDAR**

- 25. SUBJECT: CROWN CASTLE FIBER LLC UTILITY COOPERATIVE AGREEMENT** [2022-0501](#)

**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute the Utility Cooperative Agreement (UCA) between Los Angeles County Metropolitan Transportation Metro (Metro) and Crown Castle Fiber LLC (Crown Castle) (Attachment A).

**Attachments:** [Attachment A - Utility Cooperative Agreement - CrownCastle](#)

- 26. SUBJECT: METRO G-LINE WATER INFILTRATION AND QUALITY PROJECT** [2022-0507](#)

**RECOMMENDATION**

CONSIDER:

- A. ADOPTING the Final Initial Study/ Mitigated Negative Declaration (IS/MND), and the recommended Mitigation Monitoring and Reporting Program (MMRP), pursuant to the California Environmental Quality Act (CEQA); and
- B. AUTHORIZING the Chief Executive Officer or her designee to file a CEQA Notice of Determination (NOD) for the Project with the Los Angeles County Clerk and State of California Clearinghouse.

**Attachments:** [Attachment A - Final IS/ MND](#)

**NON-CONSENT**

- 27. SUBJECT: LOS ANGELES CONSTRUCTION MARKET ANALYSIS- 2022 UPDATE** [2022-0519](#)

**RECOMMENDATION**

RECEIVE AND FILE the Los Angeles Construction Market Analysis 2022 Update.

Attachments:      [Attachment A - Metro Construction Market Analysis](#)

28. **SUBJECT:      THIRD PARTY ADMINISTRATION** [2022-0521](#)

**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute an annual expenditure budget plan for the FY23 Annual Work Plan for the City of Los Angeles (Attachment A).

Attachments:      [Attachment A - FY'23 Annual Workplan](#)

29. **SUBJECT:      LOCAL SMALL BUSINESS PREFERENCE** [2022-0517](#)

**RECOMMENDATION**

RECEIVE AND FILE the report back on the Local Small Business Enterprise (LSBE) Preference Program.

Attachments:      [Attachment A – Board Amendment 26 \(Feb 17, 2022, CON Committee\) Presentation](#)

30. **SUBJECT:      PROJECT LABOR AGREEMENT/CONSTRUCTION CAREERS POLICY (PLA/CCP)** [2022-0484](#)

**RECOMMENDATION**

RECEIVE AND FILE the status update on the Project Labor Agreement and Construction Careers Policy programs through the quarter ending June 2022.

Attachments:      [Attachment A - PLA/CCP Quarterly Brochure](#)  
[Attachment B - Women in the Trades Resource Guide](#)  
[Presentation](#)

**SUBJECT:      GENERAL PUBLIC COMMENT** [2022-0592](#)

RECEIVE General Public Comment

Consideration of items not on the posted agenda, including: items to be presented and (if requested) referred to staff; items to be placed on the agenda for action at a future meeting of the Committee or Board; and/or items requiring immediate action because of an emergency situation or where the need to take immediate action came to the attention of the Committee subsequent to the posting of the agenda.

**COMMENTS FROM THE PUBLIC ON ITEMS OF PUBLIC INTEREST WITHIN COMMITTEE'S SUBJECT MATTER JURISDICTION**

**Adjournment**



## Board Report

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File #: 2022-0501, File Type: Contract

Agenda Number: 25.

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### CONSTRUCTION COMMITTEE SEPTEMBER 15, 2022

**SUBJECT: CROWN CASTLE FIBER LLC UTILITY COOPERATIVE AGREEMENT**

**ACTION: APPROVE RECOMMENDATION**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute the Utility Cooperative Agreement (UCA) between Los Angeles County Metropolitan Transportation Metro (Metro) and Crown Castle Fiber LLC (Crown Castle) (Attachment A).

#### **ISSUE**

As Metro's rail projects move forward, the team has identified Crown Castle communication systems within the alignment that require utility relocation and/or general utility support. This is Metro's first interaction with Crown Castle. Therefore, to move forward with the relocations and general utility support coordination, a Utility Cooperative Agreement (UCA) must be set in place between Metro and Crown Castle to memorialize roles and responsibilities. This UCA is prepared in a manner that would accommodate and support other future Metro rail and Bus Rapid Transit (BRT) projects that may require services from Crown Castle.

#### **BACKGROUND**

A well-planned utility relocation is critical to rail projects' cost and schedule. Earlier communication and closer coordination with utility companies allow smoother completion. It is critical to set up Agreements to document delivery commitments, cost-sharing, and a process to resolve disagreements so that work can continue unimpeded. This agreement is needed to enable timely and effective coordination with this utility owner.

#### **DISCUSSION**

As technology advances, new communication providers constantly install new infrastructure within Metro proposed Project areas. Such as in the case of Crown Castle. The general intent of the UCA

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would be to cover the current ongoing Projects, starting with the East San Fernando Valley Transit project, as well as future Metro Projects for many years to come. This UCA describes the roles, responsibilities, and obligations of both parties and specifies the procedures which Metro and Crown Castle will follow for elements associated with the planning, designing, and effecting of any Rearrangements of Utility Facilities that are necessary for Metro to construct, operate, maintain and use any of Metro's transit projects. Metro and Crown Castle agree that each will cooperate with the other in all activities covered by the UCA. Work performed by Crown Castle under this UCA shall be per the work orders to be issued by Metro annually.

### **DETERMINATION OF SAFETY IMPACT**

This Board action will have no adverse impacts on safety standards for Metro. The agreement provides direction, following Metro construction safety policies and procedures to ensure that safety is the highest priority during oversight of all phases of design and relocation.

### **FINANCIAL IMPACT**

Work Orders will be issued to Crown Castle on an annual basis. Work orders for said Authority commitments created within the UCA parameters shall only be issued by funded projects and must be within each of the project's respective Fiscal Year or Life of Project (LOP) budgets.

It is the responsibility of the Cost Center Manager, Project Manager(s), and Chief Program Management Officer to budget costs incurred while executing this UCA in the future fiscal years.

### **EQUITY PLATFORM**

This agreement encompasses multiple future rail and BRT projects, all of which will provide additional high-quality transit to the communities across Los Angeles County. The benefits of this action are to ensure that relocation of Crown Castle infrastructure is relocated in a timely manner in support of multiple future transit projects as well as ensure proper communication and notifications are provided to local residents and businesses within the affected infrastructure relocations. Communication may include, but not limited to, translated information specifically for individuals with limited English proficiency and /or appropriate communication practices for individuals with disabilities.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The Agreement supports the following strategic goals:

Strategic Goal 1: Provide high-quality mobility options that enable people to spend less time traveling. This UCA applies to all of Metro's proposed Transit projects which will provide high-capacity transit service in the San Fernando Valley and other communities to come.

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Strategic Goal 2: Deliver outstanding trip experiences for all users of the transportation system. Metro's proposed transit projects will attract bus ridership and improve the trip experience for users of the transportation system.

Strategic Goal 3: Enhance communities and lives through mobility and access to opportunity. With Metro's proposed transit projects, including bus rapid transit projects, this UCA will help enhance mobility in the community.

Strategic Goal 4: Transform LA County through regional collaboration and national leadership. In collaboration with the elected officials, citizens, and Metro patrons, the execution of this UCA will positively impact Metro's future transit projects.

### **ALTERNATIVES CONSIDERED**

The Board may choose not to execute this UCA, however, not executing this UCA would not solidify each of the parties' roles and responsibilities and would require Metro to follow standard over-the-counter processes and therefore not benefit from streamlined processes and other administration benefits identified within the UCA. All of which are essential elements from a successful project standpoint.

### **NEXT STEPS**

After the recommended Board actions are approved, staff will execute the agreement.

### **ATTACHMENTS**

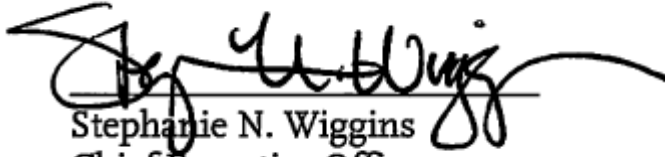
Attachment A - Utility Cooperative Agreement; Crown Castle Fiber LLC

Prepared by::

Eduardo Cervantes, Executive Officer, Third Party Administration, 213-922-7255.

Reviewed by:

Bryan Pennington, Chief Program Management Officer, (213) 922-7557



Stephanie N. Wiggins  
Chief Executive Officer

**UTILITY COOPERATIVE AGREEMENT**

**BETWEEN**

**CROWN CASTLE FIBER LLC**

**AND**

**THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY**

**[INSERT DATE]**

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**EFFECTIVE DATE**

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This Agreement is entered into by and between Crown Castle Fiber LLC (“Utility”) and the Los Angeles County Metropolitan Transportation Authority (“LACMTA”) (each a “Party” and collectively the “Parties”).

## RECITALS

- (A) LACMTA proposes to design, construct and operate facilities necessary and convenient for various public rail and busway transit systems within County of Los Angeles, this Agreement applies to all of LACMTA's proposed Transit Projects including the following (in each case, as may be more fully described at [www.Metro.net](http://www.Metro.net)):
- East San Fernando Light Rail Transit Project;
  - projects within the LACMTA highway program (including the I-5 North County Enhancements Project);
  - West Santa Ana Branch Transit Corridor;
  - Eastside Transit Corridor Phase 2;
  - C Line (Green) Extension to Torrance;
  - G Line (Orange Line) Improvements Project;
  - Sepulveda Transit Corridor Project;
  - projects within the LACMTA Regional Rail program (including Link Union Station);
  - various corridor congestion relief bus rapid transit projects (including Vermont Corridor, NoHo to Pasadena and North SFV);
  - Crenshaw Northern Extension; and
  - various LACMTA Transit Oriented Communities and Joint Development projects located on LACMTA-owned Rights-of-Way or acquired properties.
- (B) One or more of the proposed Transit Projects will require the Rearrangement of portions of Utility Facilities. The Parties wish to enter into this Agreement in order to agree the rights and obligations between the Parties in connection with such Rearrangements.

In consideration of the mutual covenants of the Parties as set out below, the Parties hereby agree as follows:

## ARTICLE 1. SCOPE AND DURATION

### 1.1 Scope of Agreement

- (a) The Parties have entered into this Agreement to: (i) define the applicable procedures; (ii) manage the interfaces; and (iii) allocate the roles and responsibilities and costs between LACMTA and Utility, in each case in respect of the planning, Designing and effecting of any Rearrangements of Utility Facilities that are necessary in order for LACMTA to construct, operate, maintain and use any of the Transit Projects.
- (b) The Parties acknowledge that LACMTA, at its sole discretion, may utilize various contracting methodologies to design, construct, operate and/or maintain Transit Projects including with respect to any Rearrangements of Utility Facilities. LACMTA's determination of a LACMTA Contract's scope of work shall not impact the rights and obligations set out under this Agreement.

- (c) Utility acknowledges and agrees that LACMTA may:
- (i) engage LACMTA Contractor(s) to carry out the design, construction, operation and/or maintenance work with respect to a Transit Project including performance of any LACMTA responsibilities with respect to any Rearrangements of Utility Facilities; and
  - (ii) in each LACMTA Contract, require the LACMTA Contractor to comply with and perform certain of LACMTA's obligations under this Agreement, provided in each case that nothing in this Agreement will create any contractual relationship between Utility and any LACMTA Contractor and in accordance with Section 10.11 (Limitation on Third Party Beneficiaries), nothing contained in this Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of Utility toward, any LACMTA Contractor.
- (d) LACMTA acknowledges and agrees that Utility may:
- (i) engage Utility Contractor(s) to perform Utility's work under the terms of this Agreement and/or any Work Order including performance of any Utility responsibilities with respect to any Rearrangements of Utility Facilities; and
  - (ii) in each Utility Contract, require the Utility Contractor to comply with and perform certain of Utility's obligations under this Agreement, provided in each case that nothing in this Agreement will create any contractual relationship between LACMTA and any Utility Contractor and in accordance with Section 10.11 (*Limitation on Third Party Beneficiaries*), nothing contained in this Agreement is intended or will be construed as creating or conferring any rights, benefits or remedies upon, or creating any obligations of LACMTA toward, any Utility Contractor.
- (e) Utility acknowledges that LACMTA may at any time elect:
- (i) not to proceed with any Transit Project expressly listed in the Recitals or otherwise referenced in this Agreement or notified to Utility;
  - (ii) to proceed with a Transit Project that is not expressly listed in the Recitals or otherwise referenced in this Agreement; or
  - (iii) to amend the scope of any Transit Project, each in its sole discretion.
- (f) The Parties agree that on the Effective Date, the terms of this Agreement shall supersede any conflicting terms of prior existing agreements between the Parties (or affiliates of the Parties) provided that:
- (i) any Rearrangements of Utility Facilities that have been approved and granted a Work Order number prior to the Effective Date shall continue until completed and approved under the applicable Work Order and shall be constructed in accordance with the standards and plans approved by the Parties in accordance with the applicable Work Order; and
  - (ii) this Agreement shall not negate or modify the terms and conditions of: (A) any legally binding easements or other use and/or occupancy agreements between Utility and LACMTA with respect to the occupancy by Utility of, or any interest of Utility in real property owned by or under the operating jurisdiction of LACMTA; (B) any such easements or other agreements between Utility and any former owner of real property now or hereafter owned by LACMTA, and to which LACMTA has become or hereafter becomes a successor either by assignment or by operation of law; or (C) any such easements or other agreements between Utility and

any other governmental agency with respect to real property owned by or under the operating jurisdiction of such governmental agency, and in which LACMTA has a statutory or other right to install Transit Project Facilities, and without prejudice to the foregoing, the Parties acknowledge and agree that this Agreement is not intended to, and will not, limit the Parties' ability to enter into any subsequent agreements with respect to a Transit Project or any other subject matter.

- (g) Utility acknowledges that as between LACMTA and Utility, LACMTA has sole discretion to determine whether, and which, features or facilities are required in order for LACMTA to comply with its obligations under Applicable Law in connection with a Subject Transit Project.

## 1.2 Duration of Agreement

- (a) The initial term of this Agreement (the "**Initial Term**") shall commence on the Effective Date and shall continue until the date falling 15 years after the Effective Date, unless terminated earlier or extended in accordance with the terms of this Agreement.
- (b) This Agreement shall automatically be renewed for consecutive one-year terms commencing on the day following the last day of the Initial Term and on each subsequent anniversary of such day unless either Party provides written notice of termination to the other no later than 90 days prior to the end of any term (including the Initial Term).

## ARTICLE 2. GENERAL OBLIGATIONS

### 2.1 Governance

- (a) Utility and LACMTA shall each designate an individual or individuals who will be authorized to make decisions and bind the Parties on matters relating to this Agreement (the "**Utility Representative**" and "**LACMTA Representative**", respectively).
- (b) Utility and LACMTA may, in addition, each designate an alternate individual or individuals who will be authorized to make decisions and bind the Parties on matters relating to the application of this Agreement to a Subject Transit Project (in which case, any references to the Utility Representative or LACMTA Representative under this Agreement shall be deemed to include such designated representatives with respect to that Subject Transit Project). A single individual may serve as a designated representative for more than one Subject Transit Project.
- (c) Either Party may change a representative designated under Section 2.1(a) or 2.1(b) (Governance) by providing seven days' prior Notice to the other Party.
- (d) LACMTA may establish Working Groups in relation to a Transit Project or particular aspects of a Transit Project for the purposes of providing a non-binding forum for LACMTA, the LACMTA Contractors and other attendees to monitor the progress of the Transit Project, to consider issues, or potential issues, and to present, understand and discuss proposed solutions with respect to the Transit Project. On LACMTA's written request, Utility shall ensure the attendance (in person or via videoconference or teleconference) of the Utility Representative (or a delegate) at any Working Group meeting held with respect to a Subject Transit Project during normal business hours and upon reasonable notice. Any Working Group meeting attended by a Utility Representative (or a delegate) is consultative and advisory only and nothing which occurs during any such Working Group meeting and no information that is presented during any such Working Group meeting will:
  - (i) affect the rights or obligations of either Party under this Agreement;
  - (ii) entitle a Party to make any claim against the other;

- (iii) relieve a Party from, or alter or affect, a Party's liabilities or responsibilities whether under this Agreement or otherwise according to Applicable Law;
- (iv) prejudice a Party's rights against the other Party whether under this Agreement or otherwise according to Applicable Law; or
- (v) be construed as a direction by a Party to do or not do anything.

## 2.2 Work Orders

- (a) Utility's obligation to perform work under this Agreement shall arise upon the issuance by LACMTA of an authorized Work Order. notwithstanding that when LACMTA (or another governmental agency) has prior existing rights in real property located within the Subject Transit Project area, Utility may be obligated to perform work necessary to support a Subject Transit Project without the issuance of a Work Order and without reimbursement for Costs under this Agreement.
- (b) If Utility is required to perform work and/or provide support and/or services under the terms of this Agreement or LACMTA requests that Utility perform work and/or provide support and/or services under the terms of this Agreement, Utility shall submit a Form 60 to LACMTA to estimate the total effort and Costs for which Utility shall require reimbursement with respect to that scope of work.
- (c) Upon LACMTA's approval of a Form 60 submitted to it by Utility with respect to a scope of work under Section 2.2(a) (Work Orders), LACMTA will issue a Work Order to Utility for such scope of work.
- (d) Each Work Order issued by LACMTA to Utility in accordance with this Agreement shall specify the work authorized to be performed and any materials or equipment to be acquired, the amount of money that Utility will be reimbursed for the authorized work as agreed under the applicable Form 60, and a schedule, including the estimated starting and finishing dates for the authorized work.
- (e) On receipt of a Work Order issued in accordance with the terms of this Agreement, Utility must: (i) promptly commence work on any elements of work authorized under the Work Order that are unchanged from the applicable Form 60; and (ii) promptly and without delay (and in any case within 10 days of issuance by LACMTA) accept any changes or additions (including any additional or supplemental provisions) agreed to the applicable Form 60 by counter-signing the Work Order or otherwise by written acceptance by the Utility Representative, followed by commencement of the applicable work under the Work Order. If Utility fails to accept the Work Order within 10 days (if applicable), the Work Order will be deemed to be accepted by Utility.
- (f) Except where authorized under a separate agreement with LACMTA (in which case, payment, credits or reimbursement will be in accordance with the terms of such agreement), Utility is not authorized to do any work and will not be paid, credited or reimbursed for costs or expenses associated with any work performed in connection with a Rearrangement or a Subject Transit Project or otherwise under the terms of this Agreement, that is not expressly authorized by a Work Order.
- (g) Except in the case of a change required due to an emergency (which notification may be given orally before being confirmed in writing within three days), Utility may submit proposed changes to a Work Order in writing to LACMTA for approval.
- (h) LACMTA may terminate any Work Order at any time at its sole discretion, provided that Utility will be entitled to reimbursement in accordance with this Agreement for Costs, if any, already incurred.
- (i) Utility must promptly notify LACMTA if at any time it anticipates:
  - (i) exceeding 75% of the total estimated Costs under any Work Order within the next 60 days;

- (ii) that the total Costs under any Work Order will be in excess of 10% greater than previously estimated Costs; or
  - (iii) that the estimated finishing date will be later than the date stated in the Work Order, and must request an amendment to such Work Order pursuant to Section 2.2(g) (Work Orders).
- (j) Utility must complete (either through its own forces or through Utility Contractors) all work authorized by any Work Order in accordance with Applicable Law, Governmental Approvals and the terms of this Agreement and the applicable Work Order. Utility must cooperate with LACMTA and take such actions as LACMTA may reasonably request, to ensure performance of work under a Work Order.

### 2.3 Deadlines and Delays

- (a) Utility agrees to cooperate and coordinate with LACMTA in accordance with the terms of this Agreement in order for LACMTA to achieve the project schedule for a Subject Transit Project and to allocate sufficient staff and other resources necessary to provide the level of service required to meet the scope of work and work schedules, review periods and timelines identified in this Agreement and any Work Orders. Utility acknowledges that development of a Subject Transit Project will require strict compliance with the scheduling requirements of this Agreement and the applicable Work Order, and that failure to meet the deadlines set out in this Agreement or in the applicable Work Order could cause LACMTA and/or its LACMTA Contractor(s) to incur substantial costs as a result of such delay, or may result in Utility needing to take measures to avoid delay to a Subject Transit Project.
- (b) If Utility fails to carry out any work or obligations for which it is responsible under the terms of this Agreement and/or any Work Order in accordance with the work schedules, review periods and timelines identified in this Agreement and the applicable Work Order, and such failure is attributable to Utility, then, to the extent such delay directly causes: (i) LACMTA to incur additional costs; or (ii) a delay to the Subject Transit Project, Utility must reimburse LACMTA for all actual and documented costs and expenses incurred or arising out of such delay arising out of such delay. Utility must pay such costs to LACMTA within 90 days after receipt of an invoice from LACMTA. If the Parties agree, LACMTA may deduct the amount due from Utility to LACMTA pursuant to this Section 2.3(b) from payment(s) due to Utility.
- (c) To the extent a failure by LACMTA to perform its work and obligations in accordance with the work schedules, review periods and timelines identified in this Agreement and/or any Work Order results in a delay to the performance of Utility's work under a Work Order, Utility will be entitled to an equivalent extension to the affected deadline and any other relief expressly contemplated under the terms of the applicable Work Order.

### 2.4 Coordination and Cooperation

- (a) The Parties acknowledge that the timely completion of a Subject Transit Project will be influenced by the ability of LACMTA and Utility to coordinate their activities, communicate with each other, and respond promptly to reasonable requests.
- (b) Utility agrees to each Rearrangement and to cooperate with LACMTA's applicable requirements for the Subject Transit Project, in accordance with the terms of this Agreement subject to the following:
- (i) whenever it is reasonably possible to do so without causing increased costs for or delay in a Transit Project, as determined by LACMTA, relocation of Utility Facilities will be avoided, and Utility Facilities will be Protected-in-Place;
  - (ii) reimbursement of Costs in accordance with and to the extent contemplated by, Section 6.2 (Reimbursements to Utility);

- (iii) LACMTA shall give Utility at least 30 days (unless prior rights are involved) written notice before requiring Rearrangement of a Utility Facility; and
  - (iv) if necessary to ensure continuity of transmission or distribution of the applicable public utility during any Rearrangement work, Utility may install a Temporary Facility to provide the applicable public utility service until such time as the related Rearrangement work is complete or the usual service is restored, whichever is earlier.
- (c) The Parties acknowledge that Utility is required to address the interests of joint users of its Utility Facilities. Where there are joint users of a Utility Facility (or a part of it) that is the subject of a Rearrangement, Utility shall identify and notify LACMTA of all joint users of such Utility Facility prior to commencing any work with respect to that Rearrangement and Utility shall be responsible for addressing any applicable joint users' interests when exercising its rights under this Agreement.

## 2.5 Coordination of Utility Activities

- (a) If Utility plans to undertake any Adjacent Work, Utility will coordinate the design and performance with LACMTA so that such Adjacent Work will not interfere with, disrupt or delay the design, construction, operation or maintenance of the applicable Transit Project or the Design and Construction of a Rearrangement by LACMTA including by:
- (i) complying with the terms of this Section 2.5 and LACMTA's standard procedures for Adjacent Works;
  - (ii) delivering copies of all designs and plans for the Adjacent Work to LACMTA and giving LACMTA the right to review and comment on the designs and plans for the Adjacent Work and to approve the final designs and plans for the Adjacent Work; and
  - (iii) if LACMTA reasonably determines and notifies Utility that the Adjacent Work will, in whole or in part, interfere with, disrupt or delay the design, construction, operation or maintenance of the applicable Transit Project, conditioning the implementation of the Adjacent Work (or relevant part of it) on scheduling adjustments and/or other modifications as LACMTA deems appropriate to ensure its Transit Project Schedule will not be directly delayed by the proposed Adjacent Work.
- (b) The terms of this Section 2.5 shall not apply in emergency situations; however, in such situations Utility will coordinate with LACMTA to the extent feasible in light of the circumstances, subject to all related safety requirements described in this Agreement and any applicable Work Order.
- (c) Utility will, and will ensure that any Utility Contractor performing any Adjacent Work and/or Construction and maintenance of any Rearrangement under the terms of this Agreement or a Work Order is obligated under contract and/or a permit process to:
- (i) fully co-operate and coordinate with LACMTA and the LACMTA Contractors including:
    - (A) attending interface definition and coordination meetings upon reasonable request; and
    - (B) providing any other interface data reasonably requested by LACMTA or the relevant LACMTA Contractor and necessary to complete interface coordination;
  - (ii) perform the work so as to minimize any interference with or disruption or delay to construction, operation or maintenance of the Subject Transit Project or the Design and Construction of a Rearrangement;

- (iii) comply with LACMTA's or the relevant LACMTA Contractor's site access, track allocation/work permit procedures and work health and safety policies and procedures; and
- (iv) promptly advise LACMTA of all matters arising out of the such work that may interfere with, disrupt, delay or otherwise have an adverse effect upon the Subject Transit Project or Rearrangement.

## 2.6 Governmental and Lender Requirements

If a Subject Transit Project is subject to financial assistance provided by loan agreements with the U.S. Department of Transportation, Federal Transit Administration, other Governmental Entities, and/or financial institutions providing grants, funding or financing, LACMTA will notify Utility and the Parties will comply with the terms and conditions set out in Exhibit 4 (Federal and Other Requirements) and any additional prescribed governmental and lender requirements set out in an applicable Work Order or otherwise under the applicable grant, funding or financing agreements notified to Utility.

## 2.7 Discretions

Except as otherwise expressly provided in this Agreement, all determinations, consents, waivers, or approvals of a Party under this Agreement must not be unreasonably withheld, conditioned, or delayed.

# ARTICLE 3. DESIGN

## 3.1 Design Responsibilities

- (a) Except to the extent of any Design work requested to be performed or to be performed by Utility under Section 3.1(b) (Design Responsibilities), LACMTA will (directly or through LACMTA Contractors) design all Rearrangements and produce all Design Documentation relevant to those Rearrangement works in accordance with the terms of this Agreement. LACMTA shall be responsible for any errors and omissions in the Design Documentation prepared by LACMTA or a LACMTA Contractor.
- (b) LACMTA may request and authorize Utility to Design a Rearrangement and provide Design Support with respect to that Rearrangement or to provide Design Support and perform Design-related activities with respect to the Design of a Rearrangement prepared by LACMTA under Section 3.1(a) (Design Responsibilities), in each case pursuant to the procedures set out under Section 2.2 (Work Orders). A Form 60 submitted by Utility in accordance with this Section 3.1(b) and Section 2.2 (Work Orders) shall estimate the total effort required to perform the requested Design, Design Support and/or other Design-related activities and shall attach the schedule prepared in accordance with this Agreement and agreed by the Parties for the performance of the requested Design, Design Support and/or other Design-related activities. Utility must diligently perform and shall ensure that any Utility Contractors diligently perform, the Design, Design Support and/or other Design-related activities authorized under a Work Order in accordance with the terms of that Work Order and this Agreement. Utility shall be responsible for any errors and omissions in any Design Documentation prepared by Utility or a Utility Contractor.
- (c) Without prejudice to the scope of and timelines for any Design Support services agreed under Section 3.1(b) (Design Responsibilities), within 30 days after Utility's receipt of written request from LACMTA, Utility shall identify and disclose to LACMTA the nature and location of all Utility Facilities which are located under or over LACMTA Right-of-Way and on adjacent public street right-of-way, whether or not Abandoned, and such other information as may be requested by LACMTA with respect to the identification of the nature and location of all Utility Facilities. Any Form 60 submitted by Utility to LACMTA in accordance with Section 2.2 (Work Orders) for Design Support services with respect to the identification of existing Utility Facilities shall comply with the following:

- (i) where potholing of existing Utility Facilities for the purpose of Design verification is agreed by the Parties as a Design Support service: (A) such potholing activities shall be shown in the applicable Form 60 as an 'Other Direct Cost (ODC)'; (B) preparation and execution of the related potholing work plan shall be considered a Design Support activity; and (C) submission of the applicable Form 60 shall indicate: whether the scope involved is to excavate a trench of certain width, length, and depth; use of ground penetrating radar where physical ground disturbance may be problematic; whether traditional drilled holes with vacuum extraction of soil is the recommended method of exploration; that the findings shall be presented in a brief report by a qualified utility engineer; coordination activities such as DigAlert markings, obtaining a public works street-use type permit; and
  - (ii) where Utility is requested to provide LACMTA as-built Utility plans and records as a matter of routine course of conducting business with LACMTA, such as during the Planning Phase of a Transit Project (as opposed to the Design Development phase) this shall be at no cost to LACMTA.
- (d) Prior to submitting a Form 60 to LACMTA with respect to any Design work for a Rearrangement to be performed by Utility in accordance with Section 3.1(b) (Design Responsibilities), Utility will arrange a documented working group meeting amongst all applicable stakeholders (including the local City public works "Utility Coordination" representative) to agree the scope of the Rearrangement and the Design work required with respect to the Rearrangement.
  - (e) Where Utility is responsible for the Design of a Rearrangement, Utility shall coordinate with the local City public works "Utility Coordination" representative, to apply for and obtain all necessary permits and approvals from all local jurisdictions in order to perform the Construction of that Rearrangement.
  - (f) Following issuance of a Work Order for the performance by Utility of Design work for a Rearrangement, LACMTA will provide to Utility the Subject Transit Project plans and other information relevant to the Design work if available.

### 3.2 Design Requirements

Any Design work for any Rearrangements shall be performed in accordance with:

- (a) the Design requirements set out in this Agreement and any applicable Work Orders;
- (b) all Governmental Approvals and Applicable Law; and
- (c) subject to Section 3.5 (Utility Standards), the Utility Standards or, in the case of those Rearrangements of Utility Facilities that will cross over, above or below a Transit Project Right-of-Way, the applicable requirements in the most recent version of Metro's Rail Design Criteria or contract specifications for the Subject Transit Project (as applicable).

### 3.3 Design Review Procedure

All Designs for Rearrangements (whether the responsibility of LACMTA or Utility under Section 3.1 (Design Responsibilities)) shall be submitted, reviewed and approved in accordance with the procedures and review periods set out in Exhibit 1 (Submittal Review Procedure) and otherwise in accordance with the terms of this Agreement and any applicable Work Orders.

### 3.4 Design Development

- (a) The Parties acknowledge and agree that the Design Documentation for any Rearrangements will be submitted for review progressively in Packages and in a manner and at a rate which, having regard



to the quantum of Design Documentation submitted, will give the other Party a reasonable opportunity to review the submitted Design Documentation.

- (b) In the case of the Rearrangements where LACMTA is responsible for the Design under Section 3.1 (*Design Responsibilities*), LACMTA and the applicable LACMTA Contractor will retain responsibility for defining the scope and timing of delivery of the Packages at each stage of Design taking into account the Subject Transit Project schedule and contracting methodology.
- (c) The Design Documentation for the Design of a Rearrangement will be complete in all respects and will specify any Utility pre-approved design details and Construction practices utilized in the Design, including specifying proprietary underground vaults, shoring systems, standard plans, and parts (including connectors, valves, gaskets and custom components).

### 3.5 Utility Standards

- (a) Utility shall explicitly identify the Utility Standard(s) applicable to a Rearrangement in the initial Form 60 submitted with respect to the Design, Design Support and/or other Design-related activities for that Rearrangement and prior to the issuance of the first Work Order for Design, Design Support and/or other Design-related activities for that Rearrangement.
- (b) Any changes or additions to the Utility Standards applicable to a Rearrangement:
  - (i) after notification under Section 3.5(a) (*Utility Standards*), requires prompt written notice from Utility (and in any case within 15 days' of adoption), with supporting information including the formal date of adoption and, in the case where Utility is responsible for the Design of the applicable Rearrangement under Section 3.1 (*Design Responsibilities*), the schedule and cost impact to the applicable Design work; and
  - (ii) after the establishment of the Basis of Design for that Rearrangement, shall be considered a "Betterment" for the purposes of this Agreement.
- (c) Utility agrees that it shall not adopt any new Utility Standard(s) or otherwise amend or supplement any existing Utility Standards or its interpretation or application of any existing Utility Standards for the sole or primary purpose of affecting a Subject Transit Project or Rearrangement. All Utility Standards shall be applied to the Rearrangements hereunder in the same manner as they are applied by Utility to standalone projects that are financed primarily by Utility or projects constructed by Utility's in-house crews or Utility Contractors.
- (d) Without prejudice to the other terms of this Section 3.5, with respect to both Design and Construction of a Rearrangement, in interpreting applicable Utility Standards, and in exercising any discretion granted by applicable Utility Standards, the Parties shall make such interpretations and exercise such discretion in a manner so as to impose the minimum requirements necessary to comply with Applicable Law. Any Design or Construction issues affecting Rearrangements which are not addressed by applicable Utility Standards shall be resolved in such a manner as to impose the minimum requirements necessary to make a Replacement Facility the equivalent (in terms of level of service, capacity, service life, capability, appearance, efficiency and function) to the Conflicting Facility it replaces and to otherwise minimize Rearrangement work.

### 3.6 Changes to Design

LACMTA or Utility may make changes to a previously approved Design only with written concurrence of the other Party. Except where changes are required to accommodate an unanticipated site condition or a change in a site condition, LACMTA shall have no obligation to consent to or approve any Utility requested changes that will necessitate re-submittal of Design for new approvals, delay Construction of the Rearrangement or

construction of the Subject Transit Project, or increase the cost of Construction of the Rearrangement or construction of the Subject Transit Project. The cost of the increased scope, if any, attributable to changes in approved plans or specifications requested by Utility and approved by LACMTA shall be borne by Utility, unless the change in approved plans or specifications was necessitated by an unanticipated site condition or event.

### 3.7 Permits

- (a) After approval of the Final Design of a Rearrangement in accordance with this ARTICLE 3 the Party performing the Design work for the Rearrangement or the Applicable Contractor shall obtain all necessary Governmental Approvals, Railroad PUC permits and required track allocation request approvals for the Construction of the Rearrangement; provided, however, LACMTA shall be responsible for obtaining (or causing its LACMTA Contractor(s) to obtain) all such Governmental Approvals required for any Construction to be performed by LACMTA or its LACMTA Contractor(s) in accordance with ARTICLE 4 (Construction) whether or not it performed the Design work for the Rearrangement. Each Party shall use reasonable efforts to assist the other Party in securing any necessary Governmental Approvals. Without prejudice to Sections 3.2 (Design Requirements) and 4.2 (Construction Requirements), each Party shall comply with the terms of all applicable Governmental Approvals in carrying out its work under this Agreement.
- (b) Where the Subject Transit Project is federalized (use of federal funds as notified by LACMTA to Utility in accordance with Section 2.6 (Governmental and Lender Requirements)) and Utility has been requested to perform Design work in accordance with Section 3.1(b) (Design Responsibilities), Utility acknowledges the requirements to process "Utility Agreements" and "R/W Certification" (as those terms are used in the LAPM) in accordance with Caltrans Local Assistance Procedures Manual (LAPM) Chapter 14 – Utilities, local agency internal City and public works adopted procedures and LACMTA's third party administration procedures (as published and notified to Utility from time to time).

