

Metro

*Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
3rd Floor Board Room*



Agenda - Final

Thursday, July 19, 2018

10:15 AM

**One Gateway Plaza, Los Angeles, CA 90012,
3rd Floor, Metro Board Room**

Construction Committee

Robert Garcia, Chair

**Jacquelyn Dupont-Walker, Vice Chair*

Kathryn Barger

Janice Hahn

James Butts

Shirley Choate, non-voting member

Phillip A. Washington, Chief Executive Officer

**Via Telephone*

Renaissance Hotel

9495 W. Coyotes Blvd.

Glendale, AZ 85305

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 should be submitted in person at the meeting to the Board Secretary. Individuals requesting to speak on more than three (3) agenda items will be allowed to speak up to a maximum of three (3) minutes per meeting. For individuals requiring translation service, time allowed will be doubled.

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.

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 up to three (3) minutes per meeting and may speak no more than once during the Public Comment period. Speakers will be called according to the order in which the speaker request forms are received. Elected officials, not their staff or deputies, may be called out of order and prior to the Board's consideration of the relevant 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 on CD's and as MP3's and can be made available 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.



323.466.3876 x2

Español

323.466.3876 x3

한국어

日本語

中文

русский

ភាសាខ្មែរ

ภาษาไทย

Tiếng Việt

ភាសាជប៉ុន

HELPFUL PHONE NUMBERS

Copies of Agendas/Record of Board Action/Recordings of Meetings - (213) 922-4880 (Records Management Department)

General Information/Rules of the Board - (213) 922-4600

Internet Access to Agendas - www.metro.net

TDD line (800) 252-9040

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

CALL TO ORDER**ROLL CALL****APPROVE Consent Calendar Item(s): 38**

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

CONSENT CALENDAR

- 38. SUBJECT: PASADENA SUBDIVISION SHARED USE AGREEMENT FOR THE GOLD LINE FOOTHILL EXTENSION PHASE 2B** [2018-0399](#)

RECOMMENDATION

AUTHORIZE the Chief Executive Officer to execute an amendment to the Pasadena Subdivision Shared Use Agreement (SUA) with BNSF Railway Company ("BNSF") for the Gold Line Foothill Extension Phase 2B Project (Attachment A).

Attachments: [Attachment A - Proposed Amendment to Shared Use Agreement](#)
[Attachment B – Pasadena Subdivision Section Shared Use Agreement](#)

NON-CONSENT

- 39. SUBJECT: PROGRAM MANAGEMENT MAJOR PROJECT STATUS REPORT** [2018-0411](#)

RECOMMENDATION

RECEIVE oral report on the Major Project Status by the Chief Program Management Officer.

Attachments: [Presentation](#)

- 40. SUBJECT: PROGRAM MANAGEMENT QUARTERLY CHANGE REPORT** [2018-0393](#)

RECOMMENDATION

RECEIVE AND FILE Program Management Quarterly Change Report.

Attachments: [Attachment A - July 2018 Construction Committee](#)

41. **SUBJECT: OFFICE OF THE INSPECTOR GENERAL CHANGE ORDER/MODIFICATION CONSTRUCTION SPOT CHECKS** [2018-0403](#)

RECOMMENDATION

RECEIVE AND FILE Office of the Inspector General change order/modification construction spot checks report.

42. **SUBJECT: CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR METRO RAIL PROJECTS** [2018-0244](#)

RECOMMENDATION

AUTHORIZE:

- A. an increase to the total authorized funding for Contract No. PS601830026445 with Destination Enterprises, Inc., for pending and future task orders to provide Construction Management Support Services (CMSS), in an amount not to exceed \$6,123,000 increasing the total contract value from \$3,000,000 to \$9,123,000; and
- B. the Chief Executive Officer to execute individual Task Orders (TOs) and Contract Modifications within the Board approved contract funding amount.