## ARTICLE 4. CONSTRUCTION

### 4.1 Construction Responsibilities

- (a) Utility shall perform (through a Utility Contractor or in-house construction crews) all Construction for each Rearrangement, unless, during the Design phase, LACMTA and Utility mutually agree that LACMTA shall perform all or part of the Construction for a Rearrangement. The Party performing Construction may perform such Construction either prior to construction of the Subject Transit Project, concurrently with such construction, or through a combination of said alternatives, as mutually agreed by the Parties, taking into account the contracting methodology selected by LACMTA for the Subject Transit Project as referenced in Section 1.1(b) (Scope of Agreement) and the project schedule for the Subject Transit Project, as referenced in Section 2.3 (Deadlines and Delays).
- (b) If agreed by the Parties under Section 4.1(a) (Construction Responsibilities) that LACMTA (or a LACMTA Contractor) shall perform the Construction of a Rearrangement, LACMTA may request and authorize Utility to provide Construction support services and related activities with respect to the Construction of that Rearrangement, pursuant to the procedures set out in Section 2.2 (Work Orders) and Utility agrees to coordinate its efforts and cooperate with the relevant LACMTA Contractor(s) performing Construction and to diligently perform and to ensure that any Utility Contractor diligently performs, all such Construction support services and related activities, in accordance with the terms of the applicable Work Order and this Agreement.
- (c) LACMTA shall be responsible for all claims and stop notices or mechanic's liens filed by LACMTA Contractors for Construction work performed on Utility Facilities.

### 4.2 Construction Requirements

All Construction work for the Rearrangement shall be performed in accordance with:

- (a) the approved Final Design (including any changes agreed under the terms of this Agreement);
- (b) all Governmental Approvals, Applicable Law and, subject to Section 3.5 (Utility Standards), the Utility Standards;
- (c) applicable environmental mitigation and control requirements including without limitation to construction noise and vibration, air pollution controls, and potential archaeological, biological, and paleontological monitoring measures as applicable;
- (d) all other Construction requirements set out under the terms of this Agreement and any applicable Work Order; and
- (e) subject to Section 3.5 (Utility Standards), the Utility Standards or, in the case of those Rearrangements of Utility Facilities that LACMTA is responsible for Constructing under Section 4.1 (Construction Responsibilities) and that will cross over, above or below the Transit Project Right-of-Way, the applicable requirements in the most recent version of Metro's Rail Design Criteria and/or contract specifications for the Subject Transit Project (as applicable).

#### 4.3 Rights-of-Way

- (a) Replacement rights-of-way for the relocation of Conflicting Facilities shall be determined during Design Development and, if needed, may be acquired by LACMTA or Utility following approval by the Parties of the location and type of such replacement rights-of-way. When reasonably possible and where the Utility Facilities being Rearranged are located in a public right-of-way, a Rearrangement shall be located in existing public rights-of-way. The required rights-of-way shall be acquired so as not to impair LACMTA's schedule for the Subject Transit Project. If Utility cannot acquire necessary private rights-of-way without out-of-pocket expense to itself, such private rights-of-way may be acquired by LACMTA. Upon acceptance of the applicable Replacement Facility, Utility shall convey or relinquish to LACMTA or its designee, if permitted by Applicable Law and agreement, at no cost, all Utility real property interests (except franchise rights and except where Utility owns the property in fee simple) being taken out of service by the Rearrangement, and for which replacement real property interests are provided. Where Utility requires replacement rights-of-way within Transit Project Right-of-Way owned by LACMTA, LACMTA shall be responsible for providing such replacement rights-of-way, subject to the rights and needs of LACMTA.
- (b) Subject to the other terms of this Section 4.3, any cost associated with Utility acquiring any temporary construction easements or other real property rights (including for installation of temporary Utility Facilities) that are needed for any Construction of a Rearrangement performed by Utility shall be considered a "Cost" under this Agreement. LACMTA will be responsible for obtaining any temporary construction easements or other real property rights that are needed for Construction of a Rearrangement that LACMTA is performing and any cost associated with Utility using such easements or other rights shall be considered a "Cost" under this Agreement.
- (c) Within 60 days after request by LACMTA and as part of the Design Support performed by Utility, Utility shall furnish to LACMTA copies of any non-privileged agreements or other documents evidencing Utility's franchise, easements, or other existing rights in real property for its Utility Facilities that are located within the Subject Transit Project area. Utility's cost to provide such documentation shall be reimbursed by LACMTA as Design Support services under an authorized Work Order issued under Section 2.2 (Work Orders).
- (d) For any Utility Facilities located within the Transit Project Right-of-Way owned by LACMTA that are being Abandoned in place or dismantled, but are not being replaced by a Replacement Facility, upon

request by LACMTA, Utility shall quitclaim to LACMTA (or otherwise terminate by appropriate documentation) all of Utility's right, title and interest in and to any such portion of such Transit Project Right-of-Way on which such Utility Facilities were located.

- (e) Without prejudice to Section 2.5 (Coordination of Utility Activities), each Party shall provide the other with a license to such Party's right-of-way located within or near the Transit Project Right-of-Way, in a form reasonably acceptable to such other Party, for the purpose of allowing on the relevant right-of-way, the carrying out construction, operation or maintenance of the Subject Transit Project (in the case of a license granted to LACMTA), or the operating or maintaining a Utility Facility (in the case of a license granted to Utility).
- (f) Real property interest Costs shall be invoiced separately from other Cost items, but shall be reimbursable to the extent provided in Sections 6.2 (Reimbursements to Utility) and 6.3 (Reimbursement and Credits to LACMTA).

#### 4.4 Utility Construction of Rearrangements

LACMTA shall request and authorize Utility to perform the Construction of all or part of a Rearrangement that Utility shall perform under Section 4.1 (Construction Responsibilities), pursuant to the procedures set out in Section 2.2 (Work Orders). A separate Work Order will be issued for Construction of each Rearrangement. In such event:

- (a) Utility shall commence and diligently perform and shall ensure that any Applicable Contractor commences and diligently performs, the Construction of such Rearrangement to completion as authorized by the Work Order, in accordance with the terms of this Agreement and the Work Order and the work schedule for such Construction set out in the Work Order. Utility acknowledges and agrees that the work schedule for such Construction shall coincide closely and be coordinated with LACMTA's schedule for the Subject Transit Project, including the schedule for Construction of Rearrangements of utility, cable, pipeline, and other facilities in the same segment or portion of the Subject Transit Project; provided, however, that the schedule for work by Utility shall allow Utility a reasonable period of time for performance of its responsibilities under this Agreement and the Work Order;
- (b) to the extent applicable, Utility shall include a copy of any standalone environmental clearance of the Rearrangement as an attachment to the Form 60 for that Rearrangement; and
- (c) the name of the Utility's or Utility Contractor's lead superintendent and/or project manager assigned to the Construction of a Rearrangement shall be provided to LACMTA in the applicable Form 60. The resume(s) of the assigned lead superintendent and/or project manager shall also be attached to the applicable Form 60. The resume(s) shall demonstrate Utility or Utility Contractor has assigned a lead superintendent and/or project manager with the appropriate qualifications, capability and experience to perform the applicable Construction work.

#### 4.5 Construction Staging Plans

- (a) A construction staging plan shall be developed for any Construction of a Rearrangement to be performed within public rights-of-way. The Parties will agree which Party (directly or through its Applicable Contractors) will be responsible for the preparation of construction staging plans for such Construction work. Where Utility is responsible for preparation of the construction staging plans under this Section 4.5(a), LACMTA shall request and authorize Utility to perform the work of preparing the construction staging plan pursuant to the procedures set out in Section 2.2 (Work Orders); and, where practicable, in the same Work Order authorizing the applicable Construction work.

- (b) Each construction staging plan will be agreed prior to commencement of the applicable Construction work and provide, among other things, for:
  - (i) the handling of vehicular and pedestrian traffic on streets adjacent to the Construction with the Construction phasing showing street closures, detours, warning devices and other pertinent information specified on the plan (worksite traffic control plans);
  - (ii) actions to maintain access to businesses adjacent to the Construction areas, as possible, and actions to ensure safe access and circulation for pedestrians and vehicular traffic as described in the worksite traffic control plans; and
  - (iii) elements of public awareness as well as mechanisms to assist affected parties in complaint resolutions.

#### 4.6 "As-Built" Drawings and Contract Documents

- (a) LACMTA and Utility shall each maintain a set of "as-built" plans of Rearrangements performed by LACMTA and Utility, respectively, during the progress of Construction. Upon completion of the Rearrangement work, the Party that performed the work shall furnish the other Party with reproducible "as-built" drawings showing all Replacement Facilities installed by the performing Party, within 75 days after completion of such work for each set of plans. All "as-built" plans (whether provided by LACMTA or by Utility) shall be native CAD files (including, for example, in Auto-Cad by Autodesk format or equivalent interoperable MicroStation version file format).
- (b) LACMTA and Utility agree to provide the other with electronic files of those final contract documents that they have prepared, or caused to be prepared, to govern the Construction of a given Rearrangement by their Applicable Contractor so that each Party may compile a complete set of contract documents. Each Party shall prepare or cause to be prepared the contract documents for which it is responsible.

#### 4.7 Underground Service Alert

Prior to any commencement of underground Construction work by either Party, the Party performing such work, or its Applicable Contractors, shall notify Underground Service Alert in accordance with Applicable Law.

#### 4.8 Hazardous Materials and Archaeological Remains

- (a) As between Utility and LACMTA, LACMTA shall be responsible, at its sole cost and expense, for the investigation of potential hazardous materials or Archaeological Remains within the Transit Project Right-of-Way that would directly impact construction of the Subject Transit Project.
- (b) Without prejudice to the terms of Section 3.7 (Permits), LACMTA shall prepare, at its sole cost and expense, all environmental impact reports/statements required by Applicable Law for the construction of each Transit Project.
- (c) Each Party shall provide the other Party with all information and documents relating to the existence of any hazardous material and/or Archaeological Remains within the Transit Project Right-of-Way or any site on which Construction work for a Rearrangement will be carried out promptly after becoming aware of such information or documents including, without limitation, any environmental impact reports or soil tests. This requirement does not apply to information, such as attorney-client communications, that is subject to confidentiality under Applicable Law
- (d) Where LACMTA is responsible for costs relating to the presence or existence of any environmental hazard under Section 6.2(c) (Reimbursements to Utility), LACMTA will be responsible for the

management, treatment, handling, storage, monitoring, remediation, removal, transport, and disposal of such environmental hazard ("**Remedial Action**"). Utility shall not commence Construction of any Rearrangement until: (i) LACMTA has completed the required Remedial Action in accordance with this Section 4.8(d); or (ii) LACMTA issues a Work Order pursuant to Section 2.2 (Work Orders) authorizing Utility or a Utility Contractor to carry out such Remedial Action. For the avoidance of doubt, to the extent an environmental hazard is caused by, arises out of, or as a consequence of, any action of Utility or a Utility Contractor, LACMTA will not be responsible for any Remedial Action under this Section 4.8(d) or for costs under Section 6.2(c) (Reimbursements to Utility).

- (e) Utility shall promptly, and before the environmental hazard is disturbed, notify LACMTA of any environmental hazard encountered in carrying out Construction under this Agreement. If: (i) pursuant to Section 4.8(d) (Hazardous Material and Archaeological Remains), LACMTA is responsible for any Remedial Action with respect to such environmental hazard, LACMTA shall: (A) promptly commence such Remedial Action; or (B) issue a Work Order pursuant to Section 2.2 (Work Orders) authorizing Utility or a Utility Contractor to carry out such Remedial Action; or, (ii) the environmental hazard was caused by, arises out of, or as a consequence of, any action of Utility or a Utility Contractor, Utility shall promptly commence any Remedial Action required under Environmental Law. Utility shall suspend Construction work (excluding any Remedial Action, if applicable) at the site of the environmental hazard until the required Remedial Action is complete.
- (f) The Party discovering an environmental hazard shall make any required notifications to federal, state, and/or local agency(ies) in accordance with Applicable Law (with a copy to the other Party).
- (g) If Archaeological Remains are encountered by Utility in carrying out Construction under the terms of this Agreement, Utility must:
  - (i) immediately report the discovery to the LACMTA Representative;
  - (ii) ensure that the Archaeological Remains are preserved and protected in place and not disturbed further including by halting Construction work in the vicinity of the Archaeological Remain, if necessary;
  - (iii) comply with all requirements of Governmental Entities and any directions of the LACMTA Representative in relation to the Archaeological Remains; and
  - (iv) continue to perform the Work, except to the extent otherwise: (A) directed by the LACMTA Representative; (B) ordered by a court or tribunal; or (C) required by Applicable Law.
- (h) All Archaeological Remains found on or under the surface of the Transit Project Right-of-Way will, as between the Parties, be the absolute property of LACMTA and LACMTA shall be responsible for making any required notifications to federal, state, and/or local agency(ies) in accordance with Applicable Law.

#### 4.9 **Inspection and Acceptance**

The Parties agree that inspection and acceptance of the Construction of Rearrangements performed under this Agreement will be carried out in accordance with the procedure set out in Exhibit 2 (Inspection and Acceptance Procedure).

#### 4.10 **Maintenance**

Utility shall schedule, in coordination with LACMTA and its LACMTA Contractors and in accordance with Sections 2.5 (Coordination of Utility Activities) and 4.3(e) (Acquisition of Rights-of-Way), any maintenance of

Utility Facilities that may be necessary after the completion of the Rearrangement so as not to interfere with the construction of the Subject Transit Project or its operation, maintenance and use once completed.

## **ARTICLE 5. BETTERMENTS**

### **5.1 Procedure**

Promptly after identifying a Betterment, if possible during the Advanced Conceptual Engineering phase of the Subject Transit Project and in any event prior to the establishment of the Basis of Design for a Rearrangement, Utility shall inform LACMTA what Betterments, if any, Utility desires or has intentions to pursue as part of a Rearrangement by submitting a completed Potential Notice of Betterment Form such that LACMTA can review the Betterments and determine whether they satisfy the requirements set out in Section 6.3(f) (Reimbursements and Credits to LACMTA). In addition:

- (a) each Design furnished by Utility under the terms of this Agreement shall specifically identify any Betterments included in such Design and where Betterments are identified, shall be accompanied by a completed Potential Notice of Betterment Form submitted for LACMTA's review and approval; and
- (b) if LACMTA identifies a Betterment included in Designs furnished by Utility or in comments provided by Utility on LACMTA-completed Designs, LACMTA will notify Utility during the Design review process and within 10 days of delivery of that notice, Utility will: (i) withdraw the relevant comment or Design; or (ii) submit a request for the applicable Betterment by submitting a Potential Notice of Betterment Form for LACMTA's review and approval. If Utility fails to respond within 10 days of a notice delivered by LACMTA under this Section 5.1(b), the comment or Design will be deemed to be withdrawn provided that such withdrawal shall be without prejudice to Utility's right to submit the Betterment under a subsequent Potential Notice of Betterment under this Section 5.1.

### **5.2 Cost and Performance**

- (a) Utility shall be responsible for the cost of any Betterment and LACMTA shall not be responsible for the cost of any Betterment. No Betterment may be performed in connection with any Rearrangement irrespective of whether the Design is performed by either Party or jointly, and whether the Construction is performed by either Party or jointly, unless that Betterment is:
  - (i) approved by LACMTA (as demonstrated by the LACMTA counter-signing the Potential Notice of Betterment Form, updated to include any changes negotiated and agreed by LACMTA and Utility); and
  - (ii) constructed in accordance with the scope and specifications agreed to and documented in the applicable Potential Notice of Betterment Form.
- (b) Under no circumstances shall Utility receive payment for, or reimbursement of, any Costs associated with or related to Betterments, and the issuance of a Work Order authorizing Utility work or other activity relating to a Betterment shall not constitute the agreement of LACMTA to make any payments to Utility with respect to that Betterment.

### **5.3 Right to Refuse**

LACMTA shall have the right to refuse and withhold approval for any Betterment that:

- (a) is incompatible with the Subject Transit Project;
- (b) cannot be performed within the constraints of Applicable Law, any Governmental Approvals and/or the project schedule for the Subject Transit Project; or

- (c) is requested after the establishment of the Basis of Design for the Rearrangement.

## ARTICLE 6. SALVAGE, REIMBURSEMENT AND CREDITS

### 6.1 Disposition of Salvaged Materials

- (a) LACMTA may not salvage materials from the Conflicting Facility belonging to Utility during the course of its work on a Rearrangement, unless agreed to in writing by Utility. If LACMTA desires to use salvaged materials, subject to the consent of Utility, materials removed shall be stored by LACMTA until such time as the progress of work allows the reinstallation of such materials. Materials that are not to be reused in a Rearrangement, but that Utility desires to retain may be recovered by Utility staff within an agreed time frame or shall be delivered by LACMTA to a location proximate to the salvage site and suitable to Utility. Subject to acceptance by LACMTA, if materials removed by LACMTA are not reused and are not desired by Utility, such materials shall become the property of LACMTA.
- (b) Salvaged materials which are removed by Utility and not reused in a Rearrangement shall be retained by Utility.
- (c) LACMTA shall receive a credit or payment, as provided in Section 6.3 (Reimbursements and Credits to LACMTA), for salvage, storage and transporting of such materials described herein which are retained by Utility.

### 6.2 Reimbursements to Utility

- (a) Except with respect to Betterments and Rearrangements performed by Utility pursuant to a franchise agreement, and without prejudice to Section 3.5(d) (Utility Standards), LACMTA will reimburse Utility for Costs incurred for work performed by Utility or the Utility Contractors under a Work Order in accordance with the terms of this Agreement and the applicable Work Order, provided that:
  - (i) LACMTA's obligation to reimburse Utility for Costs is subject to the limitations established under Applicable Law and under the terms of this Agreement, including the limitations established in Section 3.1(c)(ii) (Design Responsibilities), Section 3.5(d) (Utility Standards), this ARTICLE 6 and ARTICLE 7 (Billings);
  - (ii) the Parties acknowledge that pursuant to Applicable Law, LACMTA is responsible for performing or for reimbursing Utility's actual cost to perform, Rearrangements in a manner that maintains the functioning of the applicable Utility Facility at its previous level of service; and
  - (iii) where a Subject Transit Project is federalized (use of federal funds on the Rearrangement as notified by LACMTA to Utility in accordance with Section 2.6 (Governmental and Lender Requirements)), reimbursements to Utility will, in addition to the terms of this Agreement, be subject to Applicable Law at the federal level.
- (b) Where LACMTA and Utility agree that the construction of a Subject Transit Project will eliminate the service need for a specific Conflicting Facility and the Rearrangement to be performed under the applicable Work Order is to be limited to the removal or elimination of the Conflicting Facility, LACMTA will only be responsible for any Costs incurred in Abandonment of such Conflicting Facility by Utility.
- (c) LACMTA will not be responsible for any costs relating to the presence or existence of any environmental hazard on, in, under or about any Utility Facility, including but not limited to, any "**hazardous substance**" as that term is defined under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9601 et seq.), unless LACMTA or any LACMTA Contractor caused the environmental hazard through its actions.



### 6.3 Reimbursements and Credits to LACMTA

- (a) LACMTA shall receive a credit against work performed by Utility under this Agreement at LACMTA's expense, for salvage, Betterments and Expired Service Life Value of Utility. The amount of credits shall be determined in accordance with this Section 6.3. All credits pertaining to a particular Rearrangement or other item of work hereunder shall be reflected on the applicable invoice(s) submitted by Utility.
- (b) Where LACMTA performs work under this Agreement, LACMTA shall receive compensation from Utility (by credit or payments in accordance with this Section 6.3) for salvage and Expired Service Life Value of Utility Facilities as applicable, as well as for costs incurred by LACMTA for Betterments, and for any other costs incurred by LACMTA that are Utility's responsibility pursuant to this Agreement. The amount of compensation shall be determined in accordance with this Section 6.3. To the extent possible, LACMTA may take such compensation in the form of credits against amounts owed by LACMTA to Utility in connection with the Rearrangement for which the compensation is owed. LACMTA shall invoice Utility for any remaining amounts due in accordance with Section 7.2 (Procedures for LACMTA Billings to Utility), and Utility shall make payments to LACMTA in accordance with Section 7.1 (Procedures for Utility Billings to LACMTA).
- (c) For purposes of determining the amounts due from Utility to LACMTA (as a credit or payment) pursuant to this Section 6.3, the term "cost" shall mean all actual, allowable and reasonable direct and indirect costs incurred by LACMTA and attributable to activity or work performed or materials acquired in performing a task pursuant to this Agreement. Subject to the foregoing, direct costs shall include allowable direct labor, equipment and materials costs spent specifically for work performed under this Agreement, and shall include but not be limited to those associated with Design, project review, construction management, permit fees, inspection, processing, remediation plan development and implementation, real property acquisition and contract administration. Indirect costs shall include administrative and overhead costs at the rate therefore established by LACMTA from time to time. LACMTA shall maintain its standard forms of records showing actual time expended and costs incurred.
- (d) The amount of credits or payments, as applicable, due to LACMTA for salvage and Expired Service Life Value shall be determined by agreement based upon Utility's applicable books, records, documents and other data. In addition, LACMTA and Utility may conduct an inspection survey and/or inventory of a Conflicting Facility during the Design Development process. Pursuant to a Work Order authorized under to Section 2.2 (Work Orders), Utility shall provide LACMTA, to the extent such exist and are known and available, with drawings, plans or other records necessary to conduct such survey or inventory pursuant. Surveys shall describe the physical attributes of the Conflicting Facility such as number, length, diameter, dimensions, and type of material. The survey shall further describe, for each Conflicting Facility, the date of construction or installation; the present condition; the expected service life of each Conflicting Facility as derived from Utility's records; and whether materials contained therein are salvageable. The results of such survey shall also be applied in the determination of Betterments, as necessary.
- (e) As applicable, credit shall be allowed or Utility shall pay for salvage for items of materials and equipment recovered from the Conflicting Facility in the performance of Rearrangement work which are subsequently retained by Utility in accordance with Section 6.1(b) (Disposition of Salvaged Materials). The amount of a salvage credit or payment, if any, shall equal the depreciated value of like or similar materials as determined by agreement of the Parties, plus storage and transportation costs of such materials salvaged for Utility's use.
- (f) As applicable, credit shall be allowed or Utility shall pay for Betterments in accordance with this Section 6.3. The amount of a Betterment payment, if any, shall be the estimated cost of the Replacement Facility, less the estimated cost of the Conflicting Facility. The amount of Betterment

credit, if any, shall be a fixed amount determined by the Parties during Design Development based upon estimates provided by Utility and agreed to by LACMTA under a Potential Notice of Betterment Form.

- (g) LACMTA shall receive a credit for the Expired Service Life Value of each Conflicting Facility being replaced if the Replacement Facility will have an expected period of useful service greater than the period which the existing Conflicting Facility would have had, had it remained in service and the Rearrangement not been made. For purposes of this Agreement, "Expired Service Life Value" shall mean the depreciated value of the Conflicting Facility as determined by Utility utilizing its standard depreciation calculation. The amount of credit or payment for Expired Service Life Value shall be calculated prior to the commencement of the applicable Rearrangement work and documented in the applicable Work Order.
- (h) Where a Replacement Facility falls within public right-of-way, above or below grade:
  - (i) Utility and LACMTA shall apply the Utility Service Life Credits (calculated from the Expired Service Life Value) to attribute the cost share of the new Utility Rearrangement total cost;
  - (ii) the calculation to determine the cost share attributable to Utility and LACMTA shall be based on the following table:

Percentage of Service Life	LACMTA's Share	Utility's Share (Also applied to LADWP)
50%	100%	0%
60%	90%	10%
70%	80%	20%
80%	70%	30%
90%	60%	40%
100%	50%	50%

; and

- (iii) Utility shall make progress payments based on the proportion cost share of Replacement Facility or LACMTA may elect to offset the Utility cost share from the amounts owed by LACMTA to Utility for other activities in progress on the same Work Order. If LACMTA elects to advance funds during the Design phase, the cost share for construction progress payment by Utility will be adjusted accordingly to arrive to the calculated cost share. Similarly, if LACMTA elects to fund the Construction phase with LACMTA funds, then Utility is anticipated to provide a one-time up-front payment based on its proportionate share of cost prior to the award of the Rearrangement construction contract or Work Order.
- (i) Where a Replacement Facility falls within LACMTA-owned Transit Project Right-of-Way, Service Life Credit cost sharing does not apply.

**ARTICLE 7. BILLINGS**

**7.1 Procedures for Utility Billings to LACMTA**

- (a) Utility shall use the following procedures for submission of its billings to LACMTA, on a progress basis, for work performed by Utility under a Work Order:

- (i) Utility shall commence its monthly billing (in an electronic format where possible) within no more than 30 days following the commencement of work under a specific Work Order and shall bill monthly thereafter;
  - (ii) each billing shall: (A) be addressed to the LACMTA Representative; (B) include a "Project Labor Report" identifying by task both Utility staff (and applicable consultant) hours charged for administrative, design, inspection and management services and Utility direct field labor; (C) specify all Costs incurred for that billing period including copies of invoices and other supporting Cost data; (D) reflect any applicable credits due to LACMTA under this Agreement with respect to the Subject Transit Project applicable to the Work Order under which the billing is being submitted; (E) be noted as either "in-progress" or "final"; (F) include a certification that the Costs identified in such billing were appropriate and necessary to performance of the work under the Work Order and have not previously been billed or paid; and (G) include a monthly progress billing report prepared by the Utility lead project manager including a narrative description of the work for the prior billing period with a statement on work progress, schedule deviations, cost to complete, subcontractor utilization, DBE usage if any, and, where applicable, a statement on adherence to federal requirements. If requested by LACMTA, Utility shall provide a full description of any labor charges during the billing period that were not identified in the Project Labor Report;
  - (iii) the final billing, with a notation that all work covered by a given Work Order has been performed, shall be submitted to LACMTA within 60 days after completion of the work under the applicable Work Order, and shall summarize prior progress billings, show inclusive dates upon which work was performed, and include a certification that the Costs identified in such billing were appropriate and necessary to the performance of the work under the Work Order and have not previously been billed or paid; and
  - (iv) after the expiration of the 60 day period described in Section 7.1(a)(iii) (Procedures for Utility Billings to LACMTA), LACMTA may notify Utility in writing that the 60 day closing billing period has expired, and upon Utility's receipt of such Notice from LACMTA, Utility shall have 30 days to submit its final invoice. If Utility fails to submit an invoice within such 30 day period, then LACMTA shall have no further obligation for payment to Utility with regard to any amounts due or payable under the applicable closed out Work Order.
- (b) Utility agrees to retain, or cause to be retained, for inspection and audit by LACMTA or other governmental auditors for the period required pursuant to Section 7.4 (Inspection and Audit), all records and accounts relating to the work performed by Utility under this Agreement and shall maintain separate records and accounts for each Work Order including signed individual labor time sheets clearly identifying of the Work Order number and the Subject Transit Project title; provided, however, that if any actions brought under the dispute resolution provisions set out in ARTICLE 9 (Resolution of Disputes) have not been finally resolved by the such deadline, then any records that pertain to any such actions shall be maintained until such actions have been finally resolved.

## 7.2 Procedures for LACMTA Billings to Utility

- (a) Where LACMTA is due a payment under the terms of this Agreement, LACMTA shall submit regular progress billings to Utility, which shall: (i) specify costs incurred for that billing period; (ii) bear the Subject Transit Project name and any related Work Order number; (iii) be supported by copies of data that support the costs incurred; and (iv) be addressed to the Utility Representative. Each billing shall be noted as either progress or final billing and shall include a certification that the charges identified in such billing were appropriate and necessary to the performance of the applicable work and have not previously been billed or paid. The final billing, with a notation that all applicable work has been performed, shall be submitted to Utility as soon as practicable, but no later than 90 days following the completion of the work, and shall summarize prior progress billings, show inclusive dates

upon which work was performed, and include a certification that the costs identified in such billing were appropriate and necessary to the performance of the applicable work and have not previously been billed or paid.

- (b) LACMTA agrees to retain, or cause to be retained, for inspection and audit by Utility or other governmental auditors for the period required pursuant to Section 7.4 (Inspection and Audit), all records and accounts relating to all work performed by LACMTA for Utility under this Agreement; provided, however, that if any actions brought under the dispute resolution provisions set out in ARTICLE 9 (Resolution of Disputes) have not been finally resolved by the foregoing deadline, then any records that pertain to any such actions shall be maintained until such actions have been finally resolved.

### 7.3 **Payment of Billings**

Payment of each bill properly submitted pursuant to Sections 7.1 (Procedures for Utility Billings to LACMTA) or 7.2 (Procedures for LACMTA Billings to Utility) shall be due within 60 days of receipt, provided that:

- (a) all such payments shall be conditional, subject to post-audit adjustments;
- (b) final payment for each Rearrangement shall be contingent upon final inspection (and acceptance, where applicable) of the work by the Party billed for such work, which inspection (and acceptance, where applicable) will not be unreasonably withheld or delayed; and
- (c) LACMTA may withhold payments in the amount of any credit amounts due to LACMTA if Utility has not posted such credits within 60 days after submittal of requests for the same by LACMTA.

### 7.4 **Inspection and Audit**

For the period commencing on the Effective Date and ending on the date falling three years after the end of the Term or such later date as is required under other terms of this Agreement or under Applicable Law, each Party (and its authorized representatives) will have such rights to review and audit the other Party and its books, records and documents as may be deemed necessary for the purposes of verifying compliance with this Agreement, Applicable Law and the Utility Standards at all times during normal business hours. Each Party shall bear its own costs and expenses in connection with undertaking any inspection and audit, and in responding to an inspection and audit. Examination of a document or record on one occasion shall not preclude further review or reexamination of such document or record on subsequent occasions. By providing any of its records to the other Party for examination, the Party providing such records represents and warrants the completeness and accuracy in all material respects of all information it or its agents provides in connection with any audit by the other Party. If an audit shows that a financial adjustment is required, the Parties will use good faith efforts to agree such adjustment. The rights granted pursuant to this Section 7.4 shall not obligate either Party to inspect or audit the other Party's records. The Parties must ensure that any contract entered into in connection with performance of the work under this Agreement contains provisions acknowledging the rights of Utility or LACMTA (as applicable) under this Section 7.4.

## **ARTICLE 8. INDEMNITY AND INSURANCE**

### 8.1 **Indemnity**

Each Party shall release, defend, indemnify, and hold harmless the other Party and its respective officers, agents, representatives, and employees from and against all liabilities, expenses (including legal fees and costs), claims, losses, suits, and actions of any kind, and for damages of any nature, including but not limited to, bodily injury, death, personal injury, or property damage arising from or connected with its performance under this Agreement.

## 8.2 Insurance

- (a) The Parties must ensure that any contract entered into in connection with performance of the work under this Agreement contains:
  - (i) a provision requiring the general contractor, as part of the liability insurance requirements, to provide an endorsement to each policy of general liability insurance naming Utility and LACMTA as additional insureds; and
  - (ii) unless otherwise mutually agreed by the Parties, the requirement for: (A) construction general contractors to provide evidence of insurance in the following amounts: \$5,000,000 in general liability (and umbrella/excess liability if needed to satisfy limits); \$1,000,000 in workers' compensation/employer's liability; and \$1,000,000 in combined single limit (CSL) in auto liability; and (B) design contractors to provide evidence of insurance in the following amounts: \$5,000,000 in general liability (and umbrella/excess liability if needed to satisfy limits); \$1,000,000 in workers' compensation/employer's liability; \$1,000,000 (CSL) in auto liability; and \$1,000,000 in professional liability.
- (b) Each Party must:
  - (i) give the other Party 20 days' notice prior to any reduction in scope or cancellation of any insurance procured by it under this Section 8.2;
  - (ii) give the other Party 20 days' notice prior to it agreeing to a reduction in scope or the cancellation of any insurance procured by a LACMTA Contractor or Utility Contractor (as applicable) under this Section 8.2; and
- (c) If Utility is itself performing work for a Rearrangement, Utility may self-insure and agrees to protect LACMTA, its officers and employees at the same level with respect to types of coverage and minimum limits of liability as LACMTA would have required of third party insurance, and Utility agrees that such self-insurance shall include all duties, obligations and responsibilities of an insurance company with respect to any claim made under such self-insurance program. At least 30 days prior to the implementation of any self-insurance program, Utility shall provide to LACMTA certification that Utility meets the requirements of this Section 8.2. If Utility does not self-insure in accordance with this Section 8.2(c), Utility shall itself obtain insurance complying with the requirements of Sections 8.2(a) (Insurance) and 8.2(b) (Insurance).

## ARTICLE 9. RESOLUTION OF DISPUTES

### 9.1 Attempt to Resolve

In the event of dispute or difference arising under, out of or in connection with or relating to this Agreement, including any question regarding its existence, validity or termination ("**Dispute**"), the Parties shall make good faith efforts to resolve the Dispute through negotiation, including as set out in Section 9.3 (Resolution Processing).

### 9.2 Continuation of Performance

- (a) The existence and details of a Dispute notwithstanding, both Parties shall continue, without delay, their performance under this Agreement, except for any performance which LACMTA, in its sole and absolute discretion, determines should be delayed as a result of such Dispute. LACMTA shall continue to pay sums not in Dispute, during any such period of continued performance.

- (b) If Utility fails to continue its performance under this Agreement, which LACMTA in its sole and absolute discretion, determines should not be delayed as a result of such dispute, then any additional costs which may be incurred by LACMTA as a result of Utility's failure to continue to so perform shall be borne by Utility, and Utility shall make no claim whatsoever against LACMTA for such costs. Utility shall promptly reimburse LACMTA for such LACMTA costs, as determined by LACMTA or LACMTA may deduct all such additional costs from any amounts due to Utility from LACMTA.

### 9.3 Resolution Processing

In the event of any Dispute between the Parties with respect to this Agreement:

- (a) Utility and LACMTA shall submit the Dispute to their respective project managers and contract administrators to resolve the Dispute;
- (b) if the project managers and contract administrators are unable to resolve the dispute within a reasonable time not to exceed five days from the date of submission of the Dispute to them, then the matter shall immediately be submitted to a representative of executive management from each of Utility and LACMTA to resolve the Dispute;
- (c) if the representatives of executive management nominated by Utility and LACMTA under Section 9.3(b) (Resolution Processing) are unable to resolve the dispute within a reasonable time not to exceed [30] days from the date of submission of the Dispute to them, then the matter shall immediately be submitted to Utility's Chief Executive Officer and to LACMTA's Chief Executive Officer, or their designees, to resolve the dispute; and
- (d) in the event that Utility's Chief Executive Officer and LACMTA's Chief Executive Officer are unable to resolve the Dispute within a reasonable time not to exceed 90 days from the date of submission of the Dispute to them, then: (i) the Parties may mutually agree to refer the Dispute to an alternative dispute resolution process; and (ii) each Party may assert its other rights and remedies provided under this Agreement and/or any rights and remedies as provided by Applicable Law.

### 9.4 Documentation of Disputes

All Disputes utilizing the dispute resolution procedure set out in this ARTICLE 9 shall be documented in writing by each Party and shall state the specifics of each alleged Dispute and all actions taken.

## ARTICLE 10. MISCELLANEOUS

### 10.1 Force Majeure

No Party may bring a claim for a breach of obligations under this Agreement by the other Party or incur any liability to the other Party for any losses or damages incurred by that other Party if a Force Majeure Event occurs and the affected Party is prevented from carrying out its obligations by that Force Majeure Event. During the continuation of any Force Majeure Event, the affected Party shall be excused from performing those of its obligations directly affected by such Force Majeure Event provided that the occurrence or continuation of any Force Majeure Event shall not excuse any Party from performing any payment obligations contemplated under this Agreement. If a Force Majeure Event occurs, Utility agrees, if requested by LACMTA pursuant to Section 2.2 (Work Orders), and if deemed possible and feasible by Utility (acting reasonably), to accelerate the performance of its obligations under this Agreement and any Work Order to mitigate any delay arising from the Force Majeure Event provided that LACMTA agrees to reimburse Utility for the incremental actual costs of such acceleration.