Attachments: [Attachment A - Procurement Summary](#)
[Attachment B - Contract Task Order - Modification Log](#)
[Attachment C - DEOD Summary \(CMSS\)](#)

43. **SUBJECT: EXPOSITION METRO LINE CONSTRUCTION AUTHORITY CLOSEOUT AND DISSOLUTION** [2018-0388](#)

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute the Memorandum of Understanding (MOU) between the Los Angeles County Metropolitan Transportation Authority (Metro) and the Exposition Metro Line Construction Authority (Authority) for closeout of the Expo Phases 1 and 2 Projects (Attachment A);
- B. AUTHORIZING distribution of the remaining balance of estimated unused project funds as of June 2018 in the amount of \$216,600,000 (*), in accordance with the Funding Agreement (Attachment B) from Expo accounts to Metro accounts for allocation and use as follows:
1. \$11,500,000 to be distributed for the Metro Blue Line Track & System Refurbishment Project (CP 205115);
 2. \$5,100,000 to be distributed for Expo project close-out items; and

3. \$200,000,000 distributed to the Metro Westside Purple Line Project, Section 2; and

- C. ADOPTING Board Resolution to accept the Delegation of Plan Administration (Attachment C) of the Expo Construction Authority Public Agency Retirement System (PARS) retirement plan.

Attachments: [Attachment A – Expo MOU for Closeout of Expo 1 and 2](#)
[Attachment B – Funding Agreement](#)
[Attachment C – PARS Resolution Accepting Delegation of Expo Pension Plan](#)
[Attachment D – Certification Letter for Turnback Notice](#)

SUBJECT: GENERAL PUBLIC COMMENT

[2018-0448](#)

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**

File #: 2018-0399, **File Type:** Contract**Agenda Number:** 45.

**REGULAR BOARD MEETING
SEPTEMBER 27, 2018****SUBJECT: PASADENA SUBDIVISION SHARED USE AGREEMENT FOR THE GOLD LINE
FOOTHILL EXTENSION PHASE 2B****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute an amendment to the Pasadena Subdivision Shared Use Agreement (SUA) with BNSF Railway Company ("BNSF") for the Gold Line Foothill Extension Phase 2B Project (Attachment A).

ISSUE

At its March 2011 meeting, the Metro Board authorized a Settlement Agreement with BNSF related to the Gold Line Foothill Extension Phase 2A Project. The purpose of this amendment is to add the Gold Line Foothill Extension Phase 2B ("Project") from Glendora to Montclair, which is the continuation of the Phase 2A Project via a shared corridor with freight and commuter rail lines. The Phase 2B Project will be operated by Metro, and is being constructed on the Pasadena Subdivision by the Foothill Gold Line Construction Authority.

BNSF has also proposed an amendment to the SUA specifically related to relocation of BNSF Freight tracks as part of the Phase 2B Project, which is incorporated in the proposed amendment.

BACKGROUND

The Phase 2B Project from Glendora to Montclair is a 12.3-mile extension of the Metro Gold Line light rail system that currently runs between East Los Angeles and Azusa. The Project is part of the growing network of rail lines in Los Angeles County and will add new stations, one in each of the corridor cities: Glendora, San Dimas, La Verne, Pomona, Claremont and Montclair. The Glendora to Montclair segment will be built along the former Atchison, Topeka and Santa Fe (ATSF) railroad right-of-way and will share the 100-foot-wide (on average) rail corridor with freight throughout and Metrolink from Pomona east to Montclair. While the different rail services will share the corridor, they will not share tracks or stations.

Metro and BNSF are parties to a SUA (Pasadena Subdivision (Los Angeles County) dated October 30, 1992, as successors in interest to the Los Angeles County Transportation Commission and the ATSF, respectively. The SUA governs the party's relationship concerning BNSF use of the Pasadena

subdivision pursuant to the Reserved Rail Freight Service Easement.

DISCUSSION

Currently, the SUA does not include the Gold Line Foothill Phase 2B Project. Approval of the staff recommendation will formally incorporate the Phase 2B Project. In addition, the BNSF Freight track and systems will be relocated as part of the Phase 2B Project being constructed on Metro Right of Way. The proposed amendment to the SUA with BNSF provides indemnification to BNSF for any claims arising out of the relocation of the freight track. The amendment also provides BNSF the opportunity to review, comment on, and approve design plans related to relocation of the freight track.

Metro staff and legal counsel have reviewed the amendment and take no exception to the proposed language. Authorization of this amendment will help to facilitate and expedite review and approval of design for the Phase 2B Project and assure that freight track relocation has been reviewed and approved by the freight operator.

DETERMINATION OF SAFETY IMPACT

There is no safety impact resulting from this report

FINANCIAL IMPACT

There is no financial impact resulting from this report.

NEXT STEPS

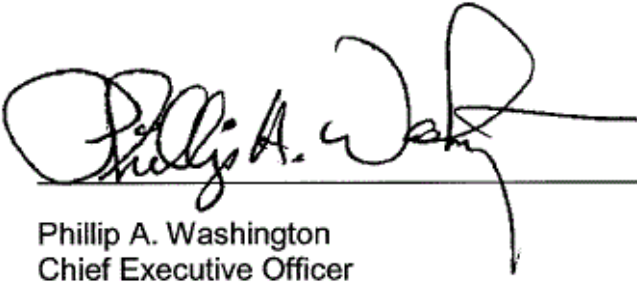
Upon Board approval, Metro will execute the amendment to the Pasadena Subdivision SUA for the Gold Line Foothill Extension Phase 2B Project.

ATTACHMENTS

Attachment A - Proposed Amendment to Shared Use Agreement
Attachment B - Pasadena Subdivision Section Shared Use Agreement

Prepared by:
Rick M. Meade, Senior Executive Officer, (213) 922-7917

Reviewed by:
Richard Clarke, Chief Program Management Officer, (213) 922-7557
Greg Kildare, Chief of Risk, Safety, & Asset Management, (213) 922-4971



Phillip A. Washington
Chief Executive Officer

AGREEMENT
(Pasadena Subdivision, Los Angeles County)

This Agreement (“Agreement”) effective as of _____, 201__ is entered into between BNSF Railway Company (“BNSF”), a Delaware corporation that is the successor following merger to The Atchison, Topeka and Santa Fe Railway Company and Los Angeles County Metropolitan Transportation Authority (“LACMTA”), a government agency organized under the laws of the state of California, formerly known as the Los Angeles County Transportation Commission.

A. BNSF and LACMTA are parties to that certain Shared Use Agreement (Pasadena Subdivision, Los Angeles County) dated as of October 30, 1992 as amended by that certain Agreement (the “First Amendment”) dated as of March 31, 2011 (as amended, the “SUA”) which governs their respective rights and obligations in and to the Property.

B. All capitalized terms used herein and not otherwise defined shall have the meanings specified in the SUA. LACMTA shall have the same meaning as the term “Agency” as it is used in the SUA, and BNSF shall have the same meaning as the term “Santa Fe” as it is used in the SUA.

C. As contemplated in the First Amendment LACMTA extended its current light rail service eastward over the Pasadena Subdivision from Pasadena, California to Azusa, California (“Phase 2A”).

D. Phase 2A required that BNSF cease Freight Rail Service and quitclaim and release any rights in and to the Reserved Freight Rail Service Easement as to that portion of the Property between the western end of the Pasadena Subdivision at Milepost 124.2, just east of the Santa Anita Blvd. at-grade crossing in Arcadia, California, and Milepost 119.35, just east of the San Gabriel River, in Irwindale, California (this rail line segment being referenced hereinafter as the “West End Segment”).

E. Phase 2A also required the relocation of the existing BNSF main line and other rail facilities, as described in the Conceptual Plan, as defined herein, starting with MP 119.35, the area near the Miller Brewery in Irwindale, and ending near MP 115.4, near the Azusa/Citrus Station (this rail line segment being referenced hereinafter as the “East End Segment”).

F. The parties contemplated in the First Amendment that LACMTA would subsequently further extend its light rail service from Glendora to Montclair, CA (“Phase 2B”), which will require the relocation of the existing BNSF main line and other rail facilities between mileposts 104 and 115.4 (the “Phase 2B Segment”). In negotiating the extension, the parties agreed Exhibit E of the SUA had to be amended to express the agreement of the parties regarding subrogation.