### 10.2 Approvals, Further Documents, and Actions

- (a) Any determination, acceptance, approval, consent, permission, satisfaction, agreement, waiver, authorization or any other similar action (collectively, "**Approval**") required or permitted to, be given by any Party pursuant to this Agreement or any Work Order:
  - (i) must be in writing to be effective (except as otherwise specifically allowed by this Agreement); and
  - (ii) shall not be unreasonably withheld, conditioned or delayed; and if Approval is withheld, such withholding shall be in writing and shall state with specificity the reasons for withholding such Approval, and every effort shall be made to identify with as much detail as possible what changes are required for Approval.
- (b) The Parties agree to execute such further documents, agreements, instruments, and notices, and to take such further actions, as may be necessary or appropriate to effectuate the transactions contemplated by this Agreement.

10.3 **Notices**

- (a) Except as otherwise provided in this Agreement, all notices or communications pursuant to this Agreement shall be in writing and: (i) delivered personally; (ii) sent by certified mail, return receipt requested; (iii) sent by a recognized overnight mail or courier service, with delivery receipt requested; or (iv) sent by email communication followed by a hard copy, to the following addresses (or to such other address as may from time to time be specified in writing by such person):

**To Utility:**

Crown Castle Fiber LLC  
2000 Corporate Drive  
Canonsburg, PA 15317  
Attn: Ken Simon, General Counsel

With a copy to:

Crown Castle Fiber LLC  
2000 Corporate Drive  
Canonsburg, PA 15317  
Attn: SCN Contracts Management

**To LACMTA:**

LA Metro  
One Gateway Plaza 17/F  
Los Angeles, CA 90015  
Attn: Bryan Pennington, Chief Program Management Officer

With a copy to:

LA Metro  
One Gateway Plaza 16/F  
Los Angeles, CA 90015  
Attn: Eduardo Cervantes, Executive Officer, Third Party Administration

- (b) Any notice served personally shall be deemed delivered upon receipt, and any notice served by certified mail or by recognized overnight mail or courier service shall be deemed delivered on the date of receipt as shown on the addressee's registry or certification of receipt or on the date receipt is refused as shown on the records or manifest of the U.S. Postal Service, courier service or other person making the delivery, and any notice sent by email communication will be deemed delivered on the date of receipt as shown on the received email transmission (provided the hard copy is also delivered pursuant to this Section 10.3). All notices (including by email communication) delivered after 5:00 p.m. PST will be deemed delivered on the first day following delivery that is not a Saturday, a Sunday, or a federal public holiday. Utility or LACMTA may from time to time designate any other address or addressee or additional addressees for this purpose by written notice given to the other Party in accordance with this Section 10.3.
- (c) The Parties may also designate other procedures for the giving of notice as required or permitted under the terms of this Agreement, but each such alternate procedure shall be described, in writing and signed by the LACMTA Representative and by the Utility Representative.

#### 10.4 **Assignment; Successors and Assigns**

A Party cannot assign, novate, or otherwise transfer any of its rights or obligations under this Agreement without the prior consent of the other Party unless this Agreement expressly provides otherwise. However, the assignment, transfer or delegation of the rights and obligations of Utility hereunder to Utility's financially viable parent, subsidiary, successor, or affiliate under common control shall not require consent and shall be effective upon written notice to LACMTA. This Agreement is binding upon and will inure to the benefit of LACMTA and Utility and their respective successors and permitted assigns.

#### 10.5 **Waiver**

- (a) No waiver of any term, covenant, or condition of this Agreement will be valid unless in writing and executed by the obligee Party.
- (b) Either Party's waiver of any breach or failure to enforce any of the terms, covenants, conditions, or other terms of this Agreement at any time will not in any way limit or waive that Party's right to subsequently enforce or compel strict compliance with every term, covenant, condition, or other provision of this Agreement, despite any course of dealing or custom of the trade (other than the waived breach or failure in accordance with the terms of such waivers).

#### 10.6 **Entire Agreement and Modification**

No alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by the Parties and no oral understanding or agreement not incorporated herein shall be binding on either of the Parties.

#### 10.7 **Time**

In accomplishing all work and performing all other acts required under this Agreement, time is of the essence.

#### 10.8 **Governing Law and Jurisdiction**

This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of California. The rights and remedies of LACMTA and Utility for default in performance under this Agreement or any Work Order are in addition to any other rights or remedies provided by law.

#### 10.9 **Severability**



If any part of this Agreement is found to be invalid or unenforceable by a ruling or decision reached in accordance with ARTICLE 9 (Resolution of Disputes), or otherwise by a court having proper jurisdiction, such finding shall not invalidate the remaining portions hereof, but such provisions shall remain in full force and effect to the fullest extent permitted by law; provided, however, that the Parties shall immediately renegotiate, reasonably and, in good faith, the terms or provisions found to be invalid, as well as any other terms and provisions as necessary to achieve as nearly as possible the Parties' original contractual intent.

#### 10.10 **Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be the original, and all of which together shall constitute one and the same instrument.

#### 10.11 **Limitation on Third Party Beneficiaries**

Nothing in the terms of this Agreement is intended: (a) to create duties for, obligations to, or rights in third parties not parties to this Agreement, except to the extent that, specific provisions (such as the indemnity provisions) identify third parties and provided that they are entitled to benefits hereunder; or (b) to affect the legal liability of either Party to the Agreement by imposing any standard of care with respect to the development, design, construction, operation or maintenance of highways, Transit Projects and other public facilities that is different from the standard of care imposed by Applicable Law.

#### 10.12 **Survival**

The representations, warranties, indemnities, waivers and dispute resolution provisions set out in ARTICLE 9 (Resolution of Disputes), all payment obligations hereunder incurred prior to termination of this Agreement, and all other provisions that by their inherent nature should survive termination of this Agreement, shall survive the termination of this Agreement for any reason whatsoever, and shall remain in effect unless and until terminated or modified in writing by mutual agreement.

#### 10.13 **Confidential Information**

It may be necessary or advisable for LACMTA to share confidential information with Utility to carry out the objectives of this Agreement for a particular Transit Project. In connection with such sharing of confidential information, the Parties shall enter into a Non-Disclosure Agreement in the form attached as Part B of Exhibit 3 (Forms) to preserve the confidentiality of such information. A separate Non-Disclosure Agreement shall be entered into for each Transit Project as applicable.

### **ARTICLE 11. DEFINITIONS AND INTERPRETATION**

#### 11.1 **Definitions**

Unless the context otherwise requires, capitalized terms and acronyms used in this Agreement have the meanings given in this Section 11.1.

**"Abandonment"** means the permanent termination of service of an existing Utility Facility (or a portion of it) and, if the Utility Facility (or portion of it) is not being removed from its existing location, the work necessary to permit such abandoned Utility Facility to remain in place in accordance with Applicable Law. "Abandoned" shall be construed accordingly.

**"Adjacent Work"** means any removal, demolition, repair, restoration, relocation or reconstruction of existing Utility Facilities and/or construction of new Utility Facilities and/or other physical works by Utility or a Utility Contractor that is performed or to be performed within, or within 100 feet of, a Transit Project Right-of-Way or Construction of a Rearrangement; or the performance of which is otherwise reasonably likely to conflict with the design, construction, operation or maintenance of a Transit Project.

**"Advanced Conceptual Engineering"** or **"ACE"** means the phase of the Design process that advances the project scope from a conceptual state to a level of schematic design that describes the project technical and architectural approach in order to address environmental and community impacts, significant interfaces and operational characteristics to support environmental approvals. The plan percentage complete ranges generally from the initiation of Design (0%) to 15%.

**"Agreement"** means this agreement and any schedules, exhibits, attachments and annexures to it.

**"Applicable Contractor"** means a LACMTA Contractor or a Utility Contractor, as the context requires.

**"Applicable Law"** means any statute, law, code, regulation, ordinance, rule, common law, judgment, judicial or administrative order, decree, directive, or other requirement having the force of law or other governmental restriction (including those resulting from the initiative or referendum process) or any similar form of decision of or determination by, or any interpretation or administration of any of the foregoing by, any Governmental Entity which is applicable to the Subject Transit Project, Rearrangements, any work performed under this Agreement or any relevant person, whether taking effect before or after the date of this Agreement. "Applicable Law" excludes Governmental Approvals, customs, duties and tariffs.

**"Approval"** is defined in Section 10.2(a) (Approvals, Further Documents, and Actions).

**"Archaeological Remains"** means any antiquities, fossils, coins, articles of value, precious minerals, cultural artifacts, human burial sites, paleontological and human remains, articles of scientific interest and other similar remains of archaeological, paleontological or scientific interest discovered in any part of the Transit Project Right-of-Way.

**"Basis of Design"** means the basis of design defined by LACMTA in the Work Order for Design, Design Support and/or other Design-related activities for a Rearrangement which shall, depending on the contracting mechanism adopted by LACMTA for the Subject Transit Project, be:

- (a) the 60% Design Documentation for the Rearrangement approved (or deemed approved) by Utility under the terms of this Agreement;
- (b) the scope, specifications and requirements that form the basis of the applicable request for proposal issued by LACMTA for the part of the Subject Transit Project scope of work that includes or necessitates the Rearrangement; or
- (c) such other level of Design Development agreed in the applicable Work Order.

**"Betterment"** means work performed in connection with any Rearrangement or as part of a Rearrangement:

- (a) comprising an upgrade, change or addition to a Utility Facility (or a part of a Utility Facility) requested by Utility that provides for greater capacity, capability, durability, appearance, efficiency or function or other betterments of that Utility Facility over that which was provided by the Utility Facility prior to the Rearrangement; or
- (b) for which the Utility Standards applicable to that Rearrangement are changed or added to after the establishment of the Basis of Design for that Rearrangement, provided that the term "Betterment" shall exclude:
  - (i) an upgrade, which the Parties agree, will be of direct and principal benefit to the construction, operation and/or maintenance of the Subject Transit Project;
  - (ii) an upgrade resulting from Design or Construction in accordance with the applicable Utility Standards as set out in Section 3.5 (Utility Standards) and any changes or additions to those Utility Standards notified to LACMTA prior to the establishment of the Basis of Design for the

Rearrangement and that have not been adopted by Utility in breach of Section 3.5(b) (Utility Standards);

- (iii) measures to mitigate environmental impacts identified in the Subject Transit Project's final environmental impact report or statement and any supplemental environmental reports for the Subject Transit Project;
- (iv) Replacement of devices or materials no longer regularly manufactured with the next highest grade or size; or
- (v) an upgrade that is the consequence of changes made by LACMTA or a LACMTA Contractor after the establishment of the applicable Basis of Design for the Subject Transit Project.

**"Compliance Comment"** means a comment on, objection to, or the withholding of approval to a submittal on the basis of one or more of the following:

- (a) the Design or Construction work that is the subject of the submittal fails to comply with (or is reasonably likely to fail to comply if implemented in accordance with the submittal) any applicable covenant, condition, requirement, term or provision of this Agreement; or
- (b) not all content required with respect to the submittal has been provided.

**"Conflicting Facility"** means an existing Utility Facility, which the Parties determine requires Rearrangement in order to construct, operate or maintain a Transit Project, including as a result of:

- (a) a physical conflict between the Transit Project (including its construction, operation, maintenance or use) and the Utility Facility; or
- (b) even where there is no such physical conflict, an incompatibility between the Transit Project Facilities as designed and the Utility Facility based on the requirements of Utility Standards, LACMTA's applicable standards, and/or Applicable Law.

**"Construction"** means all construction activities related to a Rearrangement including the removal, demolition, replacement, restoration, alteration or realignment of Conflicting Facilities and the procurement, installation, inspection and testing of Replacement Facilities including temporary and permanent materials and equipment. "Construct" shall be construed accordingly.

**"Cost"** means all eligible direct and indirect costs actually incurred for activities or work performed or materials acquired by Utility or a Utility Contractor in accordance with the terms of this Agreement, less (in respect of Utility) credits to LACMTA as provided in Section 6.3 (Reimbursements and Credits to LACMTA) where:

- (a) eligible direct costs includes allowable direct labor costs, equipment and materials costs, and storage and transportation costs of materials salvaged for Utility's use in performing the applicable work;
- (b) eligible indirect costs shall be computed based upon the indirect cost rates approved annually for Utility by its cognizant agency, and as noted on the Form 60, for allocation to federally funded or state funded contracts; and
- (c) unless the Internal Revenue Service and the CPUC issue regulations or rulings to the contrary, the eligible direct and indirect costs shall not include taxes purportedly arising or resulting from LACMTA's payments to Utility under this Agreement.

**"County"** means the County of Los Angeles, California.

"CPUC" means the California Public Utilities Commission.

"Days" or "days" means, unless otherwise stated, calendar days.

"Design" means all activities related to the design, redesign, engineering or architecture of any Construction work.

"Design Development" means the phase of the Design process that occurs after Advanced Conceptual Engineering and that develops, on a progressive basis, a clear indication of the design solutions for the applicable requirements and the major features of the architectural and structural design and third party interfaces that are intended to form the basis for the Final Design.

"Design Documentation" means all drawings (including plans, profiles, cross-sections, notes, elevations, typical sections, details and diagrams), specifications, reports, studies, working drawings, shop drawings, calculations, electronic files, records and submittals necessary for, or related to, the Design of the Rearrangements.

"Design Support" means Design support to assist LACMTA and the LACMTA Contractors to identify Conflicting Facilities and progress Design Development and preparation of a Final Design for Rearrangements including by:

- (a) identifying potential conflicts and impacts including Utility Facilities in which service must be maintained without interruption, Utility Facilities in which service may be permanently Abandoned, Utility Facilities which may be temporarily Abandoned and the maximum allowable duration of such temporary Abandonment;
- (b) estimating duration of street closures or restrictions necessary to construct Rearrangements of Utility Facilities; and
- (c) conducting exhaustive research to locate all: (i) as-built plans including site specific schematics, maps, legal description of land, prior physical work logs, soils and hazardous substance data if any, and other available or related data; (ii) prior agreements including franchise, license, and other agreements with railroads, LACMTA, local agencies or other third parties; and (iii) any other Utility-specific or proprietary design details relevant to the identification of Conflicting Facilities and Design Development and preparation of a Final Design for Rearrangements.

"Dispute" is defined in Section 9.1 (Attempt to Resolve).

"Effective Date" means the date stated as such on the first page of this Agreement, which shall be the date when this Agreement has been fully executed on behalf of the City and Utility.

"Environmental Law" means all Applicable Laws, regulations, codes, and common law applicable to LACMTA or to the work under this Agreement, now or hereafter in effect relating to pollution control, remediation, hazardous or contaminated substances, resource conservation and management, protection of public health, public welfare, and the environment.

"Expired Service Life Value" is defined in Section 6.3(g) (Expired Service Life).

"Facility" means real or personal property identified within the route of a Transit Project, such as structures and improvements located on real properties under the jurisdiction of the County, City, public or private Utility, or LACMTA including streets, highways, bridges, alleys, public or private rights of way, storm drains, sanitary sewers, landscaping, trees, traffic signals, street lights, parking meters, police and fire alarm systems, manholes, ducts, cables, and fibers.

**"Final Design"** means the phase of the Design process which provides the detailed design for all temporary and permanent project facilities and addresses and resolves all Design review Compliance Comments and finalizes all engineering, architectural and systems designs necessary for Construction. It ends with an approved-for-construction plan status and with the Design being signed and sealed by the 'Engineer of Record'.

**"Force Majeure Event"** means the occurrence of any of the following events after the date of this Agreement that directly causes either Party (the "affected Party") to be unable to comply with all or a material part of its obligations under this Agreement:

- (a) war, civil war, invasion, violent act of foreign enemy or armed conflict or any act of terrorism;
- (b) nuclear, chemical or biological contamination unless the source or cause of the contamination is brought to or near the Project Site by affected Party;
- (c) ionizing radiation unless the source or cause of the ionizing radiation is brought to or near the Project Site by the affected Party;
- (d) any fire, explosion, unusually adverse weather, flood or earthquakes;
- (e) any named windstorm and ensuing storm surges, including the direct action of wind originating from a named windstorm;
- (f) any riot or civil commotion;
- (g) any blockade or embargo;
- (h) epidemic, pandemic or quarantine; or
- (i) any official or unofficial strike, lockout, go-slow or other dispute, generally affecting the construction industry or a significant sector of it,

except, in each case, to the extent attributable to any breach of this Agreement or Applicable Law by, or any negligent act or negligent omission of, the affected Party.

**"Form 60"** means Form 60 (Professional Services Cost/Price Summary) in the form attached as Part A of Exhibit 3 (Forms).

**"Governmental Approval"** means any approval, authorization, certification, consent, license, permit, registration or ruling, issued by any Governmental Entity required to carry out the Rearrangements, the Subject Transit Project or any other work to be performed under the terms of this Agreement.

**"Governmental Entity"** means any federal, state, or local government and any political subdivision or any governmental, quasi-governmental, judicial, public or statutory instrumentality, administrative agency, authority, body or entity (including the California Department of Transportation, CPUC and United States Army Corps of Engineers) other than LACMTA.

**"LACMTA"** is defined in the Preamble.

**"LACMTA Contract"** means any contract, subcontract or other form of agreement between LACMTA and a LACMTA Contractor or between a LACMTA Contractor and its lower tier subcontractor.

**"LACMTA Contractor"** means any contractor, consultant, tradesperson, supplier, private developer, employee, member of staff, engineer, architect, agent, operator, or other person engaged or authorized by LACMTA to carry out works with respect to a Transit Project, any Rearrangement or otherwise contemplated

under the terms of this Agreement and any other person with whom any LACMTA Contractor has further subcontracted part of such works.

**"LACMTA Representative"** is defined in Section 2.1(a) (Governance).

**"Non-conforming Work"** means Design work or Construction work not in accordance with the requirements of this Agreement.

**"Normal Submittal"** is defined in Section 2.2 of Exhibit 1 (Submittal Review Procedure).

**"Notice"** means any communication under this Agreement including any notice, consent, approval, request, and demand.

**"Package"** means each package of Design Documentation submitted in accordance with this Agreement.

**"Planning Phase"** means, with respect to a Transit Project, the phase in which LACMTA carries out activities related to the planning and environmental clearance of the relevant Transit Project including, but not limited to:

- (a) conducting alternative analysis and feasibility studies;
- (b) preparing the draft and final environmental impact reports/statements required by Applicable Law;
- (c) preparation of Advanced Conceptual Engineering;
- (d) seeking LACMTA board approval of the locally preferred alternative;
- (e) seeking certification of the final EIR by the LACMTA board;
- (f) activities related to FTA issuance of the record of decision; and
- (g) preparation of the mitigation monitoring and reporting plan.

**"Potential Notice of Betterment Form"** means the form set out in Part C of Exhibit 3 (Forms).

**"Project Labor Report"** is defined in Section 7.1(a)(ii) (Procedures for Utility Billings to LACMTA).

**"Protection-in-Place"** means any activity undertaken to avoid damaging a Utility which does not involve removing or relocating that Utility, including staking the location of a Utility, avoidance of a Utility Facility's location by construction equipment, installing steel plating or concrete slabs, encasement in concrete, temporarily de-energizing power lines, and installing physical barriers. "Protected-in-Place" will be construed accordingly.

**"Rearrangement"** means the work of relocation, removal, rearrangement, alteration, restoration, support, protection in place, Design, Abandonment or Protection-in-Place of a Conflicting Facility or a part of it, whether permanent or temporary, which LACMTA determines in its sole discretion is necessary in order for a Transit Project to comply with Applicable Law or otherwise which LACMTA and Utility mutually agree is necessary in order to accommodate construction, operation, maintenance or use of a Transit Project. The term "Rearranged" will be construed accordingly.

**"Reduced Submittal"** is defined in Section 2.3 of Exhibit 1 (Submittal Review Procedure).

**"Remedial Action"** is defined in Section 4.8(d) (Responsibility for Remedial or Protective Action).

**"Replacement Facility"** means a Utility Facility that may be constructed or provided under the terms of this Agreement as a consequence of a Rearrangement.

**"Service Life"** means total useful life of a Utility Facility in years after it is first constructed and functional for the intended service or conveyance.

**"Service Life Credits"** means the remaining unused portion of a Utility's Service Life, converted to cost or dollars, for the purpose of calculating the proportional share of cost between LACMTA and Utility where applicable.

**"SSPWC"** means Standard Specifications for Public Works Construction.

**"Subject Transit Project"** when referenced generally, means a Transit Project involving or likely to involve a Rearrangement; or when referenced in connection with a particular Rearrangement, means the Transit Project which necessitates such Rearrangement; provided, however, that if LACMTA enters into more than one LACMTA Contract for construction of a particular Transit Project, then where the context so requires, the term "Subject Transit Project" shall refer to that portion of such Transit Project which is being Constructed by a particular LACMTA Contractor and which necessitates such Rearrangement.

**"Submittal Review Timetable"** means the timetable for review of submittals set out in Section 2 of Exhibit 1 (Submittal Review Procedure).

**"Temporary Facility"** means a facility constructed for the purpose of ensuring continued service while a Utility Facility is taken out of full or partial service as part of any Rearrangement work, but which will be removed, relocated or restored to its original condition after such work is complete.

**"Transit Projects"** means the design, construction, operation and/or maintenance of light rail, heavy rail (including subway) Busway, tram, or other related systems proposed by LACMTA as public works or transportation type projects to predominately move passengers in a large metropolitan city-county environment and includes:

- (a) the design and construction work undertaken by or at the direction of the LACMTA in order to create either a new system or to modify, alter, extend or maintain an existing Transit Project, whether or not such work is described in the Recitals;
- (b) the LACMTA proposed projects and systems described in the Recitals; and
- (c) Freeway High Occupancy Toll (HOT) lanes related projects (including Express Lanes/Fastrak, etc.) undertaken by or at the direction of LACMTA,

and **"Transit Project"** shall mean any one of such projects.

**"Transit Project Facility"** means a Facility that is a component of or an appurtenance to a Transit Project including a station, the rail trackage infrastructure, a related maintenance facility, signaling and train control system.

**"Transit Project Right-of-Way"** means:

- (a) real property owned (or intended for acquisition) by LACMTA and used (or proposed to be used) for Transit Project purposes; and
- (b) those portions of public streets or rights-of-way on which are located (or proposed to be located) any Transit Project Facilities or which are otherwise used (or proposed to be used) by LACMTA for Transit Project purposes.

"Utility" is defined in the Preamble.

"Utility Contract" means any contract, subcontract or other form of agreement between Utility and a Utility Contractor or between a Utility Contractor and its lower tier subcontractor.

"Utility Contractor" means any contractor, consultant, tradesperson, supplier, private developer, employee, member of staff, engineer, architect, agent, operator, or other person engaged or authorized by Utility to carry out Design, Construction or other work with respect to any Rearrangement or otherwise contemplated under the terms of this Agreement and any other person with whom any Utility Contractor has further subcontracted part of such works.

"Utility Facility" means any line, facility or system:

- (a) under the ownership or operating jurisdiction of Utility;
- (b) impacted by the construction, operation and/or maintenance of a Transit Project; and
- (c) used for transmitting or distributing communications, cable television, power, electricity, gas, oil, crude products, water, steam, waste or other similar public utilities, including wires, cables, poles, cross-arms, anchors, guys, fixtures, vaults, conduits, duct banks, vents, fittings, pipelines and manholes together with any and all necessary appurtenances but excluding any buildings of Utility or other facilities or property of Utility, whether or not devoted to public use, not used for transmitting or distributing a public utility or not impacted by the construction, operation and/or maintenance of a Transit Project.

"Utility Representative" is defined in Section 2.1(a) (Governance).

"Utility Standards" means Utility's written design and safety standards applicable to the Design of a Rearrangement, as notified to and agreed to by LACMTA in accordance with the terms of this Agreement.

"Work Order" means a work request submitted by LACMTA to Utility authorizing the performance of any work associated with a Transit Project and the associated purchase of required materials.

## 11.2 Construction and Interpretation

- (a) In this Agreement unless otherwise expressly stated:
  - (i) headings are for convenience only and do not affect interpretation;
  - (ii) a reference to this Agreement or any other agreement, instrument, or document is to this Agreement or such other agreement, instrument, or document as amended or supplemented from time to time;
  - (iii) a reference to this Agreement or any other agreement includes all exhibits, schedules, forms, appendices, addenda, attachments, or other documents attached to or otherwise expressly incorporated in this Agreement or any such other agreement (as applicable);
  - (iv) subject to Section 11.2(a)(v) (Construction and Interpretation), a reference to an Article, Section, subsection, clause, Exhibit, schedule, form or appendix is to the Article, Section, subsection, clause, Exhibit, schedule, form, or appendix in or attached to this Agreement;
  - (v) reference in the main body of this Agreement, or in an Exhibit, to an Article, Section, subsection, or clause is to the Article, Section, subsection, or clause of the main body of this Agreement, or of that Exhibit (as applicable);



- (vi) a reference to a person includes such person's permitted successors and assigns;
  - (vii) a reference to a singular word includes the plural and vice versa (as the context may require) and the masculine, feminine and neuter genders shall each be deemed to include the other or others whenever the context so indicates;
  - (viii) the words "including", "includes" and "include" mean "including, without limitation", "includes, without limitation" and "include, without limitation", respectively and the word "or" is not exclusive;
  - (ix) an obligation to do something "promptly" means an obligation to do so as soon as the circumstances permit, avoiding any delay and "shall" when stated is to be considered mandatory; and
  - (x) in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including" and the words "to" and "until" mean "to and including".
- (b) This Agreement is not to be interpreted or construed against the interests of a Party merely because that Party proposed this Agreement or some provision of it, or because that Party relies on a provision of this Agreement to protect itself.

[AGREEMENT SIGNATURES APPEAR BELOW]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date first written above.

UTILITY: CROWN CASTLE FIBER LLC

Chief Executive/Operations Officer:

APPROVED AS TO FORM:

By (Signature): \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date: \_\_\_\_\_

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION:

Chief Executive Officer:

APPROVED AS TO FORM:

By (Signature): \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT 1

### Submittal Review Procedure

#### 1. REVIEWERS

Each Party will ensure that any individual undertaking Design review on that Party's behalf under this Agreement has the appropriate qualifications, capability and experience to perform the review including, where applicable to a Rearrangement or the Subject Transit Project, prior experience and expertise in the applicable Design standards which may include but not be limited to: the Utility Standards that are applicable to the Construction of a Rearrangement, Standard Specifications for Public Works Construction (SSPWC), and applicable approved amendments; Standard Plans for Public Works Construction; Highway Design Manual (AASHTO); California Manual on Uniform Traffic Control Devices (MUTCD); American National Standard Practice for Roadway Lighting Special Provisions and Standard Drawings for the Installation and Modification of Traffic Signals, including amendments, issued by the City of Los Angeles Department of Transportation; California Department of Transportation (Caltrans) Standard Plans and Standard Specifications; Caltrans Traffic Operations Policy Directives and Memos to Designer; California Building Code (IBC), as well as material, inspection, temporary works and testing standards including ACI, AISC, ASCE, ANSI, ASTM, AWS, OSHA, Caltrans Falsework Manual, Caltrans Excavation and Shoring Manual, etc. where deemed applicable by Applicable Law.

#### 2. REVIEW PROCEDURE

- 2.1 Design Plans, Specifications, and Estimate (PS&E) Submittal Reviews for Utility Rearrangements shall be classified as either "Normal" or "Reduced" submittal packages for the following Design phases: Preliminary Engineering, Design Development, Pre-Final Design and Final Design.
- 2.2 A "Normal" Submittal package includes 10 sheets or more large format drawings in a bounded plan set, not to exceed 50 sheets maximum, along with required reports. Plan sets above 50 sheets shall be divided into separate Design Submittal packages.
- 2.3 A "Reduced" Submittal package includes nine sheets or less, along with required reports.
- 2.4 The Design Review Timetable for both "Normal" and "Reduced" submittal packages is intended to facilitate the overall Design review process and to supersede the submittal/shop drawing review schedules noted in the Utility Standards, SSPWC and other referenced standards in this Agreement. Utility acknowledges that the Submittal Review Timetable applies to each Party and supersedes those provided in the Utility Standards, SSPWC, Caltrans standard specifications, and other referenced standards in this Agreement.
- 2.5 Utility and LACMTA agree to classify and to process "Normal" and "Reduced" submittal packages in accordance with the following Submittal Review Timetable:

Submittal Review Phase	Plan (PS&E) % Complete	"Normal" Submittal Review Package (days)	"Reduced" Submittal Review Package (days)
Preliminary Engineering	30%	21	14
Design Development	60%	21	14
(Pre-) Final Design	85%	14	7
Final Design	100% and AFC	7	5

- 2.6 The above Submittal Review Timetable assumes the implementation of an industry recognized electronic document control system (e2020 currently in use by the City of Los Angeles Bureau of Engineering or an equivalent document control system pre-approved by LACMTA's third party administration department) customized to track: submittals through the various Design phase milestones including the number of resubmittal iterations; customized with a standardized "Comments Tracking & Resolution Log", "cross-discipline review coordination" functionality check-box, and "Blue-Beam" plan review e-markup feature. With use of an electronic document control, hard copies are reduced to 2 large format plan sets and 6 half-size 11x17 hard copies, to be submitted within 3 days of file upload system-posted date. Start of review time shall be based on file upload system-auto-generated time and date. Depending on the Utility Representative and LACMTA Representative assigned, hard copies may be negotiated to be required solely for the final approved-for-construction (AFC) set.
- 2.7 Incomplete submittals shall not be considered as a resubmittal and shall be responded on the system within 3 days by the reviewer.
- 2.8 A submittal having been rejected as incomplete shall have the review duration reduced by 2 days. A resubmittal shall have the review times reduced by an additional 2 days progressively for each resubmittal iteration.
- 2.9 A Design as a whole shall not be segmented by work limits into more than 3 "Reduced" submittal packages for the sole purpose using "Reduced" category times.

## EXHIBIT 2

### Inspection and Acceptance Procedure

#### 1. INSPECTION DURING CONSTRUCTION

- 1.1 Each Party shall give the other Party at least five days' notice prior to commencing a Rearrangement for which it is responsible to enable such other Party to make arrangements for inspection of such work.
- 1.2 Any Construction of Rearrangements performed by LACMTA (directly or through the LACMTA Contractors) under this Agreement shall be subject to inspection and final acceptance by Utility provided that any such inspection carried out by Utility shall be solely for the purposes of assessing whether the Construction work conforms with, subject to Section 3.5 (Utility Standards) of this Agreement, the Utility Standards. Such inspection services shall be authorized by LACMTA under a Work Order issued in accordance with Section 2.2 (Work Orders) of this Agreement. If Utility inspection services are authorized under a Work Order, Utility shall:
- (a) provide inspectors at LACMTA's cost as needed to comply with the schedule for such inspections set out in the Work Order;
  - (b) cooperate and coordinate with the LACMTA Representative and the LACMTA Contractors to observe and inspect any Rearrangements so that upon completion of Construction, Utility will have a basis for acceptance of the work;
  - (c) ensure that all Utility inspectors submit copies of daily written inspection reports to LACMTA, each within 48 hours after such inspection; and
  - (d) remove and replace any inspector three days after LACMTA's reasonable written request.
- 1.3 Any Construction work performed by Utility or a Utility Contractor pursuant to a Work Order agreed under the terms of this Agreement shall be subject to LACMTA inspection and final acceptance.
- 1.4 If, in carrying out an inspection, a Party identifies Non-conforming Work, the Party must provide the other Party with immediate Notice with detailed reasons (and in any event, no later than 48 hours from discovery). The Party that performed the relevant work must rectify any Non-conforming Work.
- 1.5 Utility shall not have any inspection rights with respect to any structures or physical elements that are owned and maintained by LACMTA, a LACMTA Contractor, or a tenant or licensee of LACMTA.
- 1.6 Utility acknowledges and agrees that LACMTA may delegate its inspection and acceptance rights under this Exhibit 2 to an independent engineer appointed under the terms of any LACMTA Contract.

#### 2. ACCEPTANCE PROCEDURE

- 2.1 Promptly following completion of any Rearrangement, the Party that performed the Construction shall notify the other Party that the Rearrangement is ready for final inspection.
- 2.2 The final inspection shall be carried out within 10 days of receipt of a notice under Section 2.1 (Acceptance Procedure) and within five days of the completion of the final inspection, the inspecting Party shall notify the other Party of any Non-conforming Work. If no Notice is received, the relevant work will be deemed accepted by the inspecting Party.
- 2.3 Utility shall accept all Rearrangements that are in conformance with the Utility Standards.

**EXHIBIT 3**

**Forms**

**Part A: Form 60 (Modified for UCA)**

Name of Offeror/Contractor/Utility Company (Name of Preparer):		Scope of Work/Deliverable (provide expanded description on Form 60 page 2)			
Home office address					
Division(s) and Locations where Work is to be performed		LACMTA Solicitation/Proposal/Contract Number/Work Order/Change Notice and/or Change Order Reference Number(s):			
NOTE: For proper calculations of cost elements link additional sheets to this summary page.					
1.	<b>Direct Labor</b>	<b>Est. Hours</b>	<b>Rate Per Hour</b>	<b>Est. Cost</b>	<b>TOTAL</b>
2.		0.00	\$0.00	\$0.00	
3.		0.00	\$0.00	\$0.00	
4.		0.00	\$0.00	\$0.00	
5.	<b>TOTAL DIRECT LABOR HOURS</b>	<b>0.00</b>	<b>TOTAL DIRECT LABOR</b>	<b>\$0.00</b>	
6.	<b>Labor Overhead (O/H)</b>	<b>O/H Rate</b>	<b>x Base</b>	<b>Est. Cost</b>	
7.		0%		\$0.00	
8.	<b>TOTAL LABOR OVERHEAD</b>				<b>\$0.00</b>
9.	<b>Direct Material</b>			<b>Est. Cost</b>	
10.	<b>a. Purchase Parts</b>			\$0.00	
11.	<b>b. Subcontracted items</b>			\$0.00	
12.	<b>c. Other</b>			\$0.00	
13.	<b>TOTAL DIRECT MATERIAL</b>				<b>\$0.00</b>
14.	<b>Equipment</b>		<b>Unit Cost</b>	<b>Est. Cost</b>	
15.			\$0.00	\$0.00	
16.			\$0.00	\$0.00	
17.	<b>TOTAL EQUIPMENT</b>				<b>\$0.00</b>
18.	<b>Subcontractors*</b>			<b>Est. Cost</b>	
19.				\$0.00	
20.				\$0.00	
21.				\$0.00	
22.	<b>TOTAL SUBCONTRACTORS</b>				<b>\$0.00</b>
23.	<b>TOTAL BURDENED COST (add lines 5, 8, 13, 17 and 22)</b>				<b>\$0.00</b>
24.	<b>Other Direct Costs</b>			<b>Est. Cost</b>	
25.				\$0.00	
26.				\$0.00	
27.				\$0.00	
28.	<b>TOTAL OTHER DIRECT COSTS</b>				<b>\$0.00</b>
29.	<b>Travel</b>			<b>Est. Cost</b>	
30.	<b>a. Transportation</b>			\$0.00	
31.	<b>b. Per Diem or Subsistence</b>			\$0.00	
32.	<b>TOTAL TRAVEL</b>				<b>\$0.00</b>
33.	<b>General and Administrative Expense</b>	<b>Rate %</b>	<b>% x Line 23</b>		
34.		0%		\$0.00	
35.	<b>TOTAL GENERAL AND ADMINISTRATIVE EXPENSE</b>				<b>\$0.00</b>
36.	<b>TOTAL ESTIMATED COSTS (Total Lines 23, 28, 32 and 35)</b>				<b>\$0.00</b>

37.	<b>Profit/Fee</b>	<b>Total Labor and Overhead (line 5 + line 8)</b>	<b>Rate %</b>	<b>% x Total Labor and Overhead</b>	
38.			0%		\$0.00
39.	<b>TOTAL FEE</b>				<b>\$0.00</b>
40.	<b>TOTAL ESTIMATED PRICE (Total of Lines 36 and 39)</b>				<b>\$0.00</b>
41.	<b>Milestone /Task Number</b>	<b>Milestones/Tasks</b>	<b>Hours</b>	<b>Completion Date</b>	<b>Payment Amount</b>
42.					\$0.00
43.					\$0.00
44.					\$0.00
45.	<b>TOTAL MILESTONES/TASKS (Must equal line 40)</b>				<b>\$0.00</b>
* Attach Form 60 for all proposed subcontractors performing work under Form 60 Prime Contractor where applicable. Transfer Est. Cost to this Section.					
46.	Fill in applicable sections only				
47. Has any Agency of the United States Government, State government, local public agency or the Los Angeles County Metropolitan Transportation Authority (LACMTA) performed any review of your account or records, overhead rates and general and administrative rates in connection with any public prime contract or subcontract within the past twelve months? Yes No If yes, when? Reference Contract No.					
48.a. Agency Name/Address				48.b. Individual to contact/Telephone Number	
49. As required by LACMTA, firms not audited, as described above, shall submit financial data and calculations in sufficient detail to support all proposed direct costs and subcontractor costs.					
50. The proposal reflects our estimates and/or actual costs as of the date and by submitting this proposal, Proposer/Consultant grants to LACMTA Contracting Officer and authorized representative(s) the right to examine, at any time before award, those records, which include books, documents, accounting procedures and practices, and other supporting data, regardless of type and form or whether such supporting information is specifically referenced or included in the proposal as the basis for pricing, that will permit an adequate evaluation of such cost or pricing data, along with the computations and projections used therein, for the purpose of verifying the cost or pricing data submitted. This right may also be exercised in connection with any negotiations/discussions prior to contract award or execution of contract modification.					
51. CERTIFICATE					
The labor rates and overhead costs are current and other estimated costs have been determined by generally accepted accounting principles. Proposer/Consultant represents: (a) that it has , has not , employed or retained any company or person (other than a full time bona fide employee working solely for the Proposer/Consultant) to solicit or secure a contract, and (b) that it has , has not , paid or agreed to pay to any company or person (other than a full time bona fide employee working solely for the Proposer/Consultant) any fee, commission, percentage or brokerage fee, contingent upon or resulting from the award of this contract, and agrees to information relating to (a) and (b) above, as requested by the Contracting Officer.					
52. CERTIFICATE OF CURRENT COST OR PRICING DATA					
This is to certify that, to the best of my knowledge and belief, the cost or pricing data (as defined in Section 2.101 of the Federal Acquisition Regulations (FAR) and required under subsection 15.403-4) submitted, either actually or by specific identification in writing, to LACMTA's Contracting Officer or to LACMTA's Contracting Officer's representative in support of _____* are accurate, complete and current as of _____**. This certification includes the cost or pricing data supporting any advance agreements and forward pricing rate agreements between the Proposer/Consultant/Contractor and LACMTA that are a part of the proposal.					
53. This proposal as submitted represents our best estimates and/or actual costs as of this date.					
54. Type Name and Title of Authorized Representative				Signature	Date***
55.	* Identify the proposal, quotation, request for price adjustment, or other submission involved, giving appropriate identifying number (e.g. Information For Bid No., Work Order No., Request for Proposal No., Change Order No., Modification No., etc.)				