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants contained herein BNSF AND LACMTA agree as follows:

1. Except as provided below in this Paragraph, BNSF, its assigns, investors, parent companies, subsidiaries, successors and related or associated persons or entities of any type, and each past or present employee, agent, representative, officer, director, stockholder, partner, attorney, or any other person, firm or corporation now, previously or hereafter affiliated in any manner with BNSF, hereby releases and discharges LACMTA, and each of its present or former directors, officers, agents, employees, attorneys, successors and assigns, from any and all claims, debts, liabilities, causes of action, known or unknown, which any such releasing party now owns or holds, or has at any time owned or held, against any of the released parties by reason of any act, omission, matter, cause or thing whatsoever relating to or arising out of the relocation of BNSF tracks in accordance with the terms of this Agreement. Except as provided below in this Paragraph, LACMTA, its assigns, parent entities, subsidiaries, successors and related or associated persons or entities of any type, and each past or present employee, agent, representative, officer, director, stockholder, partner, attorney, or any other person, firm or government agency now, previously or hereafter affiliated in any manner with LACMTA, hereby releases and discharges BNSF, and each of its present or former directors, officers, agents, employees, attorneys, successors and assigns, from any and all claims, debts, liabilities, causes of action, known or unknown, which any such releasing party now owns or holds, or has at any time owned or held, against any of the released parties by reason of any act, omission, matter, cause or thing whatsoever relating to or arising out of the relocation of BNSF tracks in accordance with the terms of this Agreement. Notwithstanding the foregoing provisions of this Paragraph, nothing in this Agreement is intended to release any claims, rights or indemnifications that either Party may have as a result of any incidents of damage to property (including contamination of any real property) or injury or death to persons that occur prior to the date of this Agreement; it being agreed that as between the Parties, the terms of the SUA in effect prior to the date of this Agreement shall continue to apply with respect to any such incidents that occur prior to the Closing.
3. LACMTA shall construct on the Phase 2B Segment in accordance with the conceptual plans approved by BNSF and attached hereto as Exhibit A (the "Approved Conceptual Plans") and in accordance with the construction phasing plan attached hereto as Exhibit B (the "Construction Phase Plan") in order to avoid interrupting Freight Rail Service.
4. As the Approved Conceptual Plans evolve into 100% design level plans, BNSF shall have the right to review, comment and approve plans for track work on the Phase 2B Segment in accordance with the same process described in Exhibit "D" to the First Amendment. The Parties will work cooperatively and coordinate their respective activities during the design and construction process to minimize any impacts to their respective operations and activities. In addition, BNSF will support LACMTA (at LACMTA's expense) in filing and obtaining any regulatory approvals necessary for construction or operation of the Light Rail Tracks and the Freight Track, including California Public Utilities Commission (CPUC) crossing approvals and Federal Railroad Administration (FRA) petition approval.
5. Effective as of the date of this Agreement, the SUA (and particularly, the First Amendment) is amended such that the term East End Segment is amended to include the

Phase 2B Segment and Exhibit "E" is amended and restated as set forth in Exhibit E hereto (so named for consistency with the First Amendment), and shall apply with respect to the Phase 2B Segment as well as the remainder of the East End Segment. With respect to any other portions of the Property, the SUA shall remain unmodified.

6. All rights and obligations of BNSF and LACMTA in the SUA that are not expressly amended by this Agreement shall remain unchanged by this Agreement.
7. This Agreement shall be binding upon BNSF, LACMTA and their respective successors and permitted assignees.
8. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.
9. This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, authorized representatives of BNSF and LACMTA have duly executed this Agreement as of the day and year first written herein.

BNSF RAILWAY COMPANY

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY

By: _____
Title:

By: _____
Title:

Acknowledged and agreed to as to paragraphs 5, 7, 8, 9 and Exhibit E only by:
SOUTHERN CALIFORNIA REGIONAL
RAILROAD AUTHORITY

By: _____
Title:

EXHIBIT A

Approved Conceptual Plans

EXHIBIT B

Construction Phasing Plan

EXHIBIT E

The SUA is hereby amended by adding new Article 18 which shall apply only to the East End Segment (starting with MP 119.35 on the Pasadena Subdivision, the area near the Miller Brewery in Irwindale, and ending at MP 104.

1. “ARTICLE 18. EAST END SEGMENT

18.1 With respect to the East End Segment, all terms and conditions of the SUA shall apply except as specifically set forth in this Article 18.

18.2 Section 3.5 of the SUA is amended by adding after the third sentence thereof the following: “Notwithstanding the foregoing, Liability for injury or death of persons on such cars and Trains occurring on the East End Segment shall be governed by Article 19 (see Sections 19.1.1 and 19.3(b)).”

18.3 Section 4.1(a) of the SUA is amended by deleting the third sentence thereof.

18.4 Personal and Property Liability on the East End Segment shall be governed by Article 19 of the SUA; Article 8 of the SUA shall not apply to the East End Segment (except to the extent specifically incorporated into Article 19 below).

18.5 Insurance on the East End Segment shall be governed by Article 20 below, Article 9 of the SUA shall not apply to the East End Segment (except to the extent specifically incorporated into Article 20 below).”

2. The SUA is hereby amended by adding new Article 19 which shall apply only to the East End Segment.

“ARTICLE 19. EAST END SEGMENT: PERSONAL AND PROPERTY
LIABILITY

19.1 The parties shall allocate Liability as between them as follows to the extent allowed by law:

19.1.1 Santa Fe shall be responsible for all Liability incurred by Santa Fe, or any Santa Fe Party, or their respective Employee, customer, shipper, receiver, supplier, or Santa Fe Invitee;

19.1.2 Agency shall be responsible for all Liability incurred by Agency, any Agency Party, or their respective Employee, Agency Invitee,

Commuter or Passenger; and

19.1.3 If Amtrak operates on the East End Segment in the future, as between the Agency and Santa Fe, the party who grants Amtrak the right to operate on the East End Segment shall be responsible for all Liability incurred by Amtrak and notwithstanding the definition of “Passenger” under the SUA, if Santa Fe grants Amtrak the right to operate on the East End Segment, a passenger of Amtrak shall be deemed to be a Santa Fe Party and if Agency grants Amtrak the right to operate on the East End Segment, a passenger of Amtrak shall be deemed to be an Agency Party. For purposes of this Article 19, a Santa Fe Train shall be defined to include an Amtrak train if Santa Fe grants Amtrak the right to operate on the East End Segment and an Agency Train shall be defined to include an Amtrak train if the Agency grants Amtrak the right to operate on the East End Segment.

19.2 Further, to the extent allowed by law, the parties shall allocate Liability (as between them only and this provision shall not grant any rights to any Third Party) incurred as to a Third Party, as follows:

19.2.1 Liability to a Third Party arising out of an incident involving only a Santa Fe Train and not an Agency Train shall be Santa Fe’s responsibility;

19.2.2 Liability to a Third Party arising out of an incident involving only Agency Trains shall be Agency’s responsibility;

19.2.3 Liability to a Third Party arising out of an incident involving both (i) a Santa Fe Train, and (ii) an Agency Train shall be allocated 10 % to Santa Fe and 90 % to Agency; and

19.2.4. Liability to a Third Party not arising out of an incident involving a Santa Fe Train, Agency Train shall be allocated to the Party responsible under this Agreement for maintaining the area or facility on the East End Segment on which the incident occurred.

19.3 For purposes of this Article 19, (a) Agency Train shall include any light rail vehicle operated by Agency, (b) any person aboard freight customer Trains, board of directors Trains, employee excursion Trains, or Trains with government officials (including business cars at the end of freight Trains) as contemplated in Section 3.5 shall be considered a Santa Fe Party and not a Passenger or Commuter, (c) “Santa Fe Invitee” shall be defined as a person who comes onto the Property upon invitation by Santa Fe (which shall include persons present at the express or implied invitation of BNSF) and (d) “Agency Invitee” shall be defined as a person who comes onto the Property upon invitation by Agency (which shall include persons present at the express or implied invitation of

Agency). SCRRA or any other Operator of Agency is an Agency Party and shall not be considered a Santa Fe Invitee for any reason.