56.		** Insert the day, month and year when price negotiations were concluded and price agreement was reached.
57.		*** Insert the day, month and year of signing (i.e., When price negotiations were concluded and mutual agreement was reached on contract price).
Form 60 Attachments (Applicable if Box is checked)		
Scope of Work Expanded Description for which Cost Estimate is based on:		
1		
2		
3		
4		
Schedule in which Scope of Work is based on:		
1		
2		
3		
4		
Track Allocation Request for Metro active rail right-of-way encroachment is anticipated per stated Scope of Work. The following information is provided in advance to facilitate final Metro TAR approval:		
1		
2		
3		
4		
FORM 60 IS SIGNED AND EXECUTED WITH THE FOLLOWING ADDITIONAL ASSUMPTIONS:		

Below, list all of Utility's Authorized Personnel (as defined in the Non-Disclosure Agreement (NDA) set out in Part B of Exhibit 3 to the Utility Cooperative Agreement (UCA)) and Affiliates with executive-level involvement and decision making, provide name, Utility, job title, and relation to Utility.

Authorized Personnel			
Name	Utility (or Affiliates)	Title	Relation to Utility



**Part B: Form of LACMTA-Utility Non-Disclosure Agreement**

**Non-Disclosure and Confidentiality Agreement – [Insert name of applicable Transit Project]**

This Non-Disclosure and Confidentiality Agreement ("**Agreement**") is made effective as \_\_\_\_\_, 20\_\_ (the "**Effective Date**") by and between Crown Castle Fiber LLC, and the Los Angeles County Metropolitan Transportation Authority ("**LACMTA**"), (each a "**Party**" and collectively the "**Parties**").

**RECITALS**

- (C) The Parties have entered into an Utility Cooperative Agreement between Utility and LACMTA dated \_\_\_\_\_, 20\_\_ (the "**UCA**") to agree the rights and obligations of the Parties in connection with the rearrangement of portions of Utility's facilities as may be required as part of the design, construction, operation and maintenance of LACMTA's proposed transit projects.
- (D) LACMTA may share certain Information relating to [insert name of relevant Transit Project] with Utility for the limited purpose of carrying out its obligations as described in the UCA (the "**Purpose**"). As contemplated by the UCA, the Parties wish to enter into this Agreement to record their rights and obligations with respect to the Information as are necessary to preserve the confidentiality of such Information.

NOW THEREFORE, the Parties hereby agree to the following:

**AGREEMENT**

**3. DEFINITION OF INFORMATION AND SSI**

Materials and information including indicative and draft drawings or design specifications ("**Information**") may be released by LACMTA to Utility in connection with the Purpose. All or part of the Information may be designated as Security Sensitive Information ("**SSI**") and confidential information or may be exempt from disclosure to the public or other unauthorized persons as provided under 49 CFR 1520.5(a) and/or California Government Code sec. 6254.

**4. NON-DISCLOSURE/USE OF INFORMATION**

4.1 The terms of this Section 2 are subject to Section 5 below.

4.2 Utility agrees to preserve the confidentiality of the Information, and shall not use it or permit it to be accessed or used, except for the Purpose as stated in this Agreement. Utility will take all reasonable and necessary steps to protect the Information and prevent disclosure of the Information to any unauthorized person. Any disclosure of the Information that is deemed necessary in connection with the Purpose shall be in accordance with the terms and conditions of this Agreement.

4.3 Utility shall protect the Information by using the same degree of care, but no less than a reasonable degree of care, that it uses to protect its own confidential information of a like nature to prevent its unauthorized use, dissemination or publication to any unauthorized person.

4.4 Utility shall manage, store, and use Information which is disclosed in a digital or electronic format in a secure platform (including password protection, encryption, and/or utilizing cyber-secured storage that prevents use and access by any persons not authorized to use/access such Information pursuant to the terms of this Agreement). Utility agrees that it will not copy, install or load any Information onto any platform that is connected to an internal or external system network, or to the internet, unless Utility has demonstrated to the satisfaction of LACMTA that the Information is protected with appropriate security protocols that ensure the security of the Information.

- 4.5 Utility shall not disclose or cause to be disclosed any Information to anyone, except to Utility's designated employees, agents, representatives, contractors, subcontractors, advisors or consultants who ("**Authorized Personnel**") (a) require direct access to the Information to assist Utility, or act on its behalf, in relation to the Purpose as stated in this Agreement; (b) are informed by Utility of the confidential nature of the Information and of the terms of this Agreement; and (c) have executed an acknowledgement of the terms of this Agreement in the form attached as Attachment A ("**Acknowledgement of Authorized Personnel**"). Upon request by LACMTA, Utility shall provide copies of each executed Acknowledgement of Authorized Personnel to LACMTA.
- 4.6 Utility shall be responsible for any act and/or omission of any Authorized Personnel in breach of this Agreement. If Utility becomes aware of any breach of the terms of this Agreement including, without limitation, that Information has been used or disclosed to a person other than the Authorized Personnel in violation of this Agreement, Utility shall: (a) give LACMTA notice of the use or disclosure within one business day of Utility's knowledge of the breach; (b) take all reasonable steps to recover the Information; and (c) obtain agreement by the person that received the Information that it will not disclose the Information to other person and will protect the Information from further disclosure.
- 4.7 If, upon receipt of the Information, Utility or any of its Authorized Personnel recognize that it/they (respectively) are competitors of LACMTA's consultant, contractor, or other third party provider that has developed the Information, Utility shall immediately give written notice to LACMTA of this fact and shall not open, or otherwise take any action that may permit the Information to be used by Utility or its Authorized Personnel before LACMTA has an opportunity to resolve any potential conflicts regarding use of the Information by Utility and/or Authorized Personnel (as applicable).
- 4.8 Utility shall be permitted to make copies of the Information solely as necessary to carry out the Purpose, which shall be protected in the same manner as the original Information and shall be subject to Section 3.2 and the other terms of this Agreement.

## 5. **OWNERSHIP AND RETURN/DESTRUCTION OF INFORMATION**

- 5.1 All Information disclosed by LACMTA under this Agreement is and shall remain the property of LACMTA and may be recalled by LACMTA at any time.
- 5.2 Subject to Section 5 below, upon receipt of a written request from LACMTA, or upon termination of this Agreement, Utility must: (a) promptly collect all copies of the Information in the possession or control of Utility and its Authorized Personnel, and deliver to LACMTA all of the Information, including all copies, reproductions, and facsimiles, within 10 days from receipt of a request to that effect; or (b) if specified in LACMTA's request, destroy the Information (or part of it) and provide LACMTA written certification of such destruction within 10 days from receipt of the request to that effect. The return or destruction of any Information shall not release Utility from its obligations under this Agreement.
- 5.3 Utility shall not be required to return Information that is subject to a pending Legal Compulsion pursuant to applicable law as contemplated in Section 5.

## 6. **MARKING OF INFORMATION**

Information shall be marked "Confidential" and/or "SSI". Notwithstanding the foregoing, failure to mark any Information as Confidential or SSI shall not exclude any Information from the protection of the terms and conditions in this Agreement.

## 7. **LEGAL COMPULSION; DUTY TO SEEK PROTECTION**

If Utility (including its Authorized Personnel) is served with a subpoena, administrative or court order, or other legal process ("**Legal Compulsion**") that requires Utility to produce or provide Information (or any part of it)

supplied by LACMTA to Utility, Utility shall, unless prohibited by the terms of the Legal Compulsion, immediately provide LACMTA with a copy of the Legal Compulsion, so that LACMTA may seek a protective order or other appropriate remedy to excuse Utility from compliance therewith before the time specified for Utility's compliance. In the event that: (a) Utility must immediately comply with a court order or other Legal Compulsion; (b) a protective order or other remedy is not obtained by LACMTA; or (c) LACMTA notifies Utility in writing that it does not intend to seek a protective order or other remedy or expressly waives compliance with the terms of this Section 5 in writing, Utility will furnish only that portion of the Information which is legally required and will exercise its best efforts to obtain assurance that Information will be treated as confidential. Upon receipt of notice of a Legal Compulsion, LACMTA shall have the right to demand the return of any copies of the Information provided to Utility.

8. **NO LICENSE, RIGHTS TO INTELLECTUAL PROPERTY**

Nothing in this Agreement shall be construed as a permit or license, or a grant of any right by LACMTA to Utility to use the Information disclosed by LACMTA to Utility or its Authorized Personnel for any purpose other than the Purpose as specifically stated in this Agreement and in accordance with the terms and conditions of this Agreement. This Agreement will not be construed in any manner to be an obligation to enter into any subsequent arrangements. This Section 6 shall survive the termination or expiration of this Agreement.

9. **NO WARRANTY**

Information is provided "as-is" and LACMTA makes no representation or warranty of any kind, express or implied, with respect to the suitability, accuracy or non-infringement of third party rights.

10. **NOTICE OF IMMUNITY UNDER THE DEFEND TRADE SECRETS ACT**

Utility warrants that it will provide each of its Authorized Personnel written notice that the Defend Trade Secrets Act, 18 U.S.C. § 1833(b) provides an immunity for the disclosure of a trade secret to report a suspected violation of law and/or in an anti-retaliation lawsuit, prior to granting them access to Information, as follows:

- (a) Immunity. An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that is made: (i) (A) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (B) solely for the purpose of report or investigating a suspected violation of law; or (ii) in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.
- (b) Use of Trade Secret Information in Anti-Retaliation Lawsuit. An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the individual's attorney and use the trade secret information in the court proceeding, if the individual: (i) files any document containing the trade secret under seal; and (ii) does not disclose the trade secret, except pursuant to court order.

11. **RESTRICTIONS ON RELEASE OF INFORMATION**

With regard to Information disclosed by LACMTA, such Information may constitute public records that are exempt from release under the California Public Records Act (California Government Code sec. 6250 et seq.) and shall not be deemed releasable to any third party under the terms of this Agreement. Therefore, Utility shall not release any LACMTA Information to any third party not covered by the terms of this Agreement.

12. **REMEDIES**

Utility acknowledges that damages for improper disclosure of Information may be irreparable; therefore, LACMTA may enforce its rights under this Agreement by any and all available remedies, including, without

limitation, equitable relief including a temporary restraining order, or preliminary or permanent injunction for any violation or threatened violation of this Agreement by Utility, any Authorized Personnel or any other person that has received or obtained access to the Information.

13. **INDEMNITY**

Utility shall defend, indemnify and hold harmless LACMTA and its respective affiliates, officers, directors, members, shareholders, employees, agents, representatives, assigns, and successors from and against all liabilities, expenses (including reasonable attorneys' fees and costs), claims, losses, suits, and actions of any kind, and for damages of any nature arising from or in any way connected with (a) the use, misuse, receipt or disclosure of the Information; or (b) a breach by Utility or any of its Authorized Personnel, employees, agents, representatives, contractors, or subcontractors of any obligations arising pursuant to this Agreement.

14. **TERM AND TERMINATION; CONTINUING OBLIGATIONS**

14.1 The term of this Agreement shall commence on the Effective Date and shall terminate on the date falling [three] years after the Effective Date, unless earlier terminated or extended by mutual written agreement of the Parties (the "**Term**"). Each Party's rights and obligations under this Agreement, including without limitation with respect to trade secrets and confidentiality obligations, will survive the expiration or termination of this Agreement, and such rights and obligations shall endure perpetually.

14.2 Upon expiration or termination of this Agreement, Utility shall return and/or destroy Information in accordance with Section 3.2.

15. **GENERAL**

15.1 Notices. All notices concerning this Agreement shall be delivered in the manner prescribed in the UCA.

15.2 Amendments. This Agreement may not be modified or terminated orally or in any manner other than by an agreement in writing signed by the Parties or their respective successors in interest.

15.3 Severability. If: (a) any provision of this Agreement is held by a court of competent jurisdiction as to be invalid, void or unenforceable; and (b) the invalidity or unenforceability of such a provision does not deny a Party the material benefit of this Agreement, then the remainder of this Agreement which can be given effect without the invalid provision shall continue in full force and effect and shall in no way be impaired or invalidated.

15.4 No Agency. Nothing in this Agreement shall be construed to render either Party an agent, employee, representative, joint venturer or partner of the other Party.

15.5 No Assignment. A Party cannot assign, novate, or otherwise transfer any of its rights or obligations under this Agreement without the prior consent of the other Party. However, the assignment, transfer or delegation of the rights and obligations of Utility hereunder to Utility's financially viable parent, subsidiary, successor, or affiliate under common control shall not require consent and shall be effective upon written notice to LACMTA.

15.6 Governing Law and Application. This Agreement will be governed and construed and enforced in accordance with the laws of the State of California. Any dispute arising in connection with this Agreement shall be submitted only to a state court of competent jurisdiction in the Central District of the Superior Court in the County of Los Angeles, to whose jurisdiction the Parties consent.

15.7 Costs and Expenses. Unless expressly stated otherwise, each Party shall bear its own costs and expenses (including, without limitation, any attorneys' fees and costs) incurred in complying with this Agreement.

15.8 Representation on Authority of Parties/Signatories. Each Party represents and warrants that the person signing this Agreement on its behalf is duly authorized and has legal capacity to execute and deliver this Agreement. Each Party represents and warrants to the other that the execution and delivery of the Agreement

and the performance of such Party's obligations under this Agreement have been duly authorized and that the Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms.

- 15.9 No Waiver. No failure or delay of a Party to exercise any of its rights under this Agreement or the waiver by a Party of any condition for its benefit shall constitute a waiver of any other or further right nor shall any single or partial exercise of any right preclude other or further exercise thereof or any other right. The waiver of any breach of this Agreement shall not be deemed to be waiver of any other or any subsequent breach.
- 15.10 Counterparts and Signatures. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement. Handwritten signatures to this Agreement transmitted by telecopy or electronic transmission (for example, through use of a Portable Document Format or "PDF" file) shall be valid and effective to bind the Party so signing. Each Party agrees to promptly deliver to the other Party an executed original of this Agreement with its actual signature, but a failure to do so shall not affect the enforceability of this Agreement, it being expressly agreed that each Party to this Agreement shall be bound by its own telecopied or electronically transmitted handwritten signature and shall accept the telecopied or electronically transmitted handwritten signature of the other Party to this Agreement.

[SIGNATURES ON NEXT PAGE]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the Effective Date.

UTILITY: CROWN CASTLE FIBER LLC

Chief Executive/Operations Officer:

APPROVED AS TO FORM:

By (Signature): \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date: \_\_\_\_\_

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION:

Chief Program Management Officer:

APPROVED AS TO FORM:

By (Signature): \_\_\_\_\_

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_

Print Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Date: \_\_\_\_\_

**Attachment A**

**Acknowledgement of Authorized Personnel**

I, \_\_\_\_\_ (enter full name) ("**Authorized Personnel**"), am engaged as a \_\_\_\_\_ (enter role e.g. employee, consultant, advisor) of [●] (the "**Utility**").

I have been provided with and have read the Non-Disclosure and Confidentiality Agreement between Utility and the Los Angeles County Metropolitan Transportation Authority dated \_\_\_\_\_, \_\_\_\_\_ (the "**NDA**").

I understand that as an Authorized Personnel, I am being provided with access to the Information for the Purpose described in the NDA, as such terms are defined in the NDA and acknowledge that I am required to comply with the terms and conditions contained in the NDA.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Part C: LACMTA "NOTICE OF POTENTIAL BETTERMENT" FORM**

Word file of the latest version of this form is available upon request from LACMTA's assigned Third Party Administration (TPA) Representative.

Alternatively, a written memorandum on Utility's letterhead may be submitted to the TPA Representative with the following required information:

1. Scope: Describe in detail with reference to applicable sections of this Utility Cooperative Agreement, Utility Standards, and Applicable Law including any relevant codes.

Note the following common reasons for denial:

- (a) Scope is not per agreed Utility Standard or a legal requirement.
- (b) Scope added after establishment of Basis of Design.
- (c) Scope is not endorsed by LACMTA as a Transit Project requirement.
- (d) Scope is not identified in the EIR or amendments

2. Detailed Justification: Why does Utility believe the scope is not a Betterment? Cite specific prior cases, exceptions under Applicable Law including any relevant codes, project-specific reasons, etc.
3. Cost Estimate: Use Form 60 to provide a detailed cost breakdown as proposed for the Betterment in question.
4. Where Utility Agrees Scope is a Betterment and Provides Separate Funding: the source of funds must be specified, Utility approved financial documents supporting validity and timing of funds must be provided, and a determination regarding whether Utility will commit to provide adequate front funding for cash-flow must be made.
5. Signatures: The form shall provide a signature block with two signatures from Utility Representatives, agreeing to the information provided.
6. LACMTA Signatures: The form signature block area shall provide for LACMTA to countersign with two LACMTA Representative signatures with checkboxes indicating whether the Betterment proposal is denied or approved.



## EXHIBIT 4

### Federal and Other Requirements

This Agreement, as to certain Transit Projects as notified by LACMTA under Section 2.6 (Governmental and Lender Requirements) of this Agreement, may be subject to a financial assistance agreement with the U.S. Department of Transportation, Federal Transit Administration, and as such is subject to the following terms and conditions and such other terms and conditions notified by LACMTA under Section 2.6 (Governmental and Lender Requirements) of this Agreement as to such Transit Projects only:

#### 1. AUDIT AND INSPECTION

1.1 Utility shall comply with all financial record keeping, reporting and such other requirements as may be imposed as a condition to or requirement of funding obtained by LACMTA from third parties (provided that LACMTA gives reasonable notice of such requirements to Utility). Utility shall permit the authorized representatives of LACMTA, the U.S. Department of Transportation, the Comptroller General of the United States, any other government agency, and/or financial institution providing funding or oversight on a Subject Transit Project to inspect, audit and copy, during normal business hours and upon reasonable notice, all cost and other relevant records relating to performance by Utility, its contractors and subcontractors under any Work Order issued to Utility for a Subject Transit Project or Rearrangements, from the date of this Agreement through and until not less than three years after the date of termination or expiration of this Agreement, except:

(a) in the event of litigation or settlement of claims arising from performance of this Agreement, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto; and

(b) such later date as is required by the rules and regulations of any such government agency or financial institution (provided LACMTA gives reasonable notice of such later date to Utility).

1.2 Examination of a document or record on one occasion shall not preclude further examination of such document or record on subsequent occasions. By providing any of its records for examination pursuant to this Exhibit 4, Utility represents and warrants that such records are accurate and complete. Utility further agrees to permit the Federal Transit Administration and its contractors access to sites of performance under this Agreement as may be reasonably required. Utility shall insert into any contracts it enters into for the performance of work hereunder the above requirements and also a clause requiring the contractors (or consultants) to include the above requirements in any subcontracts or purchase orders. In the case of such contractors, consultants, subcontractors and suppliers, any records subject to the above requirements shall include, without limitation, any relevant records as to which a tax privilege might otherwise be asserted.

#### 2. INTEREST OF MEMBERS OF CONGRESS

No members of or delegates to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

#### 3. PROHIBITED INTERESTS

No member, officer or employee of LACMTA, or of a local public body, during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. To LACMTA's and Utility's knowledge, no board member, officer or employee of LACMTA has any interest, whether contractual, non-contractual, financial or otherwise in this transaction, or in the business of Utility; and if any such interest comes to the knowledge of either Party at any time, a full and complete disclosure of all such information will be made in writing to the other Party, even if such interest would not be considered a conflict under Article 4 of Division 4 (commencing with Section 1090) or Division 4.5 (commencing with Section 3690) of the Government Code of the State of California.

4. **EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the performance of this Agreement, the Parties shall not discriminate against any employee or applicant for employment because of age, race, religion, color, sex, sexual orientation, national origin or disability. The Parties shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their age, race, religion, color, sex, sexual orientation, national origin, or disability. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

5. **DISADVANTAGED BUSINESS ENTERPRISE**

In connection with the performance of this Agreement, Utility will cooperate with LACMTA in meeting all applicable federal regulations with regard to the maximum utilization of disadvantaged business enterprises, and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this Agreement.

6. **PRIOR APPROVAL**

This Agreement and all amendments thereto are subject to U.S. Department of Transportation, Federal Transit Administration review and approval.

7. **NON-DISCRIMINATION**

Without limiting any other provision of this Exhibit 4, Utility agrees to comply, and to cause all of its Utility Contractors who work on Transit Projects subject to this Agreement to comply, with all Applicable Law relating to non-discrimination whether imposed by federal, state or local authority.

8. **BUY AMERICA**

If Utility performs any Construction work under a Work Order, Utility must comply with 49 U.S.C. 5323(j) and 49 CFR Part 661 et seq., which provide that federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. If Utility performs any Construction work under a Work Order, Utility shall incorporate the Buy America conditions set out in this Section 8 in every contract or purchase order entered into with a Utility Contractor in respect of such Construction work and shall enforce such conditions.



## Board Report

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File #: 2022-0507, File Type: Project

Agenda Number: 26.

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### CONSTRUCTION COMMITTEE SEPTEMBER 15, 2022

**SUBJECT: METRO G-LINE WATER INFILTRATION AND QUALITY PROJECT**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATION**

CONSIDER:

- A. ADOPTING the Final Initial Study/ Mitigated Negative Declaration (IS/MND), and the recommended Mitigation Monitoring and Reporting Program (MMRP), pursuant to the California Environmental Quality Act (CEQA); and
- B. AUTHORIZING the Chief Executive Officer or her designee to file a CEQA Notice of Determination (NOD) for the Project with the Los Angeles County Clerk and State of California Clearinghouse.

#### **ISSUE**

Metro staff have completed all necessary steps for the Board to adopt the Final IS/MND and MMRP in compliance with CEQA for the Metro G Line (Orange) Water Infiltration and Quality Project (Project). As CEQA Lead Agency for the Project, Metro must complete the CEQA environmental review process to receive grant funding for construction and proceed with construction activities.

#### **BACKGROUND**

The Metro G Line (Orange) Water Infiltration and Quality Project proposes to divert stormwater runoff from the surface, and existing regional storm drains to a network of infiltration drywells across seven locations within Metro properties and along the G Line right-of-way. The infrastructure would include pretreatment facilities to capture, treat, and infiltrate stormwater runoff from over 2,300 acres of drainage area, recharging the San Fernando Valley Groundwater Basin in the Upper Los Angeles River watershed. The Project would also reduce surface water pollution, improve surface water quality at downstream receiving waters (Los Angeles River), and reduce the risk of localized flooding by mitigating peak flow rates.

The Project will be designed and constructed in conjunction with the Metro G Line Bus Rapid Transit

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(BRT) Improvements Project. On August 25, 2022, the LACMTA Board of Directors awarded a firm fixed price contract for Phase 1 Preconstruction Services of the Progressive Design-Build contract and established a Preconstruction Phase-of-Project Budget for the Metro G Line BRT Improvements Project. These related projects have been assessed separately under CEQA, as each has substantial utility irrespective of the other's approval (i.e. each project has independent utility and logical termini).

Los Angeles County voters approved Measure W in November 2018, establishing the Safe, Clean Water (SCW) Program and its funding source via a special parcel tax. This innovative new program managed by the Los Angeles County Flood Control District, provides local, dedicated funding to increase Los Angeles County's local water supply, improve water quality, and enhance communities. The Program generates up to \$285 million each year to fund multi-benefit stormwater and urban runoff capture projects, which is distributed across nine different Watershed Areas.

On September 15, 2021, the Los Angeles County Board of Supervisors approved funding for the Project as one of the recipients of the SCW Program's Regional Program funding, beginning in FY 2021-22. The SCW Program grant will provide \$34,515,458 of the \$45.6M total project cost, which includes design, construction, and 30 years of operations and maintenance funding. Recognizing the groundwater supply and water quality improvements resulting from this project, the LADWP has agreed to enter a cost sharing agreement with Metro to contribute the remaining \$11,088,000 in funding required for the Project. This strategic partnership and collaboration between Los Angeles County, LADWP, and LACMTA will provide cost effective regional water supply and quality benefits to the region, while delivering world-class transportation infrastructure.

On January 27, 2022, the LACMTA Board of Directors authorized the CEO or her designee to execute the terms and conditions of the SCW Program grant and to negotiate and execute the terms and conditions of a cost sharing agreement with the LADWP. Since that time, Metro has received a \$1.6M disbursement of SCW Program funding for Project planning and design.

As a term of the SCW Program grant, Metro is the Lead Agency regarding compliance with CEQA for the funded infrastructure project. SCW Program construction funds cannot be disbursed until Metro has documented its compliance with CEQA.

The purpose of the Mitigation Monitoring and Reporting Plan (MMRP) is to ensure that the mitigation measures identified in the Final IS/MND that mitigate the potentially significant environmental effects of the Project are, in fact, properly carried out. Metro is responsible for assuring full compliance with the provisions of the MMRP.

## **DISCUSSION**

Metro, as the CEQA Lead Agency and Project proponent, has completed an Initial Study/ Mitigated Negative Declaration (IS/MND) for the proposed Project. If the Metro Board adopts the Final IS/MND, the Project will be eligible to receive SCW Program construction funds and commence construction activities.

Metro began the environmental planning process in November 2021. Metro released the Draft IS/MND for a 30-day public review and comment period, which commenced on June 21, 2022. Metro

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has reviewed and evaluated the comments received on the Draft IS/MND and prepared written responses to all comments included in the Final IS/MND. Metro provided outreach to the community by providing email notifications to community stakeholders in the G Line project's database. The Public Review and Comment period was also advertised in both local English and Spanish language local newspapers.

All public comments have been received, addressed, and incorporated in the Final IS/MND document. The comments received do not trigger any recirculation as required by CEQA Guidelines Section 15073.5, nor do they question Metro's determination that an MND is the appropriate CEQA compliance document for the proposed Project.

The Final IS/MND document includes information on impacts that will not exceed the threshold of significance with the adoption of mitigation measures. Metro will commit to ensuring that the mitigation measures identified in the Final IS/MND document are implemented during project implementation. State CEQA Guidelines Section 15097 requires that when a public agency completes an environmental document that includes measures to mitigate or avoid significant environmental effects, the public agency must adopt a reporting or monitoring program for the changes to the project which it has adopted or made a condition of project approval to mitigate or avoid significant effects on the environment. The reporting or monitoring program must be designed to ensure compliance during the project's implementation.

The Mitigation Monitoring and Reporting Program (MMRP) attached to the Final IS/MND documents the committed mitigation measures. During project implementation, Metro staff will keep track of the environmental commitments per the Final IS/MND and MMRP.

### **FINANCIAL IMPACT**

There is no impact to the FY23 budget as a result of this item. Metro has already received \$1.6M in SCW Program funding for planning and design. Metro must comply with CEQA to receive the remainder of the SCW Program grant and LADWP funding for construction. The Project will be fully funded through the SCW Program grant and LADWP cost-share.

### **EQUITY PLATFORM**

Eighty-nine percent (89%) of the Project's direct benefit (drainage area) area is located within the 2022 equity-focused communities (EFCs) and 90% is within disadvantaged communities (DAC) or severely DACs, as defined by the California Utilities Commission Water Code Section 79505.5. The Project indirectly provides a local and more affordable supply of clean water to local residents, reduces environmental hazards to the community by reducing water pollution, both at the surface and in regional water sources and increases the community's wellbeing by mitigating localized nuisance flooding.

The CEQA analysis determined that the Project impacts will not exceed the threshold of significance with the adoption of mitigation measures. Impacts are less than significant with mitigation incorporated for the following resource areas: Biological Resources, Cultural Resources,

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Paleontological Resources, Hazards & Hazardous Materials, Noise/ Vibration, and Tribal Cultural Resources. Metro engaged the community during the 30-day public review and comment period and received 24 comments from a total of three comment letters. All comments received were incorporated into the Final IS/MND. Metro is committed to ensuring that the mitigation measures identified in the Final IS/MND document are implemented during the design and construction process. Metro will adopt a Mitigation Monitoring and Reporting Program (MMRP) and will be responsible to keep track of the environmental commitment per the Final IS/MND and MMRP during project implementation.

Those living, working, visiting, and passing by the Project will be kept informed about Project developments through an Engagement Plan developed by Metro Community Relations in coordination with the Metro G Line BRT Improvements Project. This Plan will include a variety of briefings, presentations, community meetings, digital media, media relations, paid media buys consisting of print and radio media, and the dissemination of a notice via door-to-door distribution to the local stakeholders in the project corridor. Information and signage will be developed to educate the public on the infiltration system, water supply and quality benefits provided to the surrounding communities.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The Metro G Line (Orange) Water Infiltration and Quality Project supports the implementation of Metro's Strategic Plan Goals, with specific alignment to Initiative 5.2 - Exercise good public policy judgment and sound fiscal stewardship. The implementation of this project will support these strategic goals by: 1) Supporting compliance with State and local water regulations; 2) Delivering water supply benefits through water capture and infiltration, with the potential to make Metro Net Water Positive; 3) Improving surface water quality downstream of the project area, and; 4) Increasing community wellbeing by mitigating localized nuisance flooding.

The project will also support the achievement of Metro's Sustainability Strategic Plan Water Target #2 - Increase runoff infiltration and capture capacity for stormwater by 15% from 2020 baseline levels.

### **NEXT STEPS**

Upon Board certification of the Final IS/MND, staff will file a Notice of Determination with the State of California and Los Angeles County.

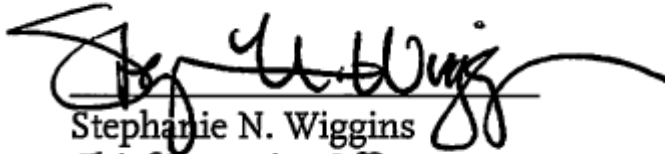
### **ATTACHMENTS**

Attachment A - Final IS/MND

Melissa Levitt, Principal Environmental Specialist, (213) 265-0774  
Tom Kefalas, Executive Officer, (213) 418-3370

Reviewed by:

Bryan Pennington, Chief Program Management Officer, (213) 922-7449



Stephanie N. Wiggins  
Chief Executive Officer



## Board Report

File #: 2022-0519, File Type: Informational Report

Agenda Number: 27.

### CONSTRUCTION COMMITTEE SEPTEMBER 15, 2022

**SUBJECT: LOS ANGELES CONSTRUCTION MARKET ANALYSIS- 2022 UPDATE**

**ACTION: RECEIVE AND FILE**

#### **RECOMMENDATION**

RECEIVE AND FILE the Los Angeles Construction Market Analysis 2022 Update.

#### **ISSUE**

Since the passage of Measure M, the construction industry has experienced significant challenges related to the cost and availability of labor and materials. The COVID-19 pandemic has exacerbated these issues, creating extreme volatility and implications regarding Metro's ability to deliver an ambitious capital program.

#### **BACKGROUND**

In August 2021, Metro published the 2021 Construction Market Analysis. Since the 2021 report, Metro staff have regularly presented construction market updates on inflation, material prices, bid prices, labor and employment, outlook, and trends. This status report provides updates on the construction market through the second quarter of calendar year 2022.

#### **DISCUSSION**

**Inflation** - Based on the latest U.S. Department of Labor's Bureau of Labor Statistics (BLS), inflation has climbed to 9.1% compared to a year ago. This is the highest inflation rate in the last 40 years. In previous updates, construction inflation has increased at a faster rate than consumer inflation, but now consumer inflation has caught up with the pace of construction inflation nationally. However, construction inflation in California (based on ENR's Building Cost Index for Los Angeles and San Francisco) is still trending higher than both national consumer and construction inflation

**Materials Prices** - While material prices have had wild swings over the past year, such as steel and lumber, most construction materials are beginning to stabilize. For example, steel, aluminum and copper/brass, products have all decreased in the past month. On the other hand, diesel fuel has skyrocketed over 100% within the past year due to increased demand and Russia's invasion of



Ukraine.

Nevertheless, construction materials are still expected to see volatility and supply-chain issues over the next few months, but prices are not anticipated to have long-term increases. With high interest rates and a potential recession looming, prices will likely experience a downswing for most construction material prices in 2023, according to Engineering News-Record 2022 Second Quarterly Cost Report.

**Bid Prices and Construction Costs** - Both nonresidential construction inputs (the cost of construction) and producer price index (bid prices) from BLS have continued in an upward trend this past quarter. Within the past year, the cost of construction has increased by 16%, primarily due to the volatility in material prices. Similarly, bid prices rose 18% over the past year to compensate for the volatility. Bid prices will likely remain high as the construction industry has been competitive in labor compensation to attract and retain skilled labor workers.