19.4 Santa Fe shall indemnify, defend and hold Agency harmless from and against all Liabilities which are Santa Fe's responsibilities pursuant to Sections 19.1.1, 19.1.3, 19.2.1, 19.2.3 and 19.2.4, as applicable, and the terms of this Article 19; provided, however, that such indemnification and agreement to defend and hold harmless shall apply only to the extent: (i) allowed by applicable laws or governmental regulations; (ii) that Santa Fe can legally obtain insurance coverage for the Liabilities covered by such indemnification and agreements to defend and hold harmless; and (iii) the Liabilities do not include punitive or exemplary damages. In reviewing applicable laws or governmental regulations, the parties will consider California Civil Code section 1668, California Insurance Code section 533 and 49 U.S.C. section 28103(b). The Parties agree that this Agreement is not intended to be a construction contract.

19.5 Agency shall indemnify, defend and hold Santa Fe harmless from and against all Liability which are Agency's responsibilities pursuant to Sections 19.1.2, 19.1.3, 19.2.2, 19.2.3 and 19.2.4, as applicable, and the terms of this Article 19; provided, however, that such indemnification and agreement to defend and hold harmless shall apply only to the extent: (i) allowed by applicable laws or governmental regulations; (ii) that Agency can legally obtain insurance coverage for the Liabilities covered by such indemnification and agreements to defend and hold harmless; and (iii) the Liabilities do not include punitive or exemplary damages. In reviewing applicable laws or governmental regulations, the parties will consider California Civil Code section 1668, California Insurance Code section 533 and 49 U.S.C. section 28103(b). The Parties agree that this Agreement is not intended to be a construction contract.

19.6 The provisions of this Article 19 concerning Liability shall bind and inure to the benefit of only Agency and Santa Fe, and no other person or entity shall be entitled to rely upon or benefit from any of such provisions, except during construction of the Agency's light rail line on the East End Segment, the Pasadena Gold Line Construction Authority shall have the same benefits as the Agency under this Article 19. Nothing contained in this Agreement shall impose any liability upon the Agency or Santa Fe in favor of any such other person or entity, relieve any such other person or entity from any liability it may have for any Liabilities described in this Agreement, or obligate the Agency or Santa Fe to defend, indemnify or hold harmless any such other person or entity against any such Liabilities.

19.7. Sections 8.2 (h), (i), (j) and (k), which subsection 8.2(k) refers to Section 3.5 of the SUA as modified herein, of the SUA and Section 8.3 of the SUA are hereby incorporated into this Article 19 by reference and shall apply to the East End Segment.”

3. The SUA is hereby amended by adding new Article 20 which shall apply only to the East End Segment.

“ARTICLE 20. EAST END SEGMENT: INSURANCE

20.1. During the period of time Agency, or Gold Line on behalf of the Agency, is constructing its light rail line on the East End Segment, Agency shall acquire and maintain general liability coverage of \$100 million per occurrence for Agency, Contractor and Santa Fe. Once Agency commences passenger rail service for its light rail line on the East End Segment, Agency shall acquire and maintain general liability coverage of \$200 million per occurrence for Agency, its Operator and Santa Fe, or an amount as set forth by federal legislation as a limit on liability for commuter and passenger operations.

20.2 Agency shall maintain coverage for: (i) Agency and Agency Parties and/or Santa Fe’s conduct that give rise to Liability where Agency is required to indemnify Santa Fe against such Liability as set forth in Article 19 above, and (ii) other liabilities of Agency as may be covered by such policies.

20.3 Agency shall be responsible for paying a self insured retention or deductible and Agency’s policy of insurance shall have a self insured retention or deductible of no more than \$20 million, increasing annually at the national CPI-U or such higher amount as mutually agreed by the parties. The amount of any self insured retention or deductible below \$20 million will be determined by Agency.

20.4 The Parties may renegotiate of the limits of coverage of both Parties every 5 years upon 1 year notice, or if federal legislation limiting liability for passenger rail service is overturned, revoked or otherwise becomes ineffective as the result of a federal statutory change or a final, non-appealable, court ruling, or if federal legislation reduces liability limits. Except with respect to a change in insurance caused by the events regarding federal legislation described in the preceding sentence, any renegotiation shall be based on the national CPI-U and prevailing conditions in the liability insurance market, take into account any safety improvements or enhancements implemented by one or both parties or installed on one or more of the covered rail lines, and any dispute shall be resolved by arbitration in accordance with the procedures set forth in Article 12 of the SUA; such adjustments shall also apply to the self insured retention or deductible.