**Labor and Employment.** - Construction labor rates are increasing due to a 50% drop in construction unemployment over the past year from 7.5% in 2021 to 3.7% in 2022. According to the Association of General Contractors, the construction industry's 3.7% unemployment rate is at its lowest point in the data's 23-year history. The demand for construction is outpacing the supply of workers. The number of construction-industry job openings at the end of May 2022 was 466,000, a 39% increase from the previous month. Yet, the number of unemployed construction workers looking for work is down 47% from last year, suggesting there are very few experienced job seekers in the construction industry.

**Outlook and Trends** - There are positive signs, with a 6% increase in construction starts in the past year and a 13% jump in heavy civil construction within the past month. The Infrastructure Investment and Jobs Act is also growing the pipeline of projects as bellwether indicators, such as the Dodge Momentum Index, forecast strong future construction demand.

Concerns over high interest rates and a potential recession could temper this and reduce the demand for construction. The dwindling number of skilled workers also continues to plague the construction industry. In industry surveys, contractors also forecast a declining market through the end of 2023.

With mixed market signals, the construction industry is at a crossroads and facing many uncertainties in the broader U.S economy. Despite this, the construction industry continues to be a "contractors" market for the time being. This will depend on the Federal Reserve's response to inflation and interest rate, and the level of economic impact from any future waves of COVID-19 variants.

## **EQUITY PLATFORM**

The proposed action is a receive and file update to the Los Angeles Market Construction Analysis 2022 update. The analysis aims to highlight the factors influencing construction bid prices and Metro's ability to deliver the transportation construction program. As part of the original analysis, there was a review of the economic impacts, especially from the pandemic, and found it has manifested differently across workers, businesses, and industries, with small businesses in nonessential industries experiencing the most economic distress, and women and minorities being

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disproportionally affected. With mixed market signals, the construction industry is facing uncertainties in the broader U.S economy and in the wake of the COVID-19 pandemic. Metro's project labor agreement, construction careers and local hire policies are important to mitigate the impacts to marginalized communities. These policies assist equity focus communities and offer career opportunities through apprenticeships and pre-apprenticeships.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendation supports Strategic Plan Goal #1 - Provide high-quality mobility options that enable people to spend less time traveling. This will be accomplished by planning and delivering multiple capital projects on time and on budget.

### **NEXT STEPS**

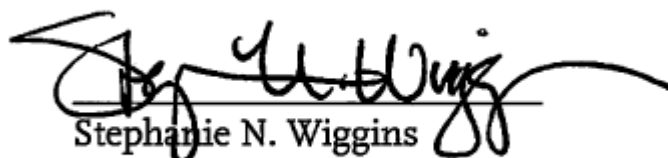
Metro's Program Management department will continue monitoring market conditions, construction trends, and bid results to help produce realistic project budgets and cost estimates that align with the construction industry.

### **ATTACHMENTS**

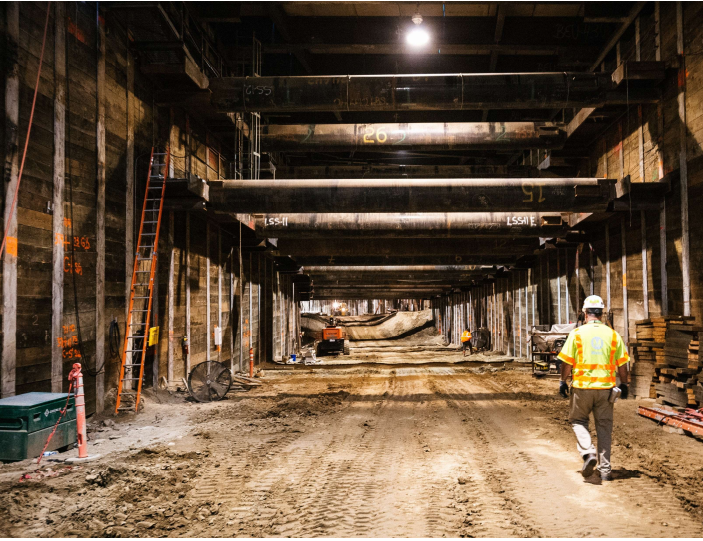
Attachment A - Metro Construction Market Analysis 2022 Update

Prepared by: Julie Owen, Senior Executive Officer, (213) 922-7313

Reviewed by: Bryan Pennington, Chief Program Management Officer (213) 922-7449  
Sharon Gookin, Deputy Chief Executive Officer (213) 418-3101



Stephanie N. Wiggins  
Chief Executive Officer



# CONSTRUCTION MARKET ANALYSIS



Metro™

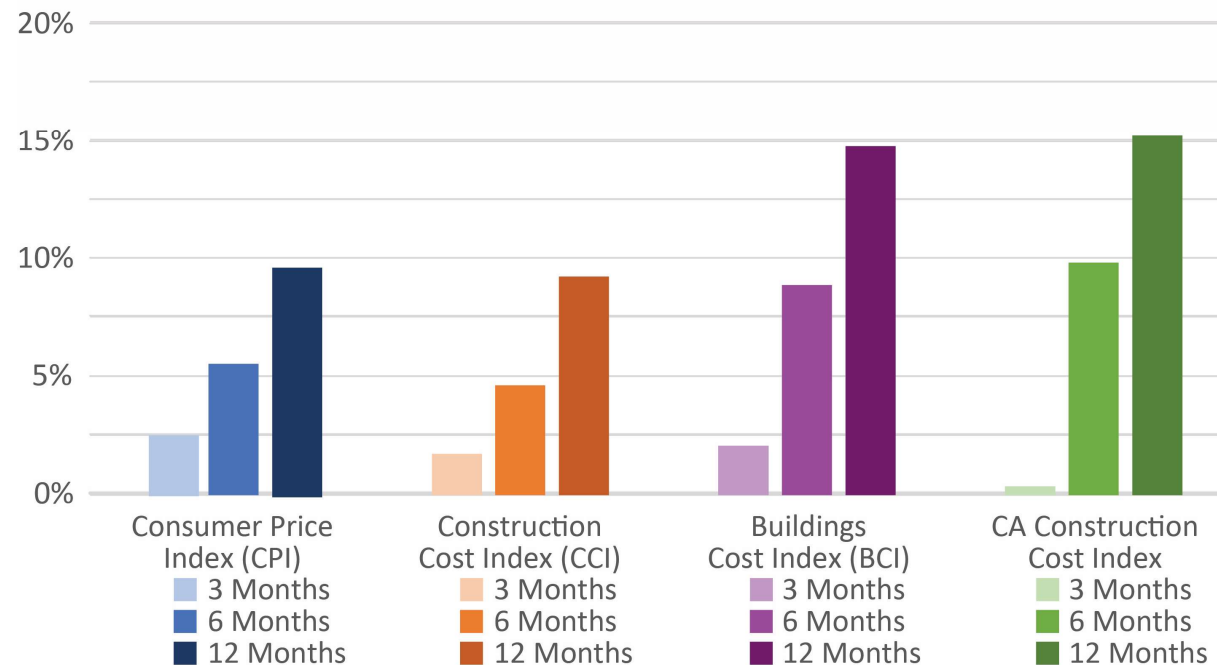
September Update

# 2022

# CONSUMER INFLATION CATCHES UP TO CONSTRUCTION

- Inflation climbs to 9.1% compared to a year ago (highest in 40 years)
- Consumer inflation is generally rising at the same pace as construction inflation
- California construction inflation still much higher than the national average, but has plateaued over the past three months

Percent Change in Past 3-Months, 6-Months, & 12-Months by Index

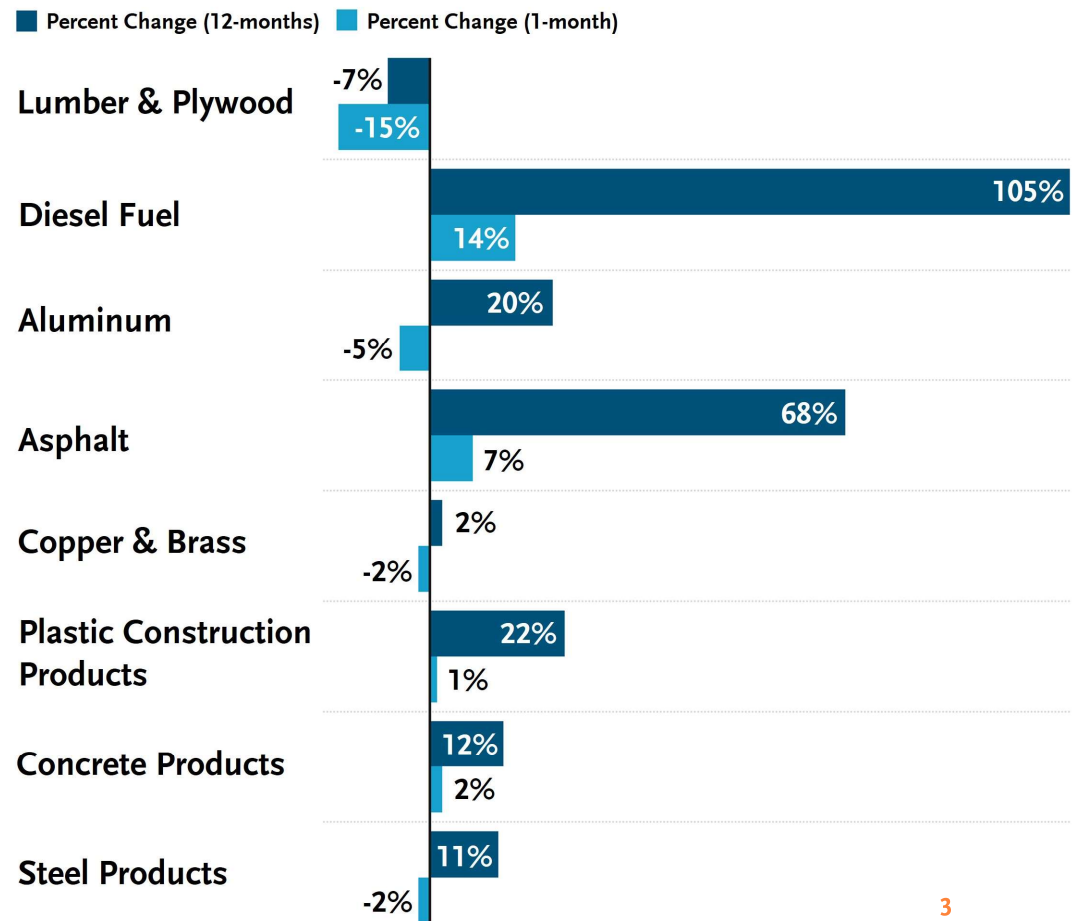


# MATERIAL PRICES ARE COOLING EXCEPT FOR DIESEL

- Material prices stabilizing following extreme COVID volatility, with exception of diesel fuel
- Volatility and supply-chain issues are still expected through summer
- High interest rates and potential recession suggest potential drops in material prices
- Lumber and steel appear to be trending down according to ENR's 2022 Second Quarterly Cost Report



### Construction Materials Cost: Percent Change

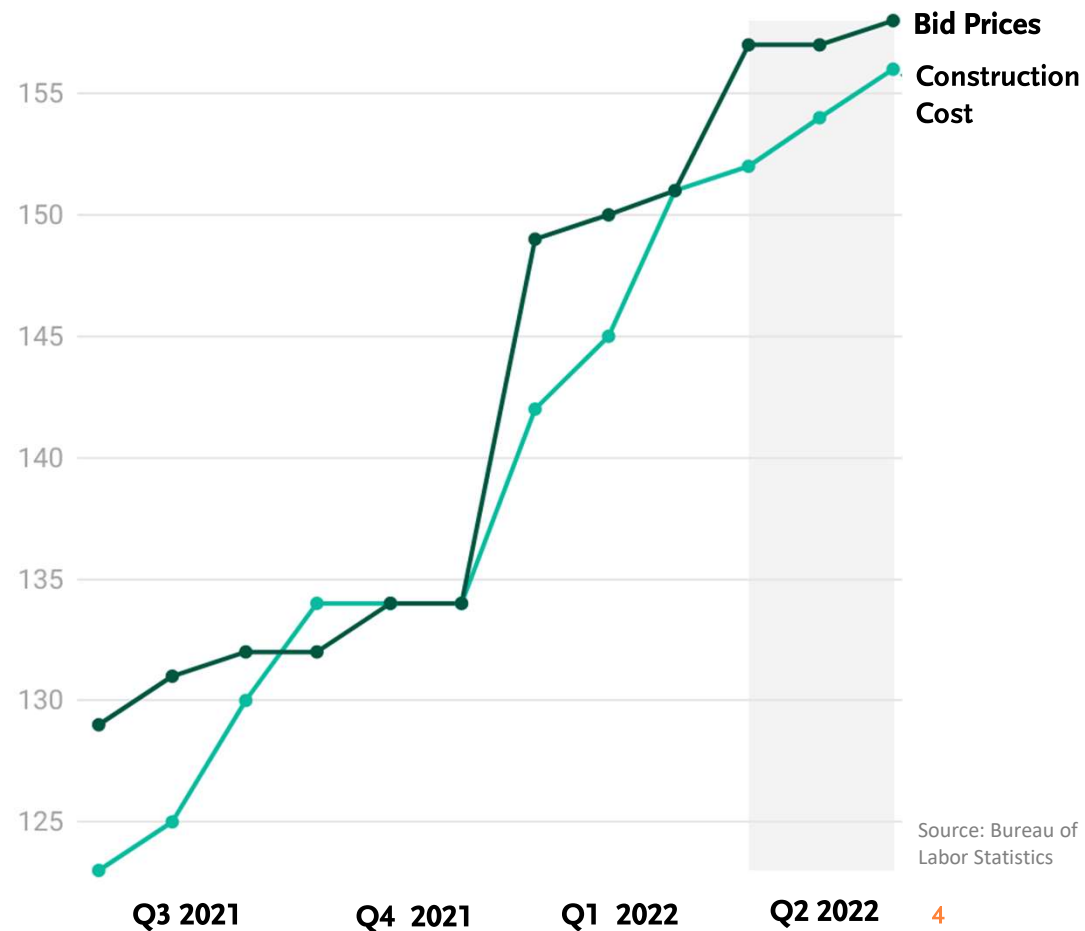


Source: Bureau of Labor Statistics

# CONSTRUCTION COSTS & BID PRICES CONTINUE TO RISE

- Increases over the past 6 months:
  - **10%** in construction costs
  - **6%** in bid prices
- Increases over the past 12 months:
  - **16%** in construction costs
  - **18%** in bid prices
- Bid prices have jumped to compensate for volatility in material prices over the past year
- Bid prices likely to remain high due to competitive worker compensation to attract and retain skilled labor

Construction Costs vs Bid Prices



Source: Bureau of Labor Statistics



# EMPLOYMENT DEMAND STILL GREATER THAN SUPPLY

- 2021: **7.5%** construction unemployment rate
- 2022: **3.7%** construction unemployment rate
- Demand for projects is outpacing the supply of workers
  - **466,000** construction-industry job openings at the end of May (largest May total since 2000)
  - Number of unemployed construction workers is down **47%** from last year, suggesting there are very few experienced jobseekers looking for work
- Average salary increases for construction workers are on pace to exceed **5%** this year



## BY THE NUMBERS

**50%** drop in construction unemployment over the past 12 months

**39%** increase in construction job openings in the past month

**64%** of contractors say the labor shortage is worse than a year ago

**23** year low in construction unemployment

# MID-YEAR CONSTRUCTION MARKET SUMMARY

- **Industry Market Outlook:** Construction market at a crossroads
  - Construction starts up by 6% compared to last year
  - Bellwether indicators forecast strong future construction demand
  - May be tempered by interest rates and potential recession
  - Contractors see declining market through the end of 2023
- **Material Price Trends:** Tightening financial markets, slower growth, and continued improvement of supply chain may cool material prices
- **Labor Trends:** Skilled labor shortages will continue to plague productivity causing project delays
- **Local Construction Indicator:** Los Angeles currently has 51 cranes, most in North America (Seattle is next with 37)



**Board Report**

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**File #:** 2022-0521, **File Type:** Informational Report

**Agenda Number:** 28.

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**CONSTRUCTION COMMITTEE  
SEPTEMBER 15, 2022**

**SUBJECT: THIRD PARTY ADMINISTRATION**

**ACTION: CITY OF LOS ANGELES FY23 ANNUAL WORK PLAN APPROVAL**

**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute an annual expenditure budget plan for the FY23 Annual Work Plan for the City of Los Angeles (Attachment A).

**ISSUE**

During the design, construction, and maintenance phases of Metro projects, a significant amount of support is required from local jurisdictions via an annual work plan. The annual work plan shall serve as a commitment from the agency for the reimbursement of services by the City of Los Angeles reviewing jurisdictions for an estimated amount of services. Without an annual work plan, the City of Los Angeles jurisdictions have no funding sources to support the projects.

**BACKGROUND**

In December of 2002, A Master Cooperative Agreement (MCA) was executed between Metro and the City of Los Angeles. The intent of the agreement was to establish a streamlined process among both entities to successfully construct Metro's ongoing projects. A function of MCA was to clearly identify a yearly budget for each City department to provide those city services. This function was labeled as the Annual Work Plan. A new MCA is currently being negotiated between Metro and the City of Los Angeles. The 2002 MCA will remain in effect until the new MCA is finalized. The new MCA is an effort to support the Metro construction program by capturing lessons learned, updating and enhancing processes, and enhancing overall relationships between the two agencies. Upon execution of the new MCA, the 2002 MCA shall be terminated.

**DISCUSSION**

The action contained herein provides funding for the City of Los Angeles' participation in the project within the limit of the current approved FY23 budget for Third Party review and maintenance. (See Attachment A).

Metro's efforts to proactively manage these costs will include the following:

- A. Controlling the design review process through the early coordination of design efforts to define scope and establish/clarify standards and requirements.
- B. Reviewing submittals for completeness.
- C. Ensuring that third party requirements are identified and addressed prior to sending to the third party.
- D. Reviewing timesheets with each third party organization on a monthly basis to ensure that hours charged are appropriate.
- E. Conducting executive and staff level partnering with third parties.

### **DETERMINATION OF SAFETY IMPACT**

The recommended action has no impact on safety.

### **FINANCIAL IMPACT**

The funding of \$33,921,356, which may be obligated and spent under this one-year work plan, is included in the FY23 adopted budget in the projects requiring the services to be performed by the City of Los Angeles as outlined in Attachment A. Since these are multi-year projects, the Project Managers and Chief Program Management Officer will be responsible for budgeting future year costs.

### **EQUITY PLATFORM**

The Annual Work Plan funds Metro's project plan reviews from various City of Los Angeles departments to support reviews of design and construction project plans on an annual basis. These services are essential for streamlining project delivery, which include expediting plan reviews and approvals, ensuring quality and effective construction measures, timely inspections, and other functional efforts as described above. All services are centered on avoiding project delays and promoting cost-saving measures to effectively deliver the project with minimal impact on the community and provide benefits of enhanced mobility and regional access to underserved populations within the respective project areas.

While considering the projects, Metro will provide an estimated 42 miles of new transit systems (pedestrian, bicycle, rail, and bus) and 11 potential passenger stations within the City of Los Angeles limits and equity focused communities (EFC). This Board item action will reduce likelihood of transit and active transportation project delays.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

By executing the Annual Work Plan for FY23 and allowing the City departments to successfully review plans and provide a streamlined approval process to successfully construct Metro's ongoing projects, it would positively support Metro's overall plan and goal of expanding the transportation

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network, increase mobility for all users and improve LA County's overall transit networks and assets.

### **IMPACT ON BUS AND RAIL OPERATING AND CAPITAL BUDGET**

The funding for this Annual Work Plan will come from various sources of funds (see Attachment A.) With the exception of major construction projects funded with specific grant funds, these funds are eligible for bus and rail operating and capital expenditures. No other sources of funds were considered for this activity because the primary beneficiary of the service is bus, rail, and capital projects.

### **ALTERNATIVES CONSIDERED**

The Board may reject the recommendation and direct us to include this work under Construction Contracts. Unfortunately, this is not recommended because it will delay each of the projects.

### **NEXT STEPS**

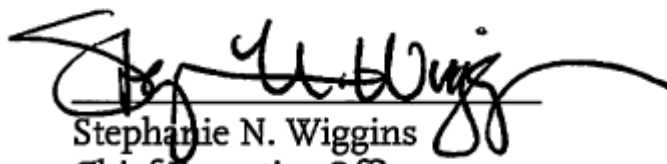
Upon Metro board approval of the Annual Work Plan, the City of Los Angeles shall submit the Annual Work Plan to the Los Angeles City Council and Mayor's Office for adoption.

### **ATTACHMENTS**

Attachment A - FY23 Annual Work Plan Anticipated Budget for the City of Los Angeles

Prepared by: Eduardo Cervantes, Interim Executive Officer; 213-922-7255

Reviewed by: Bryan Pennington, Chief Program Management Officer; 213-922-7449



Stephanie N. Wiggins  
Chief Executive Officer

## ATTACHMENT A

### FY23 ANNUAL WORK PLAN ANTICIPATED BUDGET FOR CITY OF LOS ANGELES

#### **CRENSHAW LAX**

Bureau of Engineering	\$150,000
Dept. of Transportation	\$150,000
Bureau of Street Services	\$155,263
Con Ad	\$150,000
Bureau of Street Lighting	\$150,000
Subtotal:	\$ 755,263

#### **CRENSHAW CATCH ALL**

Bureau of Engineering	\$300,000
Dept. of Transportation	\$150,000
Bureau of Street Services	\$150,000
Con Ad	\$200,000
Subtotal:	\$800,000

#### **REGIONAL CONNECTOR**

Bureau of Engineering	\$900,000
Dept. of Transportation	\$1,300,642
Bureau of Street Services	\$128,642
Bureau of Street Lighting	\$121,188
Con Ad	\$889,947
LASAN	\$34,794
Cross Coordination	\$42,696
LAPD	\$33,788
General Services	\$4,997
Subtotal:	\$3,456,694

#### **PURPLE LINE #1**

Bureau of Engineering	\$900,000
Dept. of Transportation	\$1,296,972
Bureau of Street Services	\$105,189
Bureau of Street Lighting	\$285,632
Con Ad	\$766,376
Cross Coordination	\$188,687
LAPD	\$33,944
Subtotal:	\$3,576,800

**ATTACHMENT A (Continued)**

**PURPLE LINE #2**

Bureau of Engineering	\$900,000
Dept. of Transportation	\$1,165,291
Bureau of Street Services	\$146,046
Bureau of Street Lighting	\$288,491
Con Ad	\$673,232
LASAN	\$222,563
Cross Coordination	\$285,000
LAPD	\$115,295
General Services	\$57,000
<hr/>	
Subtotal:	\$3,852,918

**PURPLE LINE #3**

Bureau of Engineering	\$1,100,000
Dept. of Transportation	\$2,003,706
Bureau of Street Services	\$126,492
Bureau of Street Lighting	\$327,843
Con Ad	\$673,231
LASAN (WPD)	\$107,691
LASAN (WESD)	\$114,912
Cross Coordination	\$197,135
LAPD	\$203,990
<hr/>	
Subtotal:	\$4,855,000

**RAILTO RAIL**

Bureau of Engineering	\$300,000
Dept. of Transportation	\$913,632
Bureau of Street Services	\$65,451
Bureau of Street Lighting	\$190,054
Con Ad	\$377,917
LASAN	\$50,000
<hr/>	
Subtotal:	\$1,897,054

**UNION STATION FORECOURT AND ESPLANADE PROJECT**

Bureau of Engineering	\$25,000
Dept. of Transportation	\$15,000
Bureau of Street Lighting	\$15,000
Bureau of Street Services	\$15,000
LASAN (WESD)	\$15,000
LASAN (WPD)	\$15,000
Con Ad	\$15,000
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Subtotal:	\$115,000

## ATTACHMENT A (Continued)

### **ORANGE LINE**

Bureau of Engineering	\$850,000
Dept. of Transportation	\$956,781
Bureau of Street Services	\$262,307
Bureau of Street Lighting	\$251,687
Con Ad	\$50,000
LASAN	\$50,000
<hr/>	
Subtotal:	\$2,420,775

### **ESVTC**

Bureau of Engineering	\$1,100,000
Dept. of Transportation	\$1,405,207
Bureau of Street Services	\$226,773
Bureau of Street Lighting	\$944,864
LASAN (WPD)	\$144,495
LASAN (WESD)	\$121,009
Con Ad	\$310,870
Cross Coordination Support	\$188,687
<hr/>	
Subtotal:	\$ 4,441,905

### **Link US**

Bureau of Engineering	\$900,000
Dept. of Transportation	\$503,995
Bureau of Street Services	\$21,981
Bureau of Street Lighting	\$309,505
LASAN (WESD)	\$34,794
<hr/>	
Subtotal:	\$1,770,275

### **Brighton to Roxford**

Bureau of Engineering	\$300,000
Dept. of Transportation	\$230,921
Bureau of Street Lighting	\$274,161
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Subtotal:	\$805,082

### **Doran Street Grade Separation**

Bureau of Engineering	\$300,000
Dept. of Transportation	\$263,116
Bureau of Street Services	\$61,212
Bureau of Street Lighting	\$207,315
LASAN (WESD)	\$38,154
<hr/>	
Subtotal:	\$869,797

**ATTACHMENT A (Continued)**

**HOLLYWOOD TO PASADENA BRT**

Bureau of Engineering	\$850,000
Dept. of Transportation	\$956,781
Bureau of Street Lighting	\$251,667
<hr/>	
Subtotal:	\$2,058,448

**WEST SANTA ANA**

Bureau of Engineering	\$25,000
Dept. of Transportation	\$25,000
Bureau of Street Services	\$25,000
Bureau of Street Lighting	\$25,000
<hr/>	
Subtotal:	\$100,000

**SEPULVEDA NORTH**

Bureau of Engineering	\$50,000
Dept. of Transportation	\$35,000
Bureau of Street Lighting	\$35,000
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Subtotal:	\$120,000

**BUS PRIORITY LANE ENFORCEMENT**

Dept. of Transportation	\$300,000
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Subtotal:	\$300,000

**BUS STOP IMPROVEMENT PROJECTS**

Bureau of Street Services	\$700,000
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Subtotal:	\$700,000

**DIVION 20**

Bureau of Engineering	\$200,000
Dept. of Transportation	\$98,930
Bureau of Street Services	\$50,000
Bureau of Street Lighting	\$150,000
Con Ad	\$477,415
LASAN	\$50,000
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Subtotal:	\$1,026,345

**GRAND TOTAL: \$33,921,356**

**TOTAL FY23 BUDGET: \$33,921,356**







## Board Report

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**File #:** 2022-0517, **File Type:** Motion / Motion Response

**Agenda Number:**

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**CONSTRUCTION COMMITTEE  
SEPTEMBER 15, 2022**

**SUBJECT: LOCAL SMALL BUSINESS PREFERENCE**

**ACTION: RECEIVE AND FILE**

**RECOMMENDATION**

RECEIVE AND FILE the report back on the Local Small Business Enterprise (LSBE) Preference Program.

**ISSUE**

On February 17, 2022, the Board approved a Three-year Pilot Local Small Business Enterprise (LSBE) Preference Program (2022-0025) inclusive of a 5% Preference Incentive for negotiated procurements. An amendment from Director Dupont-Walker requested a report back on how Metro can give more than 5% preference points for non-LSBE firms that subcontract greater than 30% participation with LSBE firms.

**BACKGROUND**

Los Angeles County, as the country's largest small business economy, has approximately 250,000 local small businesses that account for 43% of the local workforce. To strengthen the local economy and maximize contracting opportunities for local small and historically under-utilized businesses, the Board approved staff recommendations to develop the LSBE Preference Program. The LSBE Preference Program provides a five percent (5%) preference credit for the utilization of local small business firms on Metro contracts.

Action Type RFP	Threshold Level	LSBE Commitment	Preference (Maximum)	Preference Type	Applicable to Federally Funded Acquisition	Applicable to Non-Federally Funded (State/Local) Acquisitions
Negotiated procurements for, Supplies, Equipment Materials and Services, including professional services	≥\$100,000 with SBE/DVBE goals	At least 30%	5	Evaluation Points (Bonus Points)	RFP	RFP
					No	Yes, for Proposers that meet criteria below

Preference Criteria:

Currently, SBE Proposers that meet the LSBE criteria as a prime receive a 5 percent preference credit added to their overall evaluation score. Proposers that do not meet the LSBE criteria as a prime, but subcontract at least 30% of the contract value with eligible LSBE firms, receive a 5 percent preference credit added to their overall evaluation score. The LSBE preference credit is added as bonus points above the maximum possible evaluation criteria scale. All Proposers who meet the LSBE preference criteria receive the full 5 percent preference credit.

LSBE Certification

In June 2022, the Certification team emailed all Metro certified SBE firms, making them aware of the LSBE Preference Program and the Certification eligibility requirements.

To qualify for Metro’s LSBE Preference Program, firms must first be SBE certified with Metro. In addition to meeting Metro’s SBE eligibility requirements, firms must also be:

- Headquartered in the County of Los Angeles. Headquartered means that the business physically conducts and manages all its operations from a location in the County; and
- The firm’s headquarters must be in Los Angeles County for at least the prior 6 months

Firms that were already SBE certified with Metro and met the headquarter requirements were vetted and given LSBE designation. Currently, Metro has 2238 SBE certified firms of which 1124 qualified for the program and now have LSBE designations. Staff has certified more firms than originally forecast in the February 2022 report to the Board.

Moving forward, all new applicants certified as an SBE will automatically be vetted by the Certification

team and granted LSBE designation if LSBE program requirements are met. There will be no additional steps required by firms to attain LSBE certification.

The LSBE Preference Program was launched in solicitations in August 2022. Additionally, the Diversity & Economic Opportunity Department, in coordination with ITS, created a new LSBE database search to assist Contractors in identifying LSBE firms and can be accessed at <https://metro.gob2g.com/>.

**DISCUSSION**

Staff considered the request to increase the preference credit. As part of this analysis, staff reviewed contracts awarded over the last fiscal year to provide a baseline of what may be achieved in LSBE participation, depending on the type and mix of contracts solicited in the first year of implementation.

The chart below represents non-federally funded RFPs over \$100K with SBE/DVBE goals awarded in FY22. While five (5) of the twenty-six (26) awards were awarded to SBE Primes, only 2 of the awards would have met the LSBE Preference criteria, highlighting the importance of implementing the LSBE Program.

			Results if LSBE Preference Applied	
	SBE and Non-Primes	SBE Primes	SBEs as LSBE Prime	Non-LSBE Prime with at least 30% LSBE
Total # of RFP Awards	26	5	1	1
Total \$'s Award	\$163,341,356	\$28,383,338	\$358,700	\$2,955,150

With one month into the implementation phase of the LSBE Program, staff believes six months is needed to allow solicitations to work their way through the solicitation and award process, in which the LSBE preference will apply. Over the next six months, Metro projects approximately 14 RFPs will be issued with the LSBE preference. At that time, staff can better assess implementation progress, lessons learned, and feasibility of program enhancements and will report back to the Board with a program update.

**Competitive Low Bid Update**

In the 2022 State Legislative Session, Metro advanced changes to state law through Metro-sponsored AB-2271 by Assemblymember Mike Gipson (D-Carson). AB-2271 will allow Metro to exercise the LSBE Preference program, as approved by the Board in February 2022, on state and/or locally funded competitive low bid contracting. AB-2271 passed the State Assembly on May 23, 2022. As of the writing of this report, the bill has passed the Senate and will be submitted to the

Governor for signature. If signed by the Governor, the statutory amendment will be effective January 1, 2023.

The chart below represents non-federally funded IFBs over \$100K with SBE/DVBE goals awarded in FY22:

			Results if LSBE Preference Applied	
	SBE and Non-Primes	SBE Primes	SBEs as LSBE Prime	Non-LSBE Prime with at least 30% LSBE
Total # of IFB Awards	7	4	4	0
Total \$'s Award	\$44,289,476	\$29,118,666	\$29,118,666	\$0.00

This data represents a baseline for what may be achieved in LSBE participation if the bill is signed and the LSBE Preference is implemented after January 1, 2023.

**EQUITY PLATFORM**

Metro’s Small Business Enterprise (SBE) program mirrors the Disadvantaged Business Enterprise (DBE) program, which means that all firms that qualify and are certified as a DBE are also certified as an SBE with Metro. Currently there are 2,244 SBE certified firms. Of those SBE certified firms, 1,541 are also DBE certified and 1,124 are Metro LSBE certified firms. As a result, 69% of Metro’s SBE certified firms are minority and/or women owned. The LSBE Preference will help with the County’s economic recovery by increasing the percentage of transportation dollars that remain in the region and invested in economically and socially disadvantaged firms.

**IMPLEMENTATION OF STRATEGIC PLAN GOALS**

This report supports strategic plan Goal 5.5, “Expanding opportunities for businesses and external organizations to work with Metro.”

**NEXT STEPS**

Upon Board approval, staff will report back in six months.

**ATTACHMENTS**

Attachment A - Board Amendment 26 (February 17, 2022, Construction Committee)

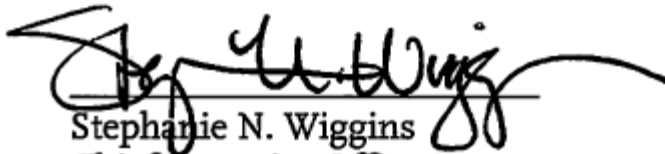
Prepared by: Miguel Cabral, Executive Officer, DEOD, (213) 418-3270  
 Tashai R. Smith, Deputy Executive Officer, DEOD, (213) 922-2128  
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Reviewed by: Nalini Ahuja, Chief Financial Officer, (213) 922-3088



Stephanie N. Wiggins  
Chief Executive Officer



## Board Report

File #: 2022-0025, File Type: Motion / Motion Response

Agenda Number: 26.

**REVISED**  
**CONSTRUCTION COMMITTEE**  
**FEBRUARY 17, 2022**

**SUBJECT: LOCAL SMALL BUSINESS PREFERENCE**

**ACTION: APPROVE RECOMMENDATION**

**RECOMMENDATION**

CONSIDER:

- A. RECEIVING AND FILING the report back to Motion 31 on a Local Small Business Enterprise (LSBE) Program; and
- B. AUTHORIZING the CEO to implement a three-year Pilot LSBE Preference Program inclusive of Five Point Preference Incentive for negotiated procurements.

**DUPONT-WALKER AMENDMENT:**

- A. Report back in August 2022 on how Metro can encourage greater than 30% LBSE participation for proposers that do not meet the LSBE criteria as a prime but subcontract to LBSE eligible businesses, either through additional preference credits beyond the five points offered by the pilot or providing further incentives in the procurement process; and
- B. Request Metro to conduct an external audit no later than one year into the pilot to ensure eligible small businesses are meeting the stated eligibility requirement of being headquartered in LA County for at least 6 months.

**ISSUE**

On October 21, 2021, the Board passed Motion 31 (Directors Hahn, Dupont-Walker, Butts, Mitchell, Dutra, and Kuehl) requesting a report back in February 2022 on a Local Small Business Enterprise Program.

**BACKGROUND**

As LA County emerges from the COVID-19 pandemic, it is important to support local small businesses to ensure a clear path to economic recovery. Metro has a vested interest in leveraging,

to the greatest extent possible, the millions of dollars we pay to contractors to build, operate, and plan transportation projects for the benefit of LA County small businesses and its residents.

In May 2021, the US Department of Transportation (DOT) authorized a four-year pilot program allowing agencies like Metro to use Federal dollars for local hire, to target these resources for workforce development in the communities where our transportation projects are being built.

To support similar efforts on the contracting side and to promote local small business participation, staff via this motion has been asked to research small business local preference requirements and how they can be integrated into Metro’s contracting program. Doing this involves changes to Metro policies and State and Federal laws and regulations. This report provides a summary of staff’s benchmarking of National local preference programs, as well as Metro specific recommendations.