20.5 Agency shall not be required to maintain liability coverage above limits set by federal legislation applicable to passenger or commuter rail operations, but in no event shall Agency maintain coverage of less than \$200 million per occurrence, except as expressly provided in Section 20.1 above. Agency also shall not be required to maintain liability coverage in excess of \$200 million for any year that would result in its having to pay 125% of the prior year’s premium amounts (except for the initial purchase pursuant to this Article 20).

20.6 Agency's insurance shall be primary and non-contributing.

20.7 Santa Fe shall be a named insured under Agency's policy, however, Agency's insurance coverage described herein will only be available to Santa Fe where Agency is required to be responsible for claims handling or to indemnify Santa Fe under the terms of Articles 19 and 20 of the SUA.

20.8 If Agency's required coverage lapses or is not obtained when required, upon reasonable notice and an opportunity to cure, Santa Fe may, but will not be required to, obtain such coverage, and Agency shall reimburse Santa Fe for all costs associated with such procurement of insurance and premiums. Any dispute regarding coverage shall be resolved by arbitration in accordance with the procedures set forth in Article 12 of the SUA.

20.9 Agency's insurance is intended to apply to all liability against which Agency is required to be responsible for claims and to indemnify Santa Fe under the terms of Article 19 and 20 of the SUA (but such coverage shall only apply to the extent permitted by law, including but not limited to California Civil Code section 1668, California Insurance Code Section 533 and 49 U.S.C. section 28103(b), and shall not include punitive damages).

20.10 During the period of time Agency or Gold Line is constructing its light rail line on the East End Segment, Santa Fe shall acquire and maintain general liability insurance coverage of \$150,000,000 per occurrence for Santa Fe and Agency. Once Agency commences passenger rail service for its light rail line on the East End Segment, Santa Fe shall acquire and maintain general liability coverage of \$200 million per occurrence for Santa Fe and Agency, or an amount as set forth by federal legislation as a limit on liability for commuter and passenger operations.

20.11 Santa Fe shall maintain coverage for: (i) Santa Fe and Santa Fe Parties and/or Agency's conduct that give rise to Liability where Santa Fe is required to indemnify Agency against such Liability as set forth in Article 19 above, and (ii) other liabilities of Santa Fe as may be covered by such policies

20.12 Santa Fe shall be responsible for paying a self insured retention or deductible and Santa Fe's policy of insurance shall have a self insured retention or deductible of no more than \$20 million, or such higher amount as mutually agreed by the parties. The amount of any self insured retention or deductible below \$20 million will be determined by Santa Fe.

20.13 Santa Fe's insurance shall be primary and non-contributing.

20.14 Agency shall be a named insured under Santa Fe's policy, however, Santa Fe's insurance coverage described herein will only be available to Agency where

Santa Fe is required to be responsible for claims handling or to indemnify Agency under the terms of Articles 19 and 20 of the SUA.

20.15 Santa Fe's insurance is intended to apply to all liability against which Santa Fe is required to be responsible for claims and to indemnify Agency under the terms of Article 19 and 20 of the SUA (but such coverage shall only apply to the extent permitted by law, including but not limited to California Civil Code section 1668, California Insurance Code Section 533 and 49 U.S.C. section 28103(b), and shall not include punitive damages).

20.16 Agency will require all other passenger railroads using the East End Segment to maintain insurance similar to Agency.

20.17 Agency and Santa Fe shall look first to available insurance proceeds to pay any claims covered by the indemnity provisions in this SUA, and insurance payments will be applied against any such indemnity obligations to reduce or eliminate such indemnity obligations.

20.18 Section 9.2 of the SUA is hereby incorporated herein by reference and shall apply to the East End Segment.

20.19 Nothing in this Agreement limits the right of Agency to pursue any other third party (other than a Santa Fe Party or their respective Employee, customer, shipper, receiver, supplier, or Santa Fe Invitee), or of Santa Fe to pursue any other third party (other than an Agency Party or their respective Employee, Agency Invitee, Commuter or Passenger), for indemnity, contribution or otherwise as may be permitted by law or in equity, in the payment of any Liabilities. Agency, SCRRA, and Santa Fe waive subrogation against each other.