Implementation of a small business local preference initiative is in addition to Metro’s already implemented Disadvantaged Business Enterprise (DBE), Small Business Enterprise/Disabled Veterans Business Enterprise (SBE/DVBE) programs, the Medium-Size Business Enterprise (MSZ) and Small Business Prime (Set-Aside) programs, the Contracting Outreach and Mentoring Program (COMP) and Certification Initiatives.

**DISCUSSION**

Staff reviewed the feasibility of establishing a local small business preference program. The program must be race and gender-neutral, in accordance with state law (Proposition 209), which prohibits state governmental institutions from considering race, sex, or ethnicity, specifically in the areas of public employment, public contracting, and public education. In addition, the program must have a rational basis supported by a legitimate government purpose. For Metro, this means strengthening the local economy and maximizing contracting opportunities that increase capacity and growth of local small and historically under-utilized businesses within the communities in which Metro’s transportation projects are being built. The following responses to the Motion support the recommendations for a local small business preference program.

**A. Survey local preference best practices nationally and make recommendations for local preference.**

To evaluate a recommendation for Local Preference in small business contracting, staff benchmarked the application of Local Small Business Preference programs in contracting by sixteen (16) national, regional, and local transportation, county and city public agencies. In addition to eligibility, staff considered the preference incentives, contract thresholds, and program applicability. Six (6) of the sixteen (16) agencies benchmarked did not have a local preference program (DART, Sound Transit, LAUSD, Santa Clara VTA, CTA, and SBCTA).

The following matrix includes the results of the benchmarking survey:

Agency	Preference / Incentive	Contract Threshold	Applicability (RFP/IFB)
City of Los Angeles	8%	<\$150,000	RFP/IFB

LAWA	10%	≤\$100,000	RFP/IFB
Bay Area Rapid Transit (BART)	7% or 5% (based on funding)	>\$10,000,000	RFP/IFB
SF International Airport	10% (Prime) 5% (SBA-LBE's)	>\$10,000,000	RFP/IFB
County of Los Angeles	15%	>\$5,000	RFP/IFB
SFMTA	10% (Prime) 5% (SBA-LBE's)	>\$10,000,000	RFP/IFB
City and County of San Francisco	10% (Prime) 5% (SBA-LBE's)	>\$10,000,000	RFP/IFB
City of Houston	2.5%	≤\$100,000	RFP/IFB
County of San Bernardino	5%	≤ \$60K	RFP/IFB
City of San Diego	2%	>\$50,000	RFP/IFB

Only two transportation authorities had established a small local business enterprise preference program (BART and SFMTA) along with three airports (LAWA, San Francisco and San Diego Airports). The remaining local preference programs were established by local city and county governments with a wide array of criteria in terms of applicability. The standard preference incentives across all programs reviewed was a bid discount for Invitation to Bid (IFB) or evaluation points for Request for Proposals (RFP). Preference percentages ranged from 2% to 15%, depending on the funding source, dollar value or prime/subcontractor classification. Across all programs, 5% was the most common preference incentive.

Additionally, staff analyzed awards to Metro certified small businesses with zip codes within the City and County of Los Angeles and outside Los Angeles County from 2015 through December 2021. The awarded data reported is based on contracts tracked by Metro DEOD and does not represent Metro’s total spend.

Location	Total # of Contracts Awarded to Certified SBE Firms	Total # of \$'s Awarded to Certified SBE Firms	Total % of \$'s Awarded to Certified SBE Firms (rounded)	Total # of SBE Certified Firms that Received Contract Awards
City of Los Angeles	380	\$124,810,896	13%	147
County of Los Angeles	887	\$403,325,805	42%	378
Outside LA County	1101	\$425,342,375	45%	416
Total	2368	\$953,479,076	100%	941

Based on this data, and Metro’s geographic jurisdiction, it is recommended that the County of Los Angeles represent the boundary of Metro’s local small business preference program.

**Certification Benchmarking**



Metro staff conducted an analysis of several local and regional agencies to see which have a Local Preference certification program in place. Agencies surveyed included the following: The City of Los Angeles, Los Angeles World Airports (LAWA), The County of Los Angeles, Los Angeles Unified School District, Los Angeles Community College District, Metrolink, Metropolitan Water District, OmniTrans, The County of San Bernardino, and the U.S. Small Business Administration. Of the agencies surveyed, Metro found that the City of Los Angeles together with LAWA and the County of Los Angeles are the only agencies within the County of Los Angeles that have a Local Preference program.

The County of San Bernardino offers a Local Preference Program. In order to qualify, the firm's headquarters is required to be located within the County of San Bernardino and demonstrate they have been open and established for at least six months prior to the issuance of the solicitation. SBCTA and OmniTrans do not have a Local Business Preference Program.

The City of LA/LAWA offers two local preference certifications: Local Business Preference Program (LBE) certification and Local Small Business Enterprise (LSBE) certification. To qualify, firms must have a workspace within LA County and must be in compliance with all applicable laws relating to licensing and is not delinquent on any Los Angeles City or Los Angeles County taxes.

Firms must also be able to demonstrate one of the following:

- a) At least 50 percent of its full-time employees perform work within the boundaries of the County on at least 60 percent of their total hours worked on an annual basis; or
- b) It is headquartered in the County of Los Angeles. Headquartered means that the business physically conducts and manages all of its operations from a location in the County.

The Local Business Preference Program certification through the City of LA/LAWA does not require firms to be Small Business Enterprise (SBE) certified in order to qualify, however, the Local Small Business Enterprise certification offered does. The City of LA/LAWA recognizes and accepts a firm's Metro SBE certification, along with SBE certification from other agencies including DGS' Small Business certification, when applying for their LSBE program.

The County of Los Angeles offers LSBE certification which requires firms to be SBE certified prior to applying for LSBE certification. The business must meet the following criteria:

- Independently owned and operated and not dominant in its field of operation.
- The firms principal place of business is to be in Los Angeles County for at least the last 12 months.
- The owners (officers in the case of a corporation) must live in California and with its affiliates, be either:
  - A business with 100 or fewer employees and average annual gross receipts of \$15 million or less over the last three years.
  - A manufacturer with 100 or fewer employees.

The County of LA recognizes and accepts a firm's Metro SBE certification, along with DGS' Small Business certification, when applying for their LSBE program.

## **B. Evaluate and recommend changes to Metro policies regarding advancing local**

**preference in small, medium, and disadvantaged business contracting.**

**Local Preference Recommendation**

Staff recommends a 5-point, three-year Pilot Local Small Business Enterprise (LSBE) Preference program on non-federally funded negotiated procurements equal to or in excess of one-hundred thousand dollars (\$100,000) with SBE/DVBE goals.

**Negotiated Procurement**

Action Type RFP	Threshold Level	Preference (Maximum)	Preference Type	Applicable to Federally Funded Acquisition	Applicable to Non-Federally Funded (State/Local) Acquisitions
Negotiated procurements for, Supplies, Equipment Materials and Services, including professional services	≥\$100,000	5	Evaluation Points (Bonus Points)	RFP	RFP
				No	Yes

**LSBE Preference Application**

- SBE Proposers that meet the LSBE criteria as a prime will receive a 5 point preference credit added to their evaluation score; or
- Proposers that do not meet the LSBE criteria as a prime but subcontract at least 30% of the contract value with eligible LSBE firms will receive a 5 point preference credit added to their evaluation score.
- For RFPs, the LSBE preference will be bonus points above the 100-point evaluation criteria scale.
- The maximum LSBE preference cannot exceed 5 evaluation points.

Initially, the three-year Pilot launch of the LSBE preference will only apply to non-federally funded negotiated procurements, within the proposed threshold. Metro must first seek a state law statute amendment to obtain authorization to implement the local preference on Metro competitive low bid procurements. Please see Section C to this report for a summary of activities being undertaken.

**LSBE Certification**

In order for firms to qualify for Metro’s Local Small Business Enterprise Preference program, they must first be SBE certified with Metro. In addition to meeting Metro’s SBE race and gender-neutral eligibility requirements, the firm must be:

- Headquartered in the County of Los Angeles. Headquartered means that the business

- physically conducts and manages all of its operations from a location in the County.
- The firm's headquarters must be in Los Angeles County for at least the last 6 months.

Currently, Metro has 1058 SBE certified firms in the County of Los Angeles, including a total of 354 firms certified in the City of LA that may qualify under Metro's Local Small Business Enterprise Preference Program.

Staff conducted an analysis of a representative sample of the firms that were SBE certified in the last 6 months and found that 49 of the 133 SBE firms certified were located in the County of Los Angeles. Of the 49 firms, 43 were headquartered in the County of LA. In total, 88% of the 6-month sample would meet Metro's proposed local preference certification criteria.

Metro does not recommend accepting LSBE certification from the City of Los Angeles/LAWA and the County of Los Angeles as these agencies each have local preference requirements that would affect and restrict a firm's potential to be certified under Metro's local preference program. The City of LA/LAWA requires that the firm's gross receipt for the previous year does not exceed \$5 million. The County of LA requires that firms be headquartered in the County of LA for 12 months and have annual gross receipts of \$15 million or less over the last three years whereas Metro would not have the 12-month timeframe and has a higher annual gross receipt cap of \$26.29 million over the last 5 years. Metro also does not recommend accepting the County of San Bernardino's Local Vendor certification as firms are not headquartered in Los Angeles County.

### **C. Review State and Federal laws and regulations and make recommendations for inclusion in future Federal and State Legislative Priorities.**

The Board approved Federal and State Legislative program includes direction from the Board to seek changes to Federal and State law. Federal law (49 CFR § 661.21) currently prohibits the use of local procurement preferences on FTA-funded projects. In addition to this specific prohibition, the principle of federal preemption applies, whereby any provision of state/local law that contradicts a governing federal provision will be preempted by the federal provision when applicable. It is our understanding that any buy local procurement preference would violate broadly applicable Buy America requirements - which set forth a national preference instead of a local preference. The relevant USC provisions are 49 USC 5323(j) and 23 USC 313. Given the Board's adoption of a motion regarding Local Preference on October 21, 2021, Metro Government Relations will endeavor to change federal law to specifically allow buy local procurement provisions to be used alongside generally applicable Buy America provisions.

State law contains other provisions which limit our ability to exercise local preferences in our competitive low bid contracting. As of the writing of this report, Metro staff are coordinating to develop the specific changes, as recommended and upon Board approval, that will be needed in state law. We would seek to advance those changes in the 2022 State Legislative Session. Any changes to state law would only apply to state and/or locally funded projects after an assessment of the Pilot is complete for negotiated procurements. If Metro is successful in changing state law, the contract threshold and applicability for competitive low bid contracting could include:

**Competitive Low Bid**

Action Type IFB	Threshold Level	Preference (Maximum)	Preference Type	Applicable to Federally Funded Acquisition	Applicable to Non-Federally Funded (State/Local) Acquisitions
Awards under Sealed Bid for Supplies, Equipment Materials and Services, and Public Works, excluding Architecture and Engineering services	≥\$100,000	5%	Bid Discount (Bid Price Reduction)	IFB	IFB
				No	Subject to PUC (Section 130232) State Law Statute Amendment

LSBE Preference Application

- SBE Bidders that meet the LSBE criteria as a prime will receive a 5% bid discount.
- Bidders that do not meet the LSBE criteria as a prime but subcontract at least 30% of the contract value with eligible LSBE firms will receive a 5% bid discount.
- For IFBs, the preference is used to determine the bid discount for evaluation purposes but does not reduce the bid price.
- The maximum LSBE bid preference cannot exceed 5%.

Metro staff will work closely with the Board in advocating for changes to both federal and state law.

**FINANCIAL IMPACT**

Funding to support this program will be requested through the annual budget process.

**EQUITY PLATFORM**

The Transportation Business Advisory Council (TBAC), via a TBAC motion, also recommended that Metro implement a Local Small Business Preference Program to ensure that a portion of local tax dollars are allocated back to local small businesses to help grow the local economy. The proposed elements of Metro’s Local Small Business Enterprise Program were presented to TBAC at TBAC’s February 2022 meeting. According to U.S. Small Business Administration (SBA), small businesses represent 99.9% of all U.S. businesses. Small businesses not only contribute to the economic recovery of communities, but successful small businesses bring growth and innovation, and help stimulate economic growth by providing employment opportunities. Staff recommendations are to enhance equity by providing increased contracting opportunities for local regional small business-owned firms participation on Metro contracts. A framework to provide local preferences incentivizes prime contractors to utilize such firms, most of which are minority and/or women-owned, and projects

get the benefit of diverse collaboration, which contributes to the economic recovery of small businesses in the region.

Metro's Small Business Enterprise (SBE) program mirrors the Disadvantaged Business Enterprise (DBE) program, which means that all firms that qualify and are certified as a DBE are also certified as an SBE with Metro. Currently there are 2,340 Metro SBE certified firms. Of those SBE certified firms, 1,601 are also DBE certified. As a result, 68% of Metro's SBE certified firms are minority and/or women owned. These recommendations will help with the County's economic recovery by increasing the percentage of transportation dollars that remain in the region and within economically and socially disadvantaged communities.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

This report supports strategic plan Goal 5.5, "Expanding opportunities for businesses and external organizations to work with Metro."

### **ALTERNATIVES CONSIDERED**

The Board could elect to reject the Local Small Business Enterprise Program. This is not recommended as the Local Small Business Enterprise Program is a way for Metro to maximize its ability to support the local economy through contracting opportunities with regional transportation dollars.

### **NEXT STEPS**

Upon Board approval, staff will proceed with finalizing the three-year Pilot LSBE program policy development, implementation, certification system changes, and solicitation updates required, with an anticipated launch in June 2022.

### **ATTACHMENTS**

Attachment A - Motion 31 (October 21, 2021 Construction Committee Meeting)

Prepared by: Tashai Smith, Deputy Executive Officer, DEOD, (213) 922-2128  
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Stephanie N. Wiggins  
Chief Executive Officer



**Board Report**

**File #:** 2021-0686, **File Type:** Motion / Motion Response

**Agenda Number:** 31.

**CONSTRUCTION COMMITTEE MEETING  
OCTOBER 21, 2021**

**Motion by:**

**DIRECTORS HAHN, DUPONT-WALKER, BUTTS, MITCHELL, DUTRA, AND KUEHL**

Local Preference

Every year, Metro pays hundreds of millions to contractors to build, operate, and plan transportation projects across Los Angeles County. Most of this comes from local sales taxes, which we all pay into to address our infrastructure needs.

In May 2021, the US Department of Transportation (DOT) authorized a four-year pilot program allowing agencies like Metro to use Federal dollars for local hire, to target these resources for workforce development in the communities where our transportation projects are being built.

As LA County emerges from the COVID-19 pandemic, it is more important than ever to support local economic opportunity, to ensure a path to economic recovery that especially targets communities where our transportation projects are being built and in economically and socially disadvantaged communities.

State law disallows the use of local preference in procurements awarded to the lowest bidder, and it is silent on giving local preference when procurements are awarded based on an array of criteria that are not limited to the lowest bidder.

So we can maximize our ability to support our region’s local economic opportunity with regional transportation dollars, Metro should give local preference on applicable procurements. Doing this involves possible changes to Metro policies and State and Federal laws and regulations.

**SUBJECT: LOCAL PREFERENCE**

**RECOMMENDATION**

APPROVE Motion by Directors Hahn, Dupont-Walker, Butts, Mitchell, Dutra, and Kuehl that directs the CEO to:

- A. Survey local preference best practices nationally and make recommendations for local preference

criteria;

- B. Evaluate and recommend changes to Metro policies regarding advancing local preference in small, medium, and disadvantaged business contracting;
- C. Review State and Federal laws and regulations and make recommendations for inclusion in future Federal and State Legislative Priorities; and,
- D. Report back on these requests in February 2022.



The background features a large, stylized letter 'M' composed of several white, 3D rectangular blocks. The 'M' is set against a dark green circular backdrop. This green circle is partially overlaid by a large, curved orange shape that sweeps across the middle of the frame. The bottom portion of the image is a solid black area.

# LOCAL PREFERENCE Motion 31

*Construction Committee  
February 17, 2022*

# LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE (LSBE)

- Motion 43, December 2021
- Report Back and Requesting Approval for A LSBE Pilot
- Why LSBE?:
  - Small businesses represent 99.9% of all U.S. businesses
  - There are more than 250,000 small businesses in LA County
  - Small businesses contribute to local economies by bringing growth and innovation to the community
  - Small businesses create over 66% of net new jobs in local communities
  - Small and minority-owned businesses are disproportionately impacted by COVID-19 pandemic

# LOCAL SMALL BUSINESS ENTERPRISE PREFERENCE (LSBE)

- Benchmarking / Survey Analysis:
  - Reviewed 16 Agencies (National, Regional, City, County, and local)
  - 6 of the 16 Agencies did not have a local preference (Sound Transit, DART, LAUSD, Santa Clara VTA, CTA, and SBCTA)
  - 10 of the 16 Agencies applied a local preference
    - Preference Range: from 2% up to 15%
    - Standard Application: Invitation for Bid (IFB) – Bid Discount; Request for Proposal (RFP) – Evaluations Points

# LSBE BENCHMARKING

Agency	Preference / Incentive	Contract Threshold	Applicability (RFP/IFB)
City of Los Angeles	8%	<\$150,000	RFP/IFB
LAWA	10%	≤\$100,000	RFP/IFB
Bay Area Rapid Transit (BART)	7% or 5% (based on funding)	>\$10,000,000	RFP/IFB
SF International Airport	10% (Prime) 5% (SBA-LBE's)	>\$10,000,000	RFP/IFB
County of Los Angeles	15%	>\$5,000	RFP/IFB
SFMTA	10% (Prime) 5% (SBA-LBE's)	>\$10,000,000	RFP/IFB
City and County of San Francisco	10% (Prime) 5% (SBA-LBE's)	>\$10,000,000	RFP/IFB
City of Houston	2.5%	<\$100,000	RFP/IFB
County of San Bernardino	5%	≤ \$60K	RFP/IFB
City of San Diego	2%	>\$50,000	RFP/IFB

## LSBE RECOMMENDATION /EXCLUSIONS:

- A (3) year pilot Local Small Business Enterprise (LSBE) Preference Program
  - Includes a 5-point Preference Incentive on non-federally funded negotiated procurement in excess of \$100,000 with SBE/DVBE goals
  - Applicability to IFB subject to PUC (Section 130232) Statute Amendment
  - Prohibited on DOT-assisted (FTA, FHWA) contracts
  - Eligible Proposers are required to meet or exceed the SBE/DVBE goals



## LSBE APPLICABILITY

- SBE Proposers that meet the LSBE criteria as a prime will receive a 5-point preference (bonus points) added to their evaluation score; or
- Proposers that do not meet the LSBE criteria as a prime but subcontract at least 30% of the contract value with eligible LSBE firms will receive a 5-point preference (bonus points) added to their evaluation score.
- The LSBE preference bonus points is above the 100-point evaluation criteria scale.
- The maximum LSBE preference cannot exceed 5-points

# LSBE CERTIFICATION RECOMMENDATION

- To qualify for Metro's Local Small Business Enterprise Preference program firms must first be SBE certified with Metro. In addition to meeting Metro's SBE eligibility requirements, the firm must be:
  - Headquartered in the County of Los Angeles. Headquartered means that the business physically conducts and manages all of its operations from a location in the County.
  - The firm's headquarters must be in Los Angeles County for at least the last 6 months.
- Metro's SBE certified firms in the City of LA and County of Los Angeles
  - Currently there are a total of 1058 firms certified in the County of Los Angeles, this includes 354 firms certified in the City of LA, that may qualify under Metro's Local Small Business Enterprise Preference Program.
  - Staff conducted a representative sample of the firms that were SBE certified in the last 6 six months and found that 49 of the 133 SBE firms certified were located in the County of Los Angeles. Of the 49 firms, 43 were headquartered in the County of LA. In total, 88% of the 6-month sample meets Metro's local preference criteria.



**Metro**

# LSBE – Federal and State Legislative Impacts

- Federal law (49 CFR § 661.21) currently prohibits the use of local procurement preferences on FTA-funded projects.
- Subject to State law (PUC Section 130232) statutory amendment for competitive low bid.
- Government Relations will endeavor to change federal law to specifically allow buy local procurement provisions.
- Government Relations coordination with DEOD and Counsel to develop the specific changes, as recommended and upon Board approval, that will be needed in state law.



# Q & A

Thank you



Metro

Item #29

# Local Small Business Enterprise (LSBE) Preference Program

*Construction Committee*  
*September 15, 2022*



# LSBE PREFERENCE PROGRAM

- The current LSBE Preference program, approved by the Board in February 2022.
  - Launched in August 2022
  - Applies to non-federally funded negotiated procurements (RFP) in excess of \$100,000 with SBE/DVBE goals
- The program provides a 5% preference credit:
  - SBE Proposers that meet the LSBE criteria as a prime receive a 5 percent preference credit added to their overall evaluation score.
  - Proposers that do not meet the LSBE criteria as a prime, but subcontract at least 30% of the contract value with eligible LSBE firms, receive a 5 percent preference credit added to their overall evaluation score.



## LSBE PREFERENCE PROGRAM

- To qualify as a LSBE, a firm must be SBE certified with Metro and headquartered in the County of Los Angeles for at least the last 6 months prior to the submission of the firm's proposal:
  - Headquartered means that the business physically conducts and manages all of its operations from a location in the County.
  - Metro currently has 2238 SBE certified firms of which 1124 qualified for the program and now have LSBE designations.
  - Staff has certified more firms than originally forecast in the February 2022 report to the Board.



# LSBE PREFERENCE PROGRAM

- Five (5) of 26 contracts awarded during the last fiscal year, were awarded to SBE Primes, of which two awards, would have met the LSBE Preference criteria, highlighting the importance of implementing the LSBE Program.
- Over the next six months, staff projects approximately 14 RFPs will be issued with the LSBE preference.
  - Varying types and mix of non-federally funded contracts that may include professional services like Uniform Rental Services and Engineering
- To better assess implementation progress, lessons learned, and feasibility of program enhancements, staff believes six months is needed to allow solicitations to work their way through the solicitation and award process.
- Staff will report back to the Board in six months with a program update.

# Q & A

Thank you



Metro®



## Board Report

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File #: 2022-0484, File Type: Informational Report

Agenda Number: 30.

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### CONSTRUCTION COMMITTEE SEPTEMBER 15, 2022

**SUBJECT: PROJECT LABOR AGREEMENT/CONSTRUCTION CAREERS POLICY (PLA/CCP)**

**ACTION: RECEIVE AND FILE**

#### **RECOMMENDATION**

RECEIVE AND FILE the status update on the Project Labor Agreement and Construction Careers Policy programs through the quarter ending June 2022.

#### **ISSUE**

In January 2012, the Board approved the Project Labor Agreement (PLA) with the Los Angeles/Orange Counties Building and Construction Trades Council and the Construction Careers Policy (CCP), with a subsequent renewal in January 2017. The PLA/CCP encourages construction employment and training opportunities for members of economically disadvantaged areas throughout the United States on Metro's construction projects. An added value of the PLA is that work stoppages are prohibited.

In addition, Metro's PLA/CCP provides equitable opportunities for the historically underserved population, including women with high-wage career opportunities in the construction industry.

#### **BACKGROUND**

Consistent with the Board approved PLA and CCP (PLA/CCP), prime contractors are required to provide Metro with monthly reports detailing progress towards meeting the targeted worker hiring goals. Additionally, consistent with Metro's Labor Compliance policy and federal Executive Order 11246 (EO 11246), the prime contractors provide Metro with worker utilization data by ethnicity and gender. In accordance with EO 11246, Metro's program-wide goal for female participation in PLA/CCP construction projects is 6.90%.

#### **DISCUSSION**

This report provides a status update on the construction contracts covered by the PLA/CCP, including an overview of the Diversity and Economic Opportunity Department (DEOD) staff's efforts on female

participation. This report provides an update on the PLA/CCP through the quarter ending June 2022.

### **PLA/CCP Status Update**

As of June 2022, there are eleven active construction contracts with PLA/CCP program requirements. Ten contractors exceeded the 40% Targeted Worker Goal, four contractors exceeded the 20% Apprentice Worker Goal, and six contractors exceeded the 10% Disadvantaged Worker Goal. There are thirty completed construction contracts that were subject to the PLA/CCP. Overall (aggregate), PLA/CCP program-wide attainment on the three workforce goals has been met and exceeded.

The following table represents the active construction projects as of the June 2022 quarterly reporting period.



Project Name	Prime Contractor	Project Completion Percent	Targeted Worker Goal (40%)	Apprentice Worker Goal (20%)	Disadvantaged Worker Goal (10%)	Female Utilization Goal (6.9%) & Grade	Percentage of Disadvantaged Worker Participation that are in the Criminal Justice System (*)
Crenshaw/LAX Transit Corridor	Walsh/Shea Constructors	99.85%	61.15%	23.50%	10.46%	3.61% = C	33.87%
Regional Connector Transit Corridor	Regional Connectors, JV	98.18%	62.40%	20.31%	10.97%	4.27% = C	70.61%
Westside Subway Extension Project, Sec 1	Skanska-Taylor-Shea, JV	78.79%	61.99%	20.32%	12.83%	3.76% = C	70.49%
Westside PLE Project, Section 2 – D/B	Tutor Perini/O&G, JV	39.45%	39.56%	16.14%	5.21%	2.81% = D	43.50%
Purple Line Ext. Sec. 3 – Stations Project	Tutor Perini/O&G, JV	12.42%	62.85%	10.57%	18.15%	4.48% = C	68.62%
Purple Line Ex. Sec 3 – Tunnels Project	Frontier Kemper/Tutor Perini Corp.	74.22%	41.87%	17.31%	7.66%	3.78% = C	54.49%
Soundwall #11 Construction	Powell Constructors, Inc.	99.48%	42.85%	17.02%	10.96%	0.48% = F	41.88%
Div 20 Portal Widening Turnback Project	Tutor Perini Corp.	76.20%	46.98%	20.11%	5.88%	5.81% = B	46.23%
Metro Center St. Project	SJ Amoroso Construction	30.31%	78.80%	11.72%	1.80%	3.60% = C	100.00%
Airport Metro Connector Site Work & Rails System	Hensel Phelps/Herzog JV	77.18%	45.62%	19.67%	3.43%	4.66% = B	100.00%
1 <sup>st</sup> /Central Street Eastside Access Improv Project (EAIP)	Griffith Company	72.87%	60.98%	19.04%	17.95%	7.72% = A	97.86%

Please refer to Attachment A (PLA/CCP Brochure) for additional information on each project.

Project Completion Percent is based on estimated work hours as provided by the Prime.

\*Part of Metro's PLA/CCP workforce requirement is the utilization of disadvantaged workers on projects. One of the nine criteria for a Disadvantaged Worker is having a criminal record or other involvement with the criminal justice system. The data shown in the table above (last column) is the percentage of Disadvantaged Workers (based on hours worked) that have criminal records or involvement with the criminal justice system and that have worked or are actively working on Metro's PLA/CCP projects.

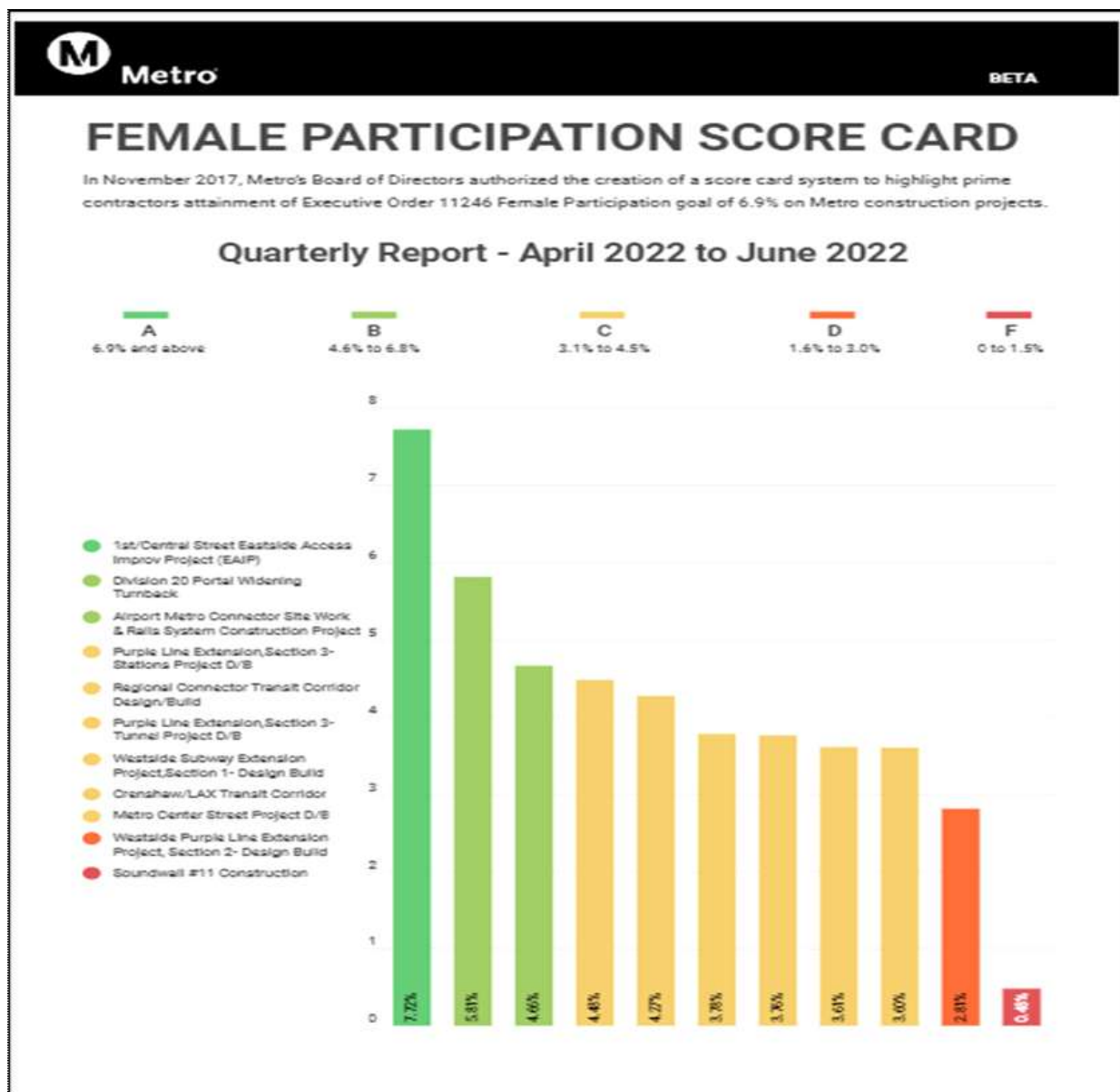
### **Female Workers on Active Construction Projects**

In November 2017, the Metro Board of Directors (Board) approved a motion to encourage contractors on Metro construction projects to increase the participation of women by meeting or exceeding the nationwide female participation goal of 6.9% as set forth by Executive Order 11246.

Included in the motion is the creation of a report card/score card system reflecting attainment of the female participation goals for Metro Project Labor Agreement/Construction Careers Policy contractors that is aimed at encouraging contractors to exceed the 6.9% female participation goal.

Below is the Female Participation Score Card as of June 2022.

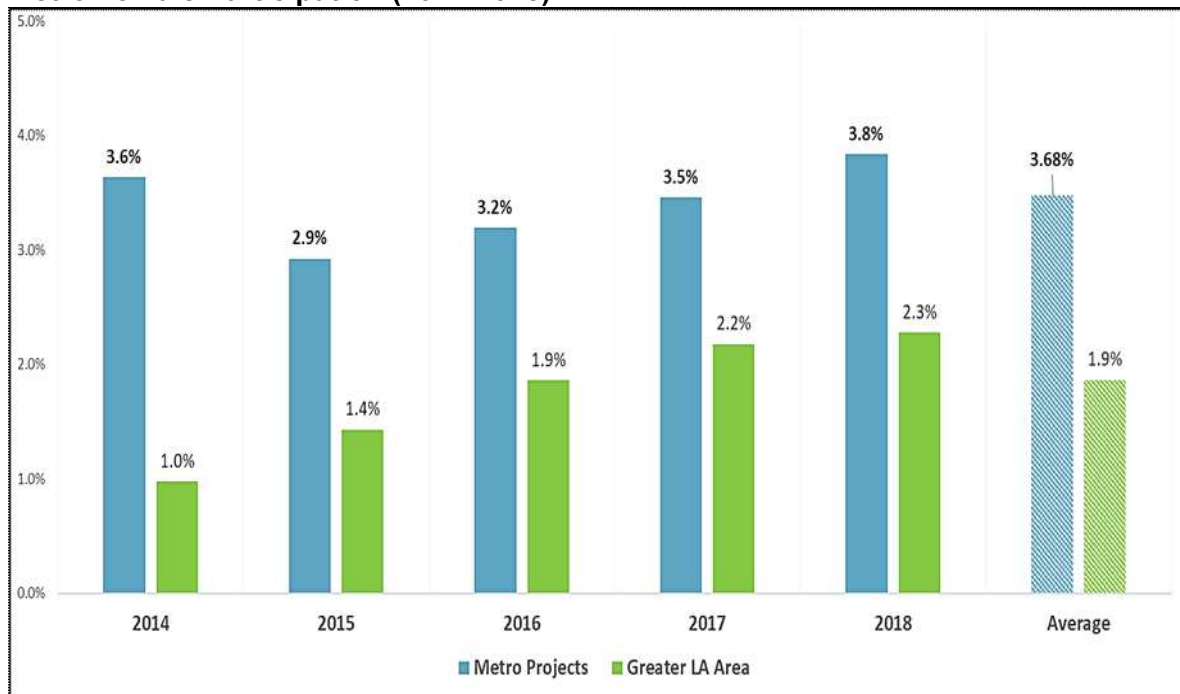
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The average female participation on Metro construction projects is at 3.73% of total work hours, which is higher compared to less than 2.0% on other non-Metro public works construction projects in the region. The national average for women in construction is below 3.0%.

The following chart represents Metro female participation by year in comparison to other non-Metro projects in the region.

### Metro Female Participation (2014-2018)



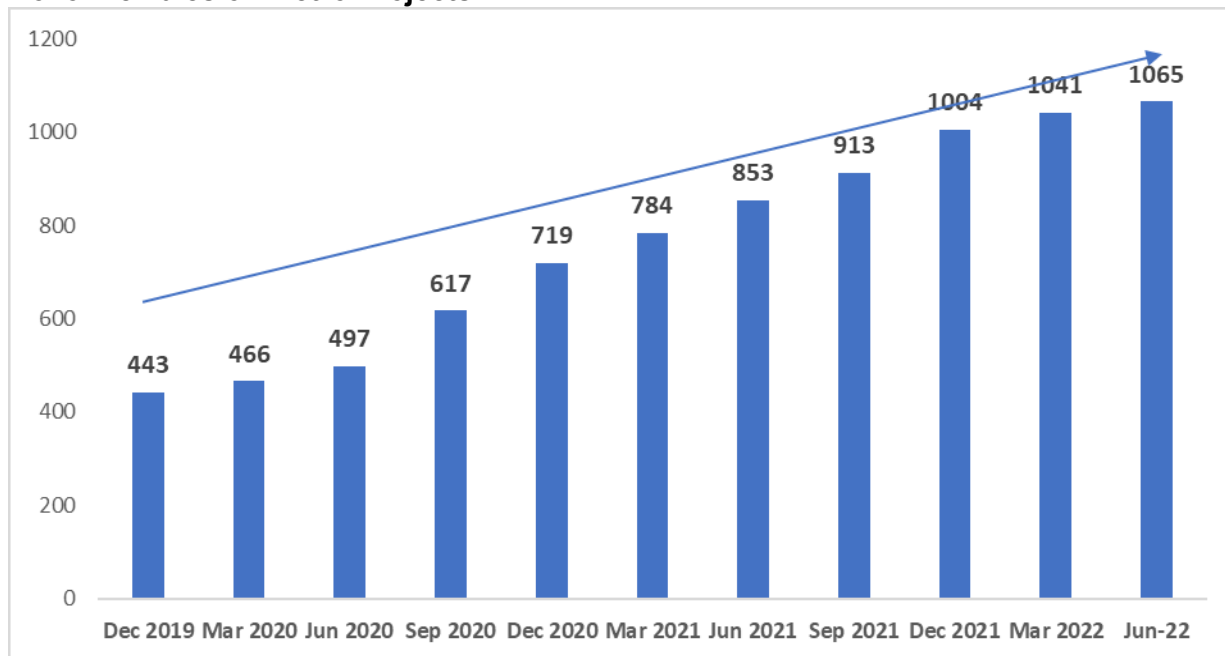
Source: Estalano Lesar

#### Advisors - Disparity Study

Staff understands the importance of increasing female participation on Metro’s projects for equity and workforce availability reasons and is actively taking measures to increase and create opportunities.

Overall, a total of over 1000 female workers have worked on Metro’s PLA/CCP construction projects. Below is a chart of the no. of females within the last two years on construction projects.

**No. of Females on Metro Projects**



Source: As reported by the prime contractors. This table counts each individual tradeswomen only once (no double counting), even if an individual

worked on multiple projects.

Staff continues to focus on strategies to support the outreach, recruitment, and retention of women into the trades focusing on Metro's PLA/CCP construction projects. Listed below are strategies that were implemented to increase female participation in Metro's construction projects.

- Female Participation Score Card - Staff continues to grade each contractor's performance quarterly through the utilization of a score card that reflects percentages of females hired by Metro's contractors to encourage in meeting the 6.9% goal.
- Periodic Jobs Coordinator meetings - Staff conducts periodic meetings with the jobs coordinators to discuss best practices and identify outreach and recruitment opportunities. The last meeting focuses on female recruitment and referral into union boot-camps or pre-apprenticeship programs.
- Transition Coordination - Staff continues to assist female workers transitioning to other active or upcoming Metro projects as projects near the end of construction.
- Notice to Prime Contractors - Staff continues to issue notices to prime contractors not meeting the female participation goal at 25%, 50%, and 75% project completion.
- Women in the Trades Resource Guide - Staff developed a comprehensive guide to recruit, employ and retain women in construction careers to assist prime contractors in recruiting female workers.
- Collaboration with Unions - Staff has established a collaboration with Laborers Union and Southwest Regional Council of Carpenters to directly refer female workers to join the apprenticeship program. Upon completion, participants are referred to Metro's contractors for employment opportunities.
- Outreach - Staff continuous to outreach to community-based organizations, pre-apprenticeship schools, and building trades to promote and increase female recruitment in the construction industry.
- Established a partnership with the Los Angeles/Orange County Building and Construction Trades Council (LAOCBTC) and the Executive Secretary to focus on increasing female participation in the construction industry which includes prioritizing and dispatching female workers on Metro construction projects.
- Metro in partnership with Building Next Gen, LA County AJCC, East Los Angeles Community College, and trades hosted an in-person job-fair event on April 13, 2022, promoting careers in construction focusing on recruiting females.

In addition, the following are strategies under development to support and increase female participation in Metro's projects.

- Metro and Laborers Union (Local 300) are collaborating to establish a tunnel worker training facility in the LA region. Currently, the only training facility for tunnel workers is in Seattle, Washington, which creates a hardship for individuals to participate. The establishment of a local tunnel worker training facility will help fulfill the LA region's need for tunnel workers, with priority given to females interested in starting a career in the construction industry. Laborers Training School is in the process of formulating a committee consisting of subject matter experts to assist in the development of class curriculum and support.
- Metro to plan a Joint Awareness Campaign in collaboration with LAOCBTC, union trades, prime contractors, and community-based organizations with a focus of building future workforce capacity with a special focus on females.
- Consistently support the Women Build Metro LA (WBMLA) events. The WBMLA events are geared to introduce the construction career path for women throughout Los Angeles County. Staff has invited Metro's prime contractors to participate and recruit females interested in starting a career in construction.
- Collaborate with Women in Non-Traditional Employment Role (WINTER) to continuously seek grant opportunities to help empower, train, educate and prepare women for transformative careers in the construction industry. Metro has supported WINTER in their grant application to the State of California - WIOA Equity and Special Populations Program. In addition, Metro shall provide continuous employment referrals to female graduates of WINTER on Metro project sites.
- Further collaborate with LA County WDAC in the recruitment of females interested in starting a career in construction and the establishment of an ongoing referral system of individuals to pre-apprenticeship programs available through LA County WDACS network of services.
- Metro to collaborate with Project Home Key in support of the un-housed veterans with a special focus on females for employment opportunities in construction.

Furthermore, staff will continue to provide ongoing assessment of the female participation score card, monitoring of contractor's performance, and recognition of contractors that successfully meet or exceed the 6.9% goal or demonstrate highly commendable efforts in the recruitment, retention and/or professional development of women on Metro's construction projects.

### **Federal Highway Administration (FHWA)**

Staff is pleased to announce that FHWA has approved utilizing Metro's PLA/CCP Local Hire provisions on FHWA assisted construction projects. This is the first time Metro has been able to secure this type of approval from FHWA. The four project that received approval are:

- I-605 South Street Off-Ramp project
- I-105 CMGC Project
- Union Stations Master Plan/Alameda Esplanade
- Reconnecting Union Station to the Historic Cultural Communities of Downtown Los Angeles

Through this action, Metro is demonstrating its commitment to contributing to the economic recovery from the COVID-19 pandemic, creating equitable employment opportunities, and promoting workforce development, specifically for economically and socially disadvantaged individuals across the Los Angeles County region.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

Metro's Project Labor Agreement/Construction Careers Policy (PLA/CCP) supports strategic plan goal #3 to enhance communities and lives through mobility and access to opportunity. Metro's PLA/CCP provides training and employment opportunities in the construction industry to individuals from economically disadvantaged areas and individuals that are socially barriered. As of this reporting period, over \$463 million in wages have been paid to individuals residing in economically disadvantaged areas, and over \$85 million in wages paid to disadvantaged individuals.

### **EQUITY PLATFORM**

Metro's Project Labor Agreement and Construction Careers Policy enhance equity to marginalized and vulnerable community members by creating employment opportunities in the construction industry for workers with historical barriers to employment. In addition, through Executive Order (EO) 11246, Metro is striving to diversify the workforce on construction projects to improve access to career opportunities and serve as a catalyst for improving socio-economic status for minorities and women. As of this reporting period, all active PLA/CCP construction projects have exceeded the minority participation goal of 28.30%. Female participation is below the EO11246 goal of 6.9%, however, this report summarizes the effort undertaken by staff to increase female participation, including outreaching to women in construction to obtain insight and best practices to contractors and female workers in the construction industry (details in Attachment B). As discussed above, average female participation in Metro construction projects is also higher compared to other non-Metro public works construction projects in the region and the national average for women in construction.

### **NEXT STEPS**

DEOD staff will continue to monitor contractor's efforts and initiate the various strategies and activities as outlined in this report. Staff will continue to monitor and deliver best practices, initiatives, and outreach efforts to promote awareness, engagement, and participation in construction career opportunities.

### **ATTACHMENTS**

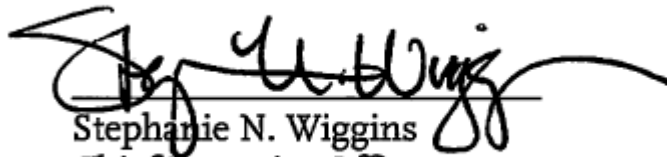


Attachment A - PLA/CCP Quarterly Brochure

Attachment B - Women in the Trades Resource Guide

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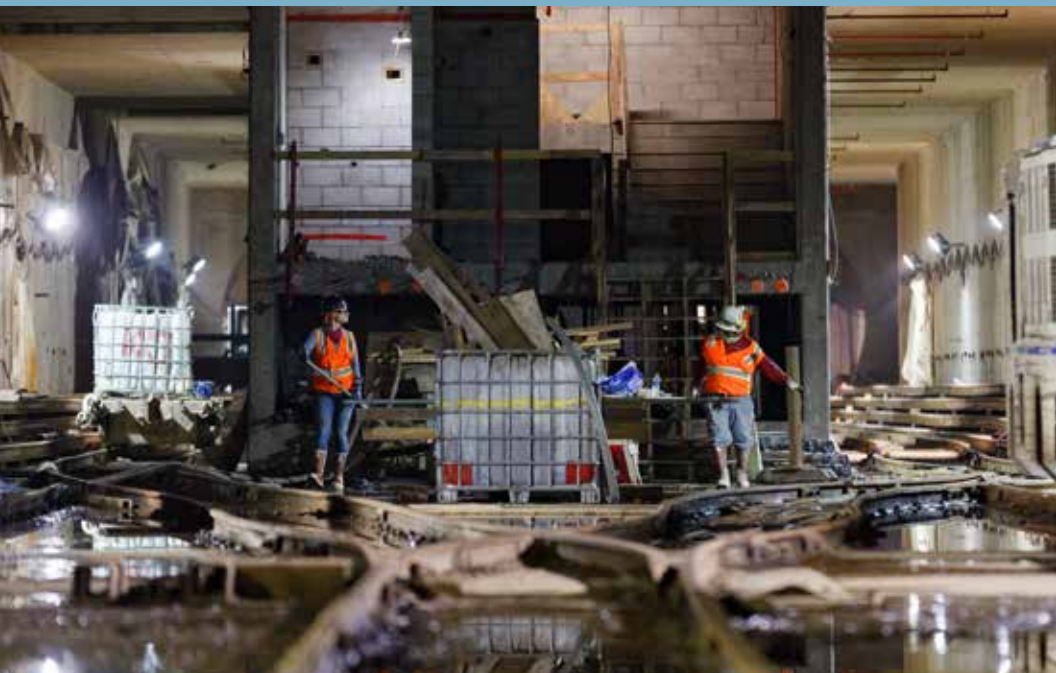
Stephanie N. Wiggins  
Chief Executive Officer

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METRO LOS ANGELES



# PLA/CCP



## Metro's Project Labor Agreement and Construction Careers Policy

June 2022



**Metro**<sup>®</sup>



## Overview

In January 2012, the Metro Board approved the Project Labor Agreement (PLA) with the Los Angeles/Orange Counties Building and Construction Trades Council and the Construction Careers Policy (CCP). The primary benefit of the PLA is that it encourages construction employment and training opportunities in economically disadvantaged areas throughout the United States on federally-assisted contracts. Another benefit is that it prohibits work stoppages.

The PLA goals are:

- > **40% participation of construction workers residing in economically disadvantaged areas**
- > **20% apprentice participation**
- > **10% participation of disadvantaged workers (meeting two of nine disadvantaged criteria)**

Consistent with the Board-approved PLA/CCP, prime contractors are required to provide monthly reports detailing progress towards meeting the targeted worker hiring goals. Additionally, per Metro's Labor Compliance policy and Federal Executive Order 11246, prime contractors provide Metro with worker utilization data by ethnicity and gender. (See page 6).

**Economically Disadvantaged** – Area where the median household income is less than \$40K per year.

**Disadvantaged** – Economically disadvantaged; also satisfying at least two of the following nine categories: 1) homeless, 2) single custodial parent, 3) receiving public assistance, 4) lacking GED or high school diploma, 5) criminal record or history with criminal justice system, 6) chronically unemployed, 7) emancipated from foster care, 8) veteran from Iraq or Afghanistan war, or 9) apprentice with less than 15% hours needed to graduate to journeyworker. Criminal justice system percentages are a subset of the 10% Disadvantaged hours category.

# Figures at a Glance

## PLA CONTRACTS – INCEPTION TO DATE



## CONTRACT VALUE



\* 4 projects have been awarded but have not yet started.

## APPRENTICE WORKERS



CRENSHAW/LAX  
TRANSIT CORRIDOR  
PROJECT (PROJECT  
BEGAN 8/2013)



REGIONAL CONNECTOR  
TRANSIT CORRIDOR  
PROJECT (PROJECT  
BEGAN 9/2014)



WESTSIDE SUBWAY  
EXT. PROJECT,  
SEC 1 – DESIGN  
BUILD (PROJECT  
BEGAN 11/2015)



WESTSIDE PURPLE  
LINE EXTENSION  
PROJECT, SECTION  
2 (PROJECT BEGAN  
4/2017)

## PLA WORKER HOURS (PROGRAM-WIDE) ACTIVE AND CLOSED PROJECTS

**24,408,018.56 hours**

TOTAL CONSTRUCTION HOURS  
THROUGH JUNE 2022

**18,317,756.84 hours**

TOTAL APPRENTICEABLE HOURS  
THROUGH JUNE 2022

**58.71% (14,329,311.04 hours)**

ECONOMICALLY DISADVANTAGED

**21.65% (3,966,183.75 hours)**

APPRENTICE

**10.84% (2,646,265.16 hours)**

DISADVANTAGED

## Fast Facts on Metro's Project Labor Agreement

- > Metro is the **first** transit agency in the nation to adopt a PLA that includes a targeted hiring emphasis on apprentices, low income and previously excluded members of society into the trades.
- > The U.S. Secretary of Labor visited Metro and the Crenshaw/LAX Transit Corridor Project in August 2014 and highlighted the PLA/CCP as a success and national model.
- > **No** work stoppages or lockouts have occurred since the start of the program.



## Female Participation in Construction

Through its Project Labor Agreement and Construction Careers Policy, Metro is striving to diversify the workforce on construction projects to improve access to career opportunities and serve as a catalyst for improving socio-economic status for minorities and women. Although the national average for women in construction is below 3%, Metro's goal is to exceed the Executive Order 11246 female utilization goal of 6.9%. Metro's current female participation average is 3.73%.

In November 2017, Metro's Board passed a motion authorizing the agency to create and publish a score card system that reflects percentages of women hired by Metro contractors; develop an incentive program to encourage contractors to exceed the national goal; and require contractors to demonstrate how they are promoting a diverse and inclusive work environment.

### Women Build Metro LA (WBMLA)

Women Build Metro LA is a culmination of community advocates, stakeholders and decision makers, including private and public sectors. Together we are committed to increasing the ranks of qualified women candidates for apprenticeship and placement with all trades. With our partners and stakeholders, including our Women Build Metro LA Committee, we are passionate about increasing female participation, given that women currently make up less than 3% of the construction trade workforce.






We are proud to educate and support women's introduction into all aspects of the transportation industry, including administration, professional ranks, operations and more.

# Female Participation Score Card

JUNE 2022

The Metro Board voted to create a score card system to highlight those contractors who meet and exceed the Executive Order 11246 female participation goal of 6.9% on Metro construction projects.

ACTIVE PROJECTS	PRIME CONTRACTOR	GRADE	%
1st/Central Street Eastside Access Improv Project (EAIP)	Griffith Company	A	7.72%
Division 20 Portal Widening Turnback	Tutor Perini Corp	B	5.81%
Airport Metro Connector Site Work & Rails System Construction Project	Hensel Phelps/Herzog	B	4.66%
Purple Line Extension, Section 3 – Stations Design/Build	Tutor Perini/O&G, JV	C	4.48%
Regional Connector Transit Corridor Design/Build	Regional Connector Constructors, JV	C	4.27%
Purple Line Extension, Section 3 – Tunnel Project D/B	Frontier Kemper/Tutor Perini, JV	C	3.78%
Westside Subway Extension Project, Section 1 – Design/Build	Skanska, Traylor, Shea, JV	C	3.76%
Crenshaw/LAX Transit Corridor	Walsh/Shea Corridor Constructors	C	3.61%
Metro Center Street Project Design/Build	Amoroso Construction Co., Inc.	C	3.60%
Westside Purple Line Extension Project, Section 2 – Design/Build	Tutor Perini/O&G, JV	D	2.81%
Soundwall #11 Construction	Powell Constructors, Inc.	F	0.48%

	<b>A</b> 6.9% and above		<b>D</b> 1.6% to 3.0%
	<b>B</b> 4.6% to 6.8%		<b>F</b> 0% to 1.5%
	<b>C</b> 3.1% to 4.5%		

To view the Score Card detail summary, visit [metro.net/pla](http://metro.net/pla).

# Current PLA/CCP Project Attainments

TARGETED WORKER ACTIVITY BY ACTIVE PROJECT (CUMULATIVE)	% PROJECT COMPLETE	PLA/CCP			% OF DISADV WORKERS IN THE CRIMINAL JUSTICE SYSTEM CATEGORY
		GOAL 40% ECON DISADV	GOAL 20% APPRENTICE	GOAL 10% DISADV	
<b>Crenshaw/LAX Transit Corridor</b>	99.85%	61.15%	23.50%	10.46%	33.87%
<b>Regional Connector Transit Corridor Design/Build</b>	98.18%	62.40%	20.31%	10.97%	70.61%
<b>Westside Subway Extension Project, Section 1 – Design/Build</b>	78.79%	61.99%	20.32%	12.83%	70.49%
<b>Westside Purple Line Extension Project, Section 2 – Design Build</b>	39.45%	39.56%	16.14%	5.21%	43.50%
<b>Purple Line Extension, Section 3 – Tunnel Project D/B</b>	74.22%	41.87%	17.31%	7.66%	54.49%
<b>Purple Line Extension, Section 3 – Stations Project D/B</b>	12.42%	62.85%	10.57%	18.15%	68.62%
<b>Soundwall #11 Construction</b>	99.48%	42.85%	17.02%	10.96%	41.88%
<b>Division 20 Portal Widening Turnback</b>	76.20%	46.98%	20.11%	5.88%	46.23%
<b>Metro Center Street Project D/B</b>	30.31%	78.80%	11.72%	1.80%	100.00%
<b>Airport Metro Connector Site Work &amp; Rails System Construction Project</b>	77.18%	45.62%	19.67%	3.43%	100.00%
<b>1st/Central Street Eastside Access Improv Project (EAIP)</b>	72.87%	60.98%	19.04%	17.95%	97.86%

Project % completion is based on projected work hours as provided by the prime contractors.

Data through June 2022

# Current Projects Executive Order 11246 Attainments

ACTIVE PROJECTS SUBJECT TO METRO'S PLA/CCP	AFRICAN AMERICAN	ASIAN	CAUCASIAN	HISPANIC	NATIVE AMERICAN	OTHER/ NOT SPECIFIED	GOAL 28.30% MINORITY	GOAL 6.90% FEMALE
<b>Crenshaw/LAX Transit Corridor</b>	11.21%	1.47%	20.46%	63.30%	0.81%	2.75%	76.79%	3.61%
<b>Regional Connector Transit Corridor Design/Build</b>	5.30%	0.86%	20.21%	66.38%	0.76%	6.50%	73.30%	4.27%
<b>Westside Subway Extension Project, Section 1 – Design/Build</b>	8.52%	1.61%	20.47%	61.74%	0.57%	7.07%	72.44%	3.76%
<b>Westside Purple Line Extension Project, Section 2 – Design/Build</b>	5.61%	1.53%	24.35%	63.31%	1.17%	4.03%	71.62%	2.81%
<b>Purple Line Extension Project, Section 3 – Tunnel Project D/B</b>	5.21%	0.70%	25.38%	64.10%	1.31%	3.30%	71.32%	3.78%
<b>Purple Line Extension Project, Section 3 – Stations Project D/B</b>	1.74%	2.28%	23.36%	71.63%	0.13%	0.85%	75.78%	4.48%
<b>Soundwall #11 Construction</b>	3.48%	0.01%	11.67%	80.57%	0.00%	4.26%	84.06%	0.48%
<b>Division 20 Portal Widening Turnback</b>	5.02%	1.20%	25.07%	65.22%	1.15%	2.34%	72.59%	5.81%
<b>Metro Center Street Project D/B</b>	9.40%	3.96%	39.37%	44.38%	0.00%	2.90%	57.74%	3.60%
<b>Airport Metro Connector Site Work &amp; Rails System Construction Project</b>	7.49%	3.63%	24.97%	51.96%	0.06%	11.89%	63.14%	4.66%
<b>1st/Central Street Eastside Access Improv Project (EAIP)</b>	7.25%	0.23%	8.12%	74.02%	0.00%	10.38%	81.50%	7.72%



# Metro is building the workforce of

Metro's PLA/CCP facilitates new training and apprenticeship opportunities. These programs also help those who reside in economically disadvantaged communities. Here's a look at just a few of the workers who have found success.



## Frances Macias Aguilar

Frances Macias Aguilar is a mother of eight who has a passion for the construction trades. As a member of Laborers Local 300, Frances is certified in lane closures and works on the team that handles traffic control for the Regional Connector Transit Corridor Project in the heavily congested streets of downtown Los Angeles. Frances' job is to close street lanes to traffic throughout the various active construction sites in the city. Francis says joining the laborers has changed her life dramatically, she looks forward to moving up the ladder and bringing more females into this male-dominated field.



## Patricia Allen

As a child, Patricia was determined to be different and reject the gender roles that were expected of her. After making some mistakes within the justice system, Patricia decided that she needed to make a positive change in her life. Fourteen years ago, Patricia found the change she was looking for when a friend suggested that she look into a career in construction and encouraged her to register for the Laborers Union Bootcamp, (B.O.O.T.S.), and that's just what she did. While in training, Patricia earned the respect of her female peers and motivated them to push themselves as she had, to overcome the fear of entering a male dominated field and constantly reminded them to work hard because, "You are only as good as your training." Throughout her career in construction, Patricia has been able to provide a comfortable life for herself and her son. Patricia also has the distinction of being the only female miner on the Westside Purple Line Extension Project and hopes that her work will inspire other women to follow in her footsteps.

# tomorrow.

opportunities for workers across the region.  
disadvantaged areas to find jobs and training opportunities on Metro projects.  
workers working on PLA and Measure R projects:



## Jacquie Anzaldo

Jacquie Anzaldo was raised in Wilmington, CA, a single mother with a criminal background has beaten the odds of her employment barriers post incarceration. Jacquie was given a second chance in life when sponsored into Local 300 Laborers Union, which led to her current employment on the Westside Purple Line Subway Extension Project, Section 1. Jacquie is grateful for the opportunity to be able to rebuild her life and have a career in construction.



## Guy Denuccio

Guy is a 1st Period Laborers Apprentice on Metro's Purple Line Extension, Section 1 project. A native of Southern California, Guy enjoys baseball and was a standout athlete in his youth. Before working for Skanska on PLE Section 1, Guy made some regrettable decisions and was incarcerated for nine years. While incarcerated, he vowed to never repeat the same mistakes and promised himself he would get out and begin a life and career his family would be proud of. After being paroled, Guy enrolled in an MC3 training program. After completion, he was given the opportunity to begin working right away. Guy thinks back to his time in the criminal justice system and says, "I'm never going back; this opportunity has given me a chance to change my life and I am proud to be part of building the future of Los Angeles."



## Catherine Dillon

Catherine Ann Dillon was born in Lancaster, CA, and was educated through the Saddleback Academy homeschool program. After high school, she worked at a Scout Camp for young adults. While working at the camp, Catherine watched her father welding, and she showed interest. He began to teach her basic welds.

From that point, Catherine decided to reach out to Ironworkers Local 433 and register with their Union. Shortly after registering with Local 433, Catherine contacted Skanska, and seeing her potential, they sponsored her into the union. Catherine is now an Eighth Period Apprentice and loves being a part of the team working on Metro's Westside Purple Line Extension Project.



### **Jenna Dorrrough**

In 2017, Jenna Dorrrough graduated from Women in Non-Traditional Employment Roles' (WINTER) pre-apprenticeship training program as a Carpenter. Since then, Jenna has become certified in OSHA 30, CPR and HAZPOWER training and recounts her story on how she became interested in the building trades. Originally a security guard on a construction project, she was inspired by women on the job site, considering construction is traditionally a male-dominated field. Currently, Jenna is working on Metro's Regional Connector project as a Carpenter where she works every day to gain as much knowledge as possible and ultimately achieve her goal of becoming a crane operator and welder. With her success, Jenna was honored by WINTER this past November 2018 as the Female Craft Worker of the Year.



### **Jermaine Edwards**

Jermaine Edwards was born and raised in Southeast Los Angeles. After time in prison, he decided he wanted to turn his life around and begin a career in construction, and found an opportunity to work as a Skill Craft Laborer on the Crenshaw/LAX Transit project. Jermaine remains humble about his current success, and even mentors some of his fellow coworkers who have recently transitioned from the prison system into the workplace.



### **Eric Falcon**

After spending 15 years of incarceration, Eric Falcon vowed to never return to prison. Eric wanted a better life for himself and his family, which led him to attend a pre-apprenticeship training sponsored by Southwest Carpenters Training through the "My Brother's Keeper" program. Upon completion of the program, Eric was hired as a Carpenter (Local 409) on the Westside

Purple Line Subway Extension Project, Section 1. A husband and father of three, Eric grew up in the South Los Angeles area, where he continues to reside and raise his family. Eric is grateful for the opportunity that Westside Purple Line team has provided him.



## **Jessica Flores**

Born in East Los Angeles, Jessica attended Eagle Rock High School. Later, Jessica obtained her Welding certificate from Pasadena City College. While working at the Broad Art Museum, Jessica observed the construction work taking place across the street at Metro’s Regional Connector project site. Through this interest, Jessica made the courageous decision to begin a career in construction. Jessica registered and completed the Laborers Union Bootcamp construction training program, (B.O.O.T.S.). Upon completion of her rigorous training, she immediately applied for work at the Regional Connector project and was hired by Skanska. Proudly, Jessica is now a Sixth Period Apprentice and loves her new career.



## **Yurvina Hernandez**

Before becoming a Laborer Apprentice, Yurvina Hernandez had never considered going into the field, even though her family owns a construction business and she grew up around the industry. Yurvina’s sister-in-law encouraged her to join a construction training program along with her, and Yurvina quickly discovered that she enjoyed the job. She went on to graduate from the boot camp and joined her union, Local 300. Now, Yurvina is a Level 4 Apprentice on the Purple Line Extension Section 3 Tunnels project. Working at the ground level, she inspects segments of the massive tunnel boring machines, and guides crane operators as they lower equipment into the tail track exit shaft, which is the staging area that leads into the underground tunnels. Yurvina would tell anyone considering a career in construction, especially women, “Never be afraid to try something new.” After all, that’s exactly what she did.



## Dezdon Lewis

Dezdon Lewis was recently awarded the prestigious “Participant of the Year” award from Playa Vista Jobs (PV Jobs) and a Certificate of Recognition from Congresswoman Lucille Roybal-Allard. After being incarcerated for a number of years, Dezdon knew it was time to make a change and teamed up with PV Jobs, who helped him get a job placement within the building trades on Metro’s Crenshaw/LAX Transit Corridor project. For Dezdon, what began as an entry-level ditch digging position has transitioned into a role of leadership and responsibility, where he is now an Inspector in Charge of Segment Eight Health, Safety and Environment on the project. Dezdon recounts his journey from his time in the criminal justice system to his new leadership role, and actively encourages former inmates to “look above” their situations, create life goals and stick to them.



## Belia Lopez

Belia has always taken a nontraditional approach to life. Since her youth, she has always enjoyed working with her hands and was always fascinated with figuring out how things work. After working in autobody shops for over five years, Belia decided it was time to make a change. The construction industry seemed like a natural transition and she enrolled in an MC3 training program. Belia is currently a 1st Period Apprentice with IBEW Local 11 and is working as an electrician on Metro’s Purple Line Extension, Section 1 project. Belia states that she has enjoyed every aspect of the challenges she has faced in the construction industry and looks forward to continuing her personal growth and development in the trades.



## John Mackey

John Mackey works on the Regional Connector project in downtown Los Angeles. Although he struggled with finding a job, he says his new position changed his life dramatically and has allowed him to successfully save money, and he plans to start his own business. Due to this job, he is no longer living at the LA Mission on Skid Row and has moved to a transitional living home. John compared his new job on the Regional Connector project to “winning the lottery.”



## Marely Mendoza

Marely Mendoza is a single mother of four and native of Los Angeles, California. A few years ago, she was introduced to construction by family and found her calling in the building trades. Since then, she has completed the Laborer's Training Academy and began her career in the trades as Laborer with Local 300. Marely's journey in the trades has led her to work on mega projects, including Metro's Crenshaw/LAX Transit Corridor and most recently, Metro's Purple Line Extension, Section 2.



## Ricshawn Moore

Growing up, Ricshawn Moore faced all of the challenges many of our young men face in today's communities. Raised by a hardworking mother in Compton after his father passed away when Ricshawn was just two, he spent too much time on the streets as a teen and ended up struggling with gangs. Ricshawn kept an open mind, worked hard and today is earning a living as a union-scale laborer on the much-anticipated Crenshaw/LAX Transit Corridor Project.



## Cynthia Piña

Cynthia Piña grew up in Rosemead, CA, and moved to Watts 10 years ago. During her time in Watts, she became involved with the wrong crowd and moved in and out of the justice system. As a mother of two, she was determined to turn her life around. She enrolled herself in a pre-apprenticeship program and upon completion was hired as a Laborer (Local 300) on the Westside Purple Line Subway Extension Project, Section 1. Through hard work and dedication, Cynthia now is a 4th Period Apprentice, continually learning new skills and progressing in her trade.



## Lance Reed

Raised in Whittier, California, Lance Reed began his career in construction when a representative from the Laborers' Union visited the prison where he was incarcerated. The union offered a training program to help prepare individuals to apply for jobs in the industry, and Lance saw this as a chance to set himself up for success after his release. Lance was eventually hired by Valverde Construction, and today he is a



General Superintendent. He manages field operations for Valverde Construction on Sections 2 and 3, where he mostly works underground, relocating and installing utility lines. Lance is proud of the work he does and looks forward to the project's completion, when he can visit the finished stations with his children and grandchildren to show them what he helped build. "If you never give up and continue working hard," Lance says, "anything can be done."



### **Petra Sanchez**

Petra Sanchez is a single mother of two and a former Jobs Coordinator for Women in Non-Traditional Employment Roles, (WINTER). When her role with WINTER came to an end, Petra decided that she would pursue the very same path she had been leading other women to pursue in WINTER's pre-apprenticeship training program. Since completing her training, Petra has been working on Metro's Crenshaw/LAX Transit Corridor project as an Operating Engineer. Petra states that this new opportunity has provided the stability and flexibility that she was looking for and she is thrilled to be part of the city's transportation future.



### **Kimberly Taylor**

Kimberly Taylor is a veteran of the construction industry. Seven years ago she decided that she wanted to be part of something more challenging, both mentally and physically; and she decided that construction was the career for her. Today, Kimberly is working on Metro's Westside Purple Line Extension Project as a Gas Detection Technician. Kimberly plays a vital role not only ensuring the safety of her fellow workers on this project but also keeping the project on schedule. She is proud of the work she does and the impact that women like her have made in this industry.



### **Jason Thomas**

After spending some time in prison, Jason Thomas attended a pre-apprenticeship boot camp sponsored by the Los Angeles County Federation of Labor/ LAOC Building Trades, Los Angeles Trade Technical College and ARC. The day after his graduation, Jason interviewed with Walsh Shea Corridor Constructors, and now is working on the Crenshaw/LAX Transit Corridor project, as an Operating Engineer (Local 12).



## Angel Valles

Angel Valles is relatively new to the construction industry having only entered the “My Brother’s Keeper” program for construction pre-apprentice training last year. Since then, Angel has relished the opportunity to develop the skills necessary to have an impactful and lasting career in the industry as a Carpenter. For the past seven months, she has been working as a 1st Period Apprentice on Metro’s Regional Connector Transit Corridor project. When asked what triggered her interest in the trades, Angel responded, “I wanted a physically demanding career that would allow me to use my hands and teach me the skills I need to become a better carpenter.”



## Lorrie Williams

Lorrie is a 3rd Period Apprentice from the Pile Drivers/ Carpenters Union working on the Regional Connector project. Lorrie started her career in the trades later than most, having spent many years working in refineries as fire-watch and performing other related tasks. Lorrie decided that she wanted to know more about the construction industry and work in something more hands on, which led her to join the trades. After completing the Maxine Waters MC3 program, Lorrie attended an event where she met representatives from Skanska, the prime contractor for the Regional Connector project. Lorrie found that safety is a big area of interest for her and hopes to work in safety coordination one day. Currently, she holds eight OSHA certificates and is working on obtaining the Construction Health and Safety Technician (CHST) certificate. Lorrie wakes up happy to go to work and loves that she can be a part of history by shaping the LA landscape for future generations.



## Whitney Winans

Whitney Winans, a determined 25-year-old from Compton, CA, who now resides in South Los Angeles, does not let anything stand in the way of her success. As a participant of the Southwest Carpenters Training through the “My Brother’s Keeper” program, Whitney is now a 1st Period Apprentice working on the Crenshaw/ LAX Transit Corridor Project. Whitney encourages other young women to consider a career in construction.



# Pilot Local Hire Initiatives

The Federal Transit Administration (FTA) has announced an initiative to permit FTA recipients and subrecipients to utilize geographic, economic, or other hiring preferences on FTA-Funded construction projects. This initiative will be carried out as a pilot program for a period of four years (unless extended) under authority provided in the Consolidated Appropriations Act, 2021, the Federal grants management regulation, and a recent Office of Management and Budget Memorandum (March 19, 2021).

The new Pilot Local Hire Initiative enables Metro to implement local hiring requirements on Federal Transit Administration (FTA) contract opportunities advertised during the four-year pilot period of May 21, 2021 through May 21, 2025.

## Contact Us

For more information, please contact Metro's Diversity & Economic Opportunity Department:

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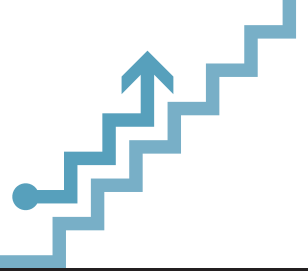
**PLA Hotline**  
888.887.3674



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# PLA/CCP



## Women in the Trades Resource Guide

A Comprehensive Guide to Recruit, Employ  
and Retain Women in Construction Careers




**Metro**<sup>®</sup>



## Encouraging Contractors to Increase Women's Workforce Participation on Metro Construction Projects

The purpose of this resource guide is to provide insight and best practices to contractors and female workers in the construction industry. This guide should be used as a toolkit for contractors to recruit, employ and retain women in construction careers. Metro encourages contractors to not only use the resources in this guide, but to share this information with their subcontractors, jobs coordinators, site foreman and construction workers. Additionally, contractors are to use the toolkit to promote an inclusive workforce to foster a safe, productive and diverse work environment.

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## 1. Outreach Strategies

An effective outreach strategy is critical in reaching women candidates interested in construction careers. Contractors should conduct outreach for each construction project and should participate in events sponsored by community-based organizations. Examples of the most effective outreach strategies include:

**a. Conduct outreach job fairs for your construction projects.**

- > Invite jobs coordinators, Metro staff and the Los Angeles/ Orange County Building and Construction Trades Council (LA/OCBCTC) to attend your outreach event and provide support. Contact the joint labor-management apprenticeship programs of the building trades-affiliated unions: [laocbuildingtrades.org/apprenticeship-building-trades](http://laocbuildingtrades.org/apprenticeship-building-trades).
- > Conduct job fairs prior to the start of the construction project, periodically, or as needed as appropriate on large projects.
- > Properly advertise the job fair to receive maximum participation and highlight the opportunities and benefits that can spark interest for women construction workers in your advertisement.

**b. Establish a collaborative workforce network with the job coordinators and workforce partners, such as America's Job Centers of California (AJCC). Participate in their outreach events, which are listed on their websites. A few of the workforce partner organizations are:**



1. Women Build Metro Los Angeles outreach events
2. Women in Non-Traditional Employment Roles (W.I.N.T.E.R.)
3. Flintridge Center
4. LAX Pre-Apprentice Construction Training
5. Playa Vista Jobs (PV Jobs)
6. 2nd Call
7. Friends Outside in Los Angeles County
8. Youth Build

**C. Utilize Los Angeles WorkSource Centers/AJCCs to sponsor or host on-site recruitments at their locations. Publicize your efforts to attract the candidate pool in which you need to fulfill your specialized hiring requirements. Below is a list of Los Angeles City and County-funded WorkSource/AJCC centers that have construction sector recruiting and/or training initiatives.**

1. Goodwill Industries (Northeast Los Angeles WorkSource Center): [info@goodwillsocal.org](mailto:info@goodwillsocal.org)
2. Coalition for Responsible Community Development (Vernon – Central/LA Trade Tech College WorkSource Center): [coalitionrccd.org](http://coalitionrccd.org)
3. Arbor ResCare East Los Angeles:  
[rescare.com/workforceservices/locations/?state=California](http://rescare.com/workforceservices/locations/?state=California)
4. Managed Career Solutions (MCS) Pomona Valley:  
[mcsocalifornia.com/locations](http://mcsocalifornia.com/locations)
5. El Proyecto del Barrio (Sun Valley WorkSource Center):  
[elproyecto.us](http://elproyecto.us)
6. Harbor Gateway (Harbor/San Pedro WorkSource Center):  
[pacific-gateway.org/harbor](http://pacific-gateway.org/harbor)
7. South Los Angeles (LA Southwest College):  
[jvsla.org](http://jvsla.org)
8. South Bay/Inglewood One Stop: [sbwib.org/home](http://sbwib.org/home)
9. Housing Authority of the City of Los Angeles: (HACLA Watts WorkSource) Center: [ewddlacity.com/index.php/employment-services/adults-age-24-and-older/worksource-centers#watts-los-angeles](http://ewddlacity.com/index.php/employment-services/adults-age-24-and-older/worksource-centers#watts-los-angeles)
10. Asian American Drug Abuse Program (AADAP West Adams WorkSource Center): [aadapinc.org](http://aadapinc.org)
11. Veterans AJCC (Bob Hope Patriotic Hall, LA): [jvs-socal.org/programs-and-services/worksource-center-services/overview](http://jvs-socal.org/programs-and-services/worksource-center-services/overview)

12. United Auto Workers (UAW Crenshaw South Los Angeles WorkSource Center): *letc.com*
13. Watts Labor Community Action Committee (WLCAC Watts WorkSource Center): *wlcac.org*
14. Pacific Asian Consortium in Employment (PACE WorkSource Center): *pacela.org*

**d. Coordinate with Metro’s Workforce Initiative Now-Los Angeles (WIN-LA) to provide supportive services and career coaching for candidates seeking careers in the construction industry. To learn more about WIN-LA, please visit [winla.metro.net](http://winla.metro.net).**

**e. Coordinate with local Employment Development Department (EDD) office to track unemployed candidates through their base wage file and statewide database.**

**f. Coordinate with Metro staff to utilize Metro’s social media platforms (i.e. Facebook, Instagram, popular online job banks and event pages to reach potential candidates).**

**g. E-blast your recruitment event flyers to share outreach efforts with community-based organizations and workforce partners.**

**h. Attend workforce development meetings focused on providing training and employment opportunities for women in the construction industry.**

**i. Participate in outreach events within the community, community colleges and vocational training schools.**

1. Women Build Metro Los Angeles-Apprenticeship Readiness Fairs
2. LA Metro Community Outreach and Veteran Events
3. Los Angeles Community Job Fairs
4. Los Angeles Trade Technical College Job Fairs
5. Los Angeles Economic Development Department (EDD) Job Fairs
6. California Community Connection Corporation (C4) Construction & Associated Careers Awareness Day (Los Angeles Trade Technical College)

Keep records of all outreach activities as required by your PLA/CCP contractor and jobs coordinator responsibilities. Inform PLA/CCP staff of outreach events to be posted on Metro’s PLA/CCP upcoming events page.



## 2. Recruitment

Best practices for a successful recruitment are the pillars of every great employment hire. By utilizing the suggested best practices below, one can effectively outreach to skilled and qualified construction applicants.

- a.** Contractors and jobs coordinators must have an accurate understanding of open and upcoming craft positions that need to be filled.
- b.** The contractor's Employment Hiring Plan (EHP) should also include estimates of which crafts will be needed and when they should be used during the project.
- c.** In the event a contractor's workforce participation has a female percentage below 6.9%, their hiring focus should be on recruiting female workers for the crafts to be used for upcoming scopes of work.
- d.** The contractor should assess their outreach efforts and follow up with workforce partners through the job coordinator to receive possible candidates that are qualified for the upcoming scopes of work.
- e.** Host your recruitment event at a location that is easily accessible for candidates, such as America's Job Center, Union Hall, or a community-based organization facility, such as Inglewood One Stop, LAUSD MC<sub>3</sub> Location, Local 300 Bootcamp location.



- f.** Work with Metro staff to advertise your recruitment by posting to LA Metro’s social media platforms (i.e. Facebook, Instagram, as well as popular online job banks, or event pages).
- g.** E-blast flyers of recruitment events to reach the maximum number of female candidates as possible.
- h.** Work with your community-based organization partner to assist with prescreening, recruiting and scheduling interviews with candidates prior to the recruitment event.
- i.** Ensure that new candidates entering the construction field have been enrolled in or have completed the MC3 training curriculum. Refer to Section 7.
- j.** Track the status of interviewed candidates and create a list of potential recruits that have not yet been selected. This list should be utilized when future hiring needs arise.
- k.** Utilize the *Request for Craft Employees* form and keep record of your requests. The Request for Craft Employees form is used to request workers that help the contractor meet their Targeted Worker, Apprentice Worker, Disadvantaged Worker, Minority and Female Worker percentage goals.

### 3. Training Resources / Pre-Apprenticeship Recruitment

The following is a list of Pre-Apprenticeship training programs approved by the Building Trades (LA/OCBCTC) that offer the MC3 curriculum. Please see Attachment A for additional information.

1. Anti-Recidivism Coalition
2. Flintridge Center
3. Women in Non-Traditional Employment Roles (WINTER)
4. Antelope Valley College
5. Cerritos College
6. Career Expansion, Inc.
7. Long Beach City College

8. Los Angeles Southwest College
9. Los Angeles Trade Tech College
10. Los Angeles Unified School District Local District North West (High School Programs)
11. YouthBuild Charter School of California (16- to 24-year-olds, 15 locations in LA County)
12. Los Angeles Unified School District Adult Education/ East Los Angeles Occupational
13. Los Angeles Unified School District Adult Education/ Maxine Waters Employment Preparation Center

Contractors must ensure that all new construction candidates have enrolled in an MC3 training course. It is important for contractors to use job coordinators that will refer MC3 graduates to contractors and LA/OCBCTC-recognized apprenticeship training facilities.



## 4. Worker Retention

Contractors are highly encouraged to focus on retaining female workers. Some best practices for retention are listed below.

- a.** Work with Metro staff and job coordinators to transition workers from projects that are 80% complete to lower any lag time from one project to the next. Utilize the *Female Worker Transition Tracking* sheet to support this effort.
- b.** Implement gender-specific portable toilets on the construction site.
- c.** Engage female workers and offer training and support for career advancement.
- d.** Allow new construction workers to job shadow other apprentices and/or journeymen.
- e.** Create a women's supportive network group on the project/ worksite during the onboarding process. This will allow new female employees to gain both professional and personal support from their peers.
- f.** Network with other job coordinators to assist with placing women on other regional construction projects.
- g.** Be proactive! Encourage your workers to learn additional skills in their trade that will allow for advancement in their trade.
- h.** Provide supportive resources for workers, such as child care, transportation, gender-specific restrooms, financial literacy, a harassment free workplace, and other services mentioned in Section 7.



## 5. Worksite Best Practices

- a.** Ensure all construction staff are aware that the construction site has a zero tolerance for discrimination and sexual harassment.
- b.** Post Equal Employment Opportunity, Non-Discrimination and Sexual Harassment policies in inconspicuous locations at the project site.
- c.** Implement separate male and female restrooms for privacy.
- d.** Follow up with female construction apprentices to ensure they are learning new skills and preparing for advancement.
- e.** Consider implementing child care services for construction workers, or build relationships with service providers to foster assistance with child care.
- f.** Consider joining business networking groups that are specific to the construction industry, or can be a pipeline to recruiting new construction candidates.

## 6. Contractor Dos and Don'ts

### Outreach Dos

1. Conduct outreach events/job fairs for your construction projects.
2. Work with your job coordinators and Metro PLA/CCP staff when implementing outreach events.
3. Maintain an open line of communication with your job coordinator.
4. Work with your local community-based organizations, as well as the city and county WorkSource Centers with outreach efforts.
5. Know your local America's Job Centers of California (AJCC) and Employment Development Department (EDD) office to locate unemployed female construction workers.
6. Advertise and promote outreach efforts on social media outlets.
7. Create a strong community-based e-mail distribution list to e-blast outreach events.
8. Build relationships with local vocational schools for outreach and recruiting events.

### Outreach Don'ts

1. Do not forget to stress that Metro strives to increase the representation of females on Metro construction projects.
2. Do not work in silos. Work with your job coordinator for outreach, recruitment, retention and other PLA/CCP requirements.
3. Do not disengage with the community. Inform community-based organizations and partners of your upcoming projects and/or current projects with Metro.
4. Do not solely promote outreach efforts internally. Use social media.
5. Do not hold outreach events during the same time. (Example: always 8-11 am on Fridays). Host events at different times to allow female candidates with various schedules the opportunity to attend.

### Recruitment Dos

1. Meet regularly (weekly or monthly) with your job coordinator to understand the project's workforce needs.
2. Review the project's Employment Hiring Plan (EHP) and utilize the Request for Craft Employees form to recruit women and under-represented workers for the project.
3. Find qualified candidates through your job coordinator and their workforce partners.

4. Host recruitments at easily accessible locations to hire female and targeted workers, such as local AJCCs, WorkSource Centers, union halls, and other community-based organizations.
5. Use social media to promote your recruiting efforts (i.e.) Instagram, Facebook, LinkedIn, Indeed.com, Construction Jobs, Inc., (*constructionjobs.com*).
6. Provide support for your job coordinator's recruitment efforts. Supply signage, job availability, access to prime contractor business agents and recruiters, upcoming craft or training openings, marketing materials, etc.
7. Communicate with Metro when hiring issues arise (both positive and negative).
8. Share Best Practices at Metro job coordinator quarterly meetings.
9. Highlight female participation success stories.

### Recruitment Don'ts

1. Do not ignore or circumvent your job coordinator's efforts.
2. Do not dismiss your Targeted Worker Summary Report as this identifies where the project's workforce needs exist.
3. Do not implement hiring practices without using the *Request for Craft Employees* form. This form can be referenced as proof of your efforts to recruit female workers and comply with PLA/CCP requirements.

### Training Resources/Pre-Apprenticeship Recruitment Dos

1. Work closely with your job coordinator to develop relationships with MC3 approved pre-apprentice training facilities to refer candidates interested in construction careers.
2. Closely review the Targeted Worker Summary Reports for your project and tailor your recruitments to address low female participation and other low categories.
3. Use the approved Request for Craft Employees form to recruit workers for the project. Use this form to recruit female and minority workers to document your efforts to promote a diverse workforce.

### Training Resources/Pre-Apprenticeship Recruitment Don'ts

1. Do not refer potential construction candidates to non-MC3 pre-apprenticeship training schools. The MC3 Curriculum is proven to assist with training job-ready construction candidates and maintain strong retention on projects.
2. Do not ignore the Targeted Worker Summary Report, or *Request for Craft Employee* form. Identify if and when a recruitment will be needed to continue to maintain your efforts of having a diverse workforce.

## 7. Construction Resource Services

### Women's Support Services, FamilySource, WorkSource and YouthSource Services

<b>Bradley/Milken Family Source Center</b>	1773 E Century Bl LA, CA 90002	213.473.3607	<a href="http://cdd.lacity.org/fam_index.html">cdd.lacity.org/fam_index.html</a>
<b>WLCAC (Watts Action Labor Community Action Committee) FamilySource, &amp; WorkSource Center</b>	1212 E 108th St LA, CA 90059	323.563.5639	<a href="http://wlcac.org">wlcac.org</a>
<b>HACLA (Housing Authority of the City of Los Angeles) Imperial Courts</b>	2220 E 114th St LA, CA 90059	323.249.7751	<a href="http://ewddlacity.com/index.php/employment-services/adults-age-24-and-older/worksource-centers#watts-los-angeles">ewddlacity.com/index.php/employment-services/adults-age-24-and-older/worksource-centers#watts-los-angeles</a>
<b>1736 Family Crisis Center (emergency crisis, legal, youth, and mental health services)</b>	2116 Arlington Av LA, CA 90018	323.737.3900	<a href="http://1736familycrisiscenter.org">1736familycrisiscenter.org</a>
<b>NEW Economics for Women Family Source Center</b>	Los Angeles & Valley Locations	213.483.2060	<a href="http://neweconomicsforwomen.org">neweconomicsforwomen.org</a>
<b>El Nido Family Source Center</b>	4060 S Figueroa St LA, CA 90037	323.998.0093	<a href="http://elnidofamilycenters.org">elnidofamilycenters.org</a>
<b>Brotherhood Crusade YouthSource Center (after-school program/tutoring)</b>	4401 Crenshaw Bl LA, CA 90043	323.545.1130	<a href="http://brotherhoodcrusade.org/venue/youthsource-center">brotherhoodcrusade.org/venue/youthsource-center</a>
<b>Vernon Central WorkSource Center</b>	400 W Washington Bl, LA, CA 90015	213.763.5951	<a href="http://coalitionrcd.org">coalitionrcd.org</a>
<b>Archdiocesan South LA – Exposition Park YouthSource Center</b>	4060 S Figueroa St, LA, CA 90037	323.731.8596	<a href="http://ayela.org">ayela.org</a>
<b>Challengers Boys &amp; Girls Club (before- and after-school pick up &amp; drop off)</b>	5029 S Vermont Av, LA, CA 90037	323.971.6161	<a href="http://bgcmla.org">bgcmla.org</a>

<b>Para Los Niño's Pico Union/Central LA YouthSource Center</b>	234 S Loma Dr LA, CA 90026	213.413.1466	<a href="http://paralosninos.org/services/student-community-services/youth-workforce-services">paralosninos.org/services/student-community-services/youth-workforce-services</a>
<b>CRCD (Coalition for Responsible Community Development) VCN YouthSource Center</b>	1006 E 28th St LA, CA 90011	323.521.1910 x 210	<a href="http://coalitionrcd.org">coalitionrcd.org</a>

## Child Care & After-School Programs

<b>Crystal Stairs, Inc. (child care services)</b>	5110 Goldleaf Cir LA, CA 90056	323.299.8998	<a href="http://crystalstairs.org">crystalstairs.org</a>
<b>Children's Collective, Inc. (child day care, women &amp; family services)</b>	8616 La Tijera Bl Suite 100 LA, CA 90045	310.733.4388	<a href="http://childrenscollective.org">childrenscollective.org</a>
<b>After-School All-Stars</b>	5670 Wilshire Bl Suite 620 LA, CA 90036	323.938-3232	<a href="http://afterschoolallstars.org">afterschoolallstars.org</a>
<b>Youth Policy Institute (YPI)</b>	6464 Sunset Bl Suite 650 LA, CA 90028	800.999.6877	<a href="http://ypiusa.org">ypiusa.org</a>
<b>LA's Best Afterschool Enrichment</b>	711 E 14th Pl LA, CA 90021	213.745.1900	<a href="http://lasbest.org">lasbest.org</a>
<b>arc After School Programs (elementary, middle and high schools)</b>	370 Amapola Av Suite 208 Torrance, CA 90501	310.671.4400	<a href="http://arc-experience.com/programs/los-angeles">arc-experience.com/programs/los-angeles</a>
<b>YMCA (before- and after-school care)</b>		213.380.6448	<a href="http://ymcala.org/metro/classes/school-age-child-care">ymcala.org/metro/classes/school-age-child-care</a>
<b>MOMSLA (after-school, summer camps, and more)</b>			<a href="mailto:info@MomsLA.com">info@MomsLA.com</a> <a href="https://momsla.com/11-school-programs-los-angeles">https://momsla.com/11-school-programs-los-angeles</a>
<b>LA County Parks &amp; Recreation Centers (homework clubs, sports)</b>			<a href="http://parks.lacounty.gov/kids-family/?row=1#afterSchoolProgramsColumn">http://parks.lacounty.gov/kids-family/?row=1#afterSchoolProgramsColumn</a>
<b>LA Public Library System (Youth STEAM=Science! Technology! Engineering! Art! Math! academic, homework club &amp; adult literacy tutoring)</b>			<a href="http://lapl.org/steam/welcome">lapl.org/steam/welcome</a>



## Gender Sensitivity & Management Training Resources

<b>Traliant On-Line Sensitivity Training</b>	929.223.4336	<a href="http://traliant.com/online-anti-harassment-anti-discrimination-sensitivity-training">traliant.com/online-anti-harassment-anti-discrimination-sensitivity-training</a>
<b>Minority Aids Project, (M.A.P.)</b>	323.936.4949	<a href="http://minorityaidsproject.org">minorityaidsproject.org</a>
<b>Southern California Sanitation (Port-O-Potty Rental)</b>	800.850.8871 Construction Sales: 626.786.4479	<a href="http://southerncaliforniasanitation.com">southerncaliforniasanitation.com</a>
<b>A&amp;J Portables Los Angeles, Orange, Riverside &amp; San Bernardino</b>	562.299.8582	<a href="http://ajportabletoilets.com">ajportabletoilets.com</a>
<b>National Construction Rentals</b>	323.838.1800	<a href="http://rentnational.com/los-angeles">rentnational.com/los-angeles</a>
<b>Eagle Portables, Inc.</b>	310.537.0516	<a href="http://eagleportables.com">eagleportables.com</a>
<b>Associated General Contractors of America (AGC) On-Line Gender Sensitivity Training</b>		<a href="http://www.agc.org/learn/resource-library/training-video-diversity-rules-harassment-sensitivity-correction-training">www.agc.org/learn/resource-library/training-video-diversity-rules-harassment-sensitivity-correction-training</a>
<b>Pro Trade Craft Breaking Down Gender Bias: A Tool Kit for Construction Business Owners</b>		<a href="http://protradecraft.com/breaking-down-gender-bias-toolkit-construction-business-owners">protradecraft.com/breaking-down-gender-bias-toolkit-construction-business-owners</a>
<b>Slide Share on LinkedIn</b>		<a href="https://slideshare.net/MrP26/basic-gender-sensitivity-training">slideshare.net/MrP26/basic-gender-sensitivity-training</a>

## Ex-Offender/New Contributor Resources

<b>PV Jobs</b>	4112 S Main St LA, CA 90037	323.432.3955	<a href="http://pvjobs.org">pvjobs.org</a>
<b>Shields for Families</b>	11601 S Western Av, LA, CA 90047	213.242.5000	<a href="http://shieldsforfamilies.org/contact-us">shieldsforfamilies.org/contact-us</a>
<b>Friends Outside</b>	1827 E 103rd St LA, CA 90002	323.249.9683	<a href="http://friendsoutsidela.org">friendsoutsidela.org</a>
<b>Volunteers of America Los Angeles</b>	543 Crocker St LA, CA 90013	213.286.0333	<a href="http://voala.org">voala.org</a>
<b>Timelist</b>	3801 Somerset Dr LA, CA 90008	323.389.8664	<a href="http://timelistgroup.org">timelistgroup.org</a>
<b>Clean 360</b>	212 W Regent St Inglewood, CA 90301	424.702.5555	<a href="http://clean360.org">clean360.org</a>

<b>Homeboy Industries (gang/ex-offender training and employment)</b>	130 W Bruno St LA, CA 90012	323.526.1254	<a href="http://homeboyindustries.org">homeboyindustries.org</a>
<b>Legal Aid Foundation (various locations within LA County)</b>		800.399.4529	<a href="http://lafla.org">lafla.org</a>
<b>California Department of Corrections and Rehabilitation Female Offender Treatment &amp; Employment Program</b>	Various Locations throughout Southern California		<a href="http://cdcr.ca.gov/rehabilitation/FOTEP.html">cdcr.ca.gov/rehabilitation/FOTEP.html</a>
<b>Help For Felons</b>			<a href="http://helpforfelons.org">helpforfelons.org</a>
<b>LARRP (The Los Angeles Regional Reentry Partnership)</b>			<a href="http://lareentry.org">lareentry.org</a>
<b>Jobs for Felons Hub</b>			<a href="http://jobsforfelonshub.com">jobsforfelonshub.com</a>

## Healthcare/Housing Resources

<b>WIC (Women Infants &amp; Children)</b>		855.942.7867 WICVendorInfo@ cdph.ca.gov	<a href="http://cdph.ca.gov/Programs/CFH/DWICSN/Pages/Program-Landing1.aspx">cdph.ca.gov/Programs/CFH/DWICSN/Pages/Program-Landing1.aspx</a>
<b>South LA Health Projects (women &amp; children's health services)</b>	2930 W Imperial Highway, Suite 601, Inglewood, CA 90303	323.757.7244	<a href="http://slahp.org">slahp.org</a>
<b>South Central Family Health Center</b>	4425 S Central Av LA, CA 90011	323.908.4200	<a href="http://scfhc.org">scfhc.org</a>
<b>Watts Health Care</b>	Various locations throughout South LA	323.564.4331	<a href="http://wattshealth.org">wattshealth.org</a>
<b>Village Health</b>	4077 W. Pico Bl LA, CA 90019	323.733.0471	<a href="http://villagehealthfoundation.org">villagehealthfoundation.org</a>
<b>California Black Women's Health Project</b>	9800 S La Cienega Bl, Suite 905 Inglewood, CA 90301	310.412.1828	<a href="http://cabwhp.org">cabwhp.org</a>
<b>T.H.E. Clinic, Inc.</b>	Various locations in Los Angeles & South LA	323.730.1920	<a href="http://tohelpeveryone.org">tohelpeveryone.org</a>

## Healthcare/Housing Resources (cont.)

<b>Umma Community Clinic</b>	711 W Florence Av LA, CA, 90044	323.789.5610	<a href="http://ummaclinic.org">ummaclinic.org</a>
<b>H.O.P.I.C.S. Homeless Outreach Program/Integrated Care System</b>	5715 S Broadway, LA, CA 90037	323.948.0444	<a href="http://hopics.org">hopics.org</a>
<b>P.A.T.H. People Assisting the Homeless</b>	Los Angeles, Hollywood, & Ventura locations	323.644.2200	<a href="http://epath.org">epath.org</a>
<b>Union Rescue Mission</b>	545 S San Pedro St, LA, CA 90013	213.347.6300	<a href="http://urm.org">urm.org</a>
<b>The Los Angeles Homeless Services Authority (LAHSA)</b>	811 Wilshire Bl Suite 600 LA, CA 90017	231.683.3333	<a href="http://lahsa.org">lahsa.org</a>
<b>L.A. Opportunity Youth Collaborative “Ruth’s Place”</b>	4775 S Broadway LA, CA 90037	323.432.8440	<a href="http://laoyc.org/location/ruths-place">laoyc.org/location/ ruths-place</a>
<b>Operation HOPE (home buyers program)</b>	707 Wilshire Bl LA, CA 90017	213.891.2900	<a href="http://operationhope.org">operationhope.org</a>
<b>Jenesse Center, Inc. (domestic violence shelter)</b>		323.299.9496 800.479.7328	<a href="http://jenesse.org">jenesse.org</a>
<b>Covered California</b>			<a href="http://healthofcalifornia.com">healthofcalifornia.com</a>
<b>Good Shepherd Shelter (domestic violence shelter)</b>			<a href="http://goodshepherdshelter.org">goodshepherdshelter.org</a>
<b>Los Angeles County Housing Resource Center</b>			<a href="http://housing.lacounty.gov">housing.lacounty.gov</a>

## Financial Literacy Resources

<b>LA Public Library Financial Literacy Training</b>	630 W 5th St LA, CA 90071	213.228.7700	<a href="http://lapl.org/money-matters">lapl.org/money-matters</a>
<b>U.S. Small Business Administration</b>	330 N Brand Bl Suite 1200 Glendale, CA 91203	818.552.3437	<a href="http://sba.gov/learning-center.org">sba.gov/learning-center.org</a>
<b>MCS Hollywood BusinessSource Center</b>	4311 Melrose Av LA, CA 90028	323.454.6115	<a href="http://mcscalifornia.com/hollywood-businesssource">mcscalifornia.com/hollywood-businesssource</a>
<b>Vermont Slauson Economic Development Corporation BusinessSource Center</b>	1130 W Slauson Av LA, CA 90044	323.753.2335	<a href="http://vsedc.org">vsedc.org</a>
<b>West Angeles Community Development Corp.</b>	6028 Crenshaw Bl LA, CA 90043	323.751.3440	<a href="http://westangelescdc.org/financial-literacy">westangelescdc.org/financial-literacy</a>
<b>PACE Women's Business Center</b>	1055 Wilshire Bl Suite 900B LA, CA 90017	323.353.9400	<a href="http://pacelabdc.org/programs-and-services/small-business-consulting-services">pacelabdc.org/programs-and-services/small-business-consulting-services</a>
<b>Operation HOPE</b>	(Located inside Los Angeles Youth Empowerment) 750 W 7th St LA, CA 90081		<a href="http://operationhope.org/losangeles">operationhope.org/losangeles</a>
<b>CalCPA Education Foundation</b>			<a href="http://www.calcpa.org">www.calcpa.org</a>

*The provided list of services and providers is to be used as a guide, and is not inclusive of all services and providers in the LA region.*

## Contact Us

For more information, please visit [metro.net/pla](https://metro.net/pla) or contact Metro's Diversity & Economic Opportunity Department:

**Miguel Cabral**, *Executive Officer*  
213.418.3270

**Michael Flores**, *Director (Interim)*  
213.922.6387

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213.922.1028

**Melvin Santos**, *DEOD Representative*  
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# Project Labor Agreement (PLA)/ Construction Careers Policy (CCP) Report

*Construction Committee  
September 15, 2022*

# PLA/CCP Program Achievements

- **Attainment - Program Inception to June 2022**
  - 58.71% Economically Disadvantaged
  - 21.65% Apprentice
  - 10.84% Disadvantaged
- >\$463 Million paid to Targeted Workers \*
  - >\$85 Million paid to Disadvantaged Workers \*
  - >\$128 Million paid to Apprentice Workers\*\*
- Exceeded Targeted/Apprentice/Disadvantaged Worker Goals
- No work stoppages or lockouts

(\*Based on the lowest laborers rate as of June 2017)

(\*\*Based on the lowest apprentice rate as of January 2017)

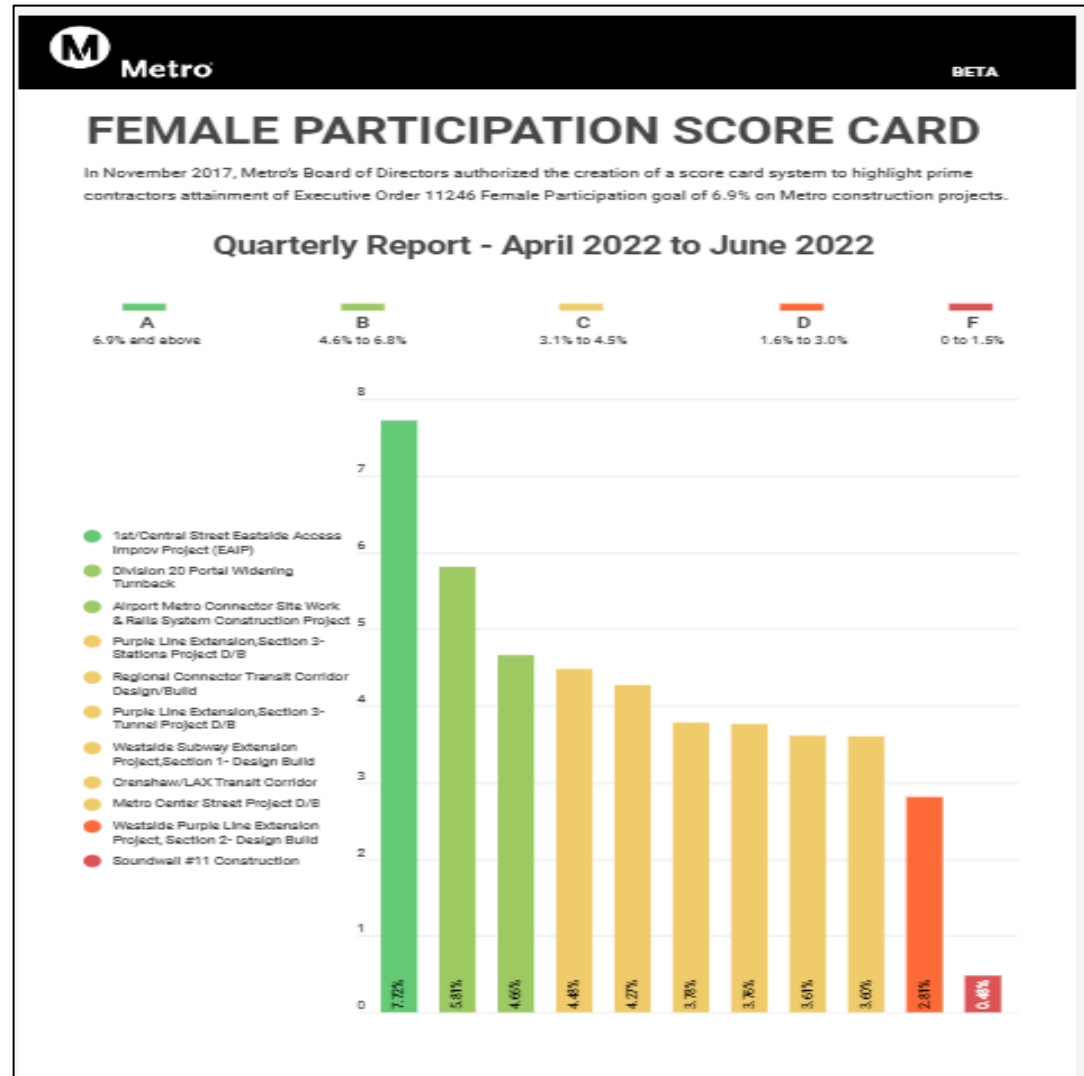
(Workers may fall into multiple categories)



**Metro**

# Female Participation Score Card

- ❖ Overall female participation attainment is 3.73%
- ❖ Highest rating as of FY22 Q4 reporting is A grade

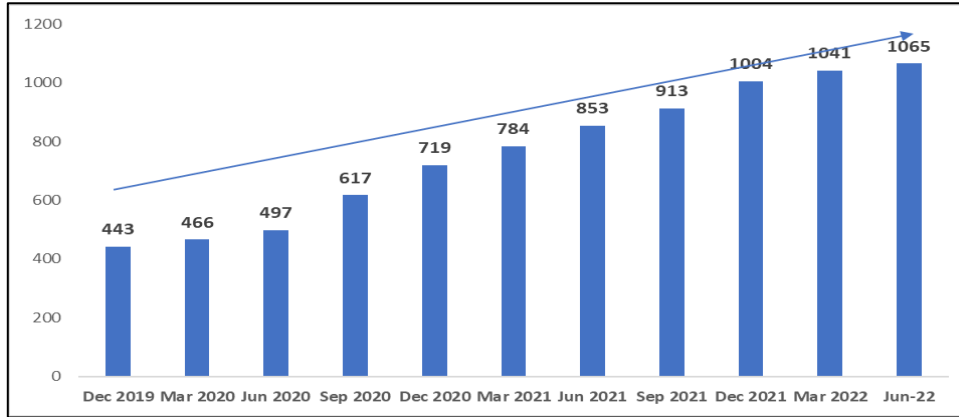




# Success Stories

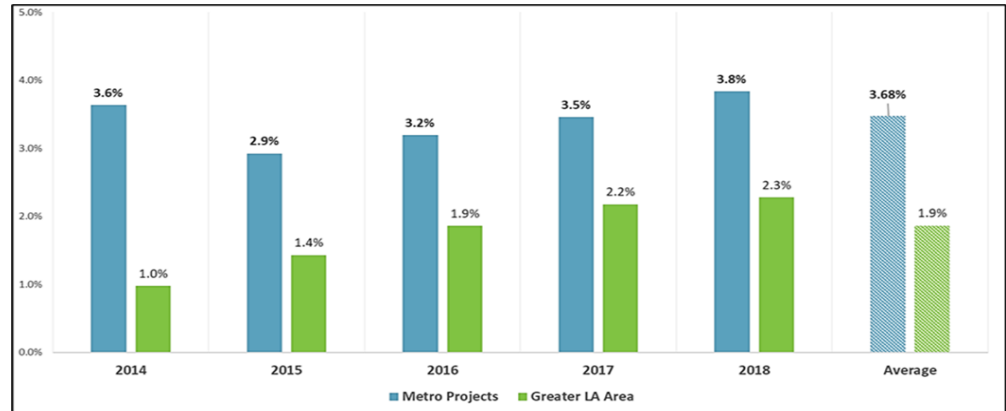
- Over 1000 females have worked on Metro PLA/CCP construction projects

No. of Females on Metro Projects



Source: As reported by the prime contractors.

- The following chart represents Metro female participation by year in comparison to other non-Metro projects in the region.



Source: Estalano Lesar Advisors – Disparity Study



# Women in the Trades Action Plan

- Metro and Laborers Union (Local 300) collaborating to establish a tunnel worker training facility in the LA region. Currently the only training facility for tunnel worker is in Seattle, Washington which creates hardship for individuals to participate. Establishment of a local tunnel worker training facility will help fulfill the LA regions need for tunnel workers with priority given to females interested to start a career in the construction industry. Laborers Training School is in the process of establishing a committee to assist in the development of class curriculum and support.
- Metro to plan a Joint Awareness Campaign in collaboration with LAOCBTC, union trades, prime contractors, and community-based organization with a focus of building future workforce capacity with special focus on females.
- Collaborate with Women in Non-Traditional Employment Role (WINTER) to continuously seek grant opportunities to help empower, train, educate and prepare women for transformative careers in the construction industry. In addition, Metro shall provide continuous employment referral to female graduates of WINTER on Metro project sites.
- Collaborate with LA County WDACS in the recruiting females interested to start a career in construction and establish a system of an ongoing referral to pre-apprenticeship programs
- Collaboration with Project Home Key to support the un-housed veterans with special focus on females for employment opportunities in construction

# FHWA Approves Metro's PLA

FHWA has approved the utilization of Metro's PLA/CCP Local Hire provisions on FHWA assisted construction projects. This is the first time that Metro has been able to secure this type of approval from FHWA. The four projects that received approval are:

- I-605 South Street Off-Ramp project
- I-105 CMGC Project
- Union Stations Master Plan/Alameda Esplanade
- Reconnecting Union Station to the Historic Cultural Communities of Downtown Los Angeles

Through this action, Metro is demonstrating its commitment to contribute to the economic recovery from the COVID-19 pandemic, creating equitable employment opportunities, and promoting workforce development, specifically for economically and socially disadvantaged individuals across the Los Angeles County region.





Thank you



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