4. Except as expressly amended hereby, the SUA remains in full force and effect as originally executed. All rights and obligations of the parties under the SUA that are not expressly amended hereby shall remain unchanged by this Amendment.

**AGREEMENT
(Pasadena Subdivision, Los Angeles County)**

This Agreement (“Agreement”) effective as of _____, 201__ is entered into between BNSF Railway Company (“BNSF”), a Delaware corporation that is the successor following merger to The Atchison, Topeka and Santa Fe Railway Company and Los Angeles County Metropolitan Transportation Authority (“LACMTA”), a government agency organized under the laws of the state of California, formerly known as the Los Angeles County Transportation Commission.

A. BNSF and LACMTA are parties to that certain Shared Use Agreement (Pasadena Subdivision, Los Angeles County) dated as of October 30, 1992 as amended by that certain Agreement (the “First Amendment”) dated as of March 31, 2011 (as amended, the “SUA”) which governs their respective rights and obligations in and to the Property.

B. All capitalized terms used herein and not otherwise defined shall have the meanings specified in the SUA. LACMTA shall have the same meaning as the term “Agency” as it is used in the SUA, and BNSF shall have the same meaning as the term “Santa Fe” as it is used in the SUA.

C. As contemplated in the First Amendment LACMTA extended its current light rail service eastward over the Pasadena Subdivision from Pasadena, California to Azusa, California (“Phase 2A”).

D. Phase 2A required that BNSF cease Freight Rail Service and quitclaim and release any rights in and to the Reserved Freight Rail Service Easement as to that portion of the Property between the western end of the Pasadena Subdivision at Milepost 124.2, just east of the Santa Anita Blvd. at-grade crossing in Arcadia, California, and Milepost 119.35, just east of the San Gabriel River, in Irwindale, California (this rail line segment being referenced hereinafter as the “West End Segment”).

E. Phase 2A also required the relocation of the existing BNSF main line and other rail facilities, as described in the Conceptual Plan, as defined herein, starting with MP 119.35, the area near the Miller Brewery in Irwindale, and ending near MP 115.8, near the Azusa/Citrus Station (this rail line segment being referenced hereinafter as the “East End Segment”).

F. The parties contemplated in the First Amendment that LACMTA would subsequently further extend its light rail service from Glendora to Montclair, CA (“Phase 2B”), which will require the relocation of the existing BNSF main line and other rail facilities between mileposts _____ and _____ (the “Phase 2B Segment”).

NOW, THEREFORE, for and in consideration of the foregoing and the mutual covenants contained herein BNSF AND LACMTA agree as follows:

1. Except as provided below in this Paragraph, BNSF, its assigns, investors, parent companies, subsidiaries, successors and related or associated persons or entities of any type, and each past or present employee, agent, representative, officer, director, stockholder, partner, attorney, or any other person, firm or corporation now, previously or hereafter affiliated in any manner with BNSF, hereby releases and discharges LACMTA, and each of its present or former directors, officers, agents, employees, attorneys, successors and assigns, from any and all claims, debts, liabilities, causes of action, known or unknown, which any such releasing party now owns or holds, or has at any time owned or held, against any of the released parties by reason of any act, omission, matter, cause or thing whatsoever relating to or arising out of the relocation of BNSF tracks in accordance with the terms of this Agreement. Except as provided below in this Paragraph, LACMTA, its assigns, parent entities, subsidiaries, successors and related or associated persons or entities of any type, and each past or present employee, agent, representative, officer, director, stockholder, partner, attorney, or any other person, firm or government agency now, previously or hereafter affiliated in any manner with LACMTA, hereby releases and discharges BNSF, and each of its present or former directors, officers, agents, employees, attorneys, successors and assigns, from any and all claims, debts, liabilities, causes of action, known or unknown, which any such releasing party now owns or holds, or has at any time owned or held, against any of the released parties by reason of any act, omission, matter, cause or thing whatsoever relating to or arising out of the relocation of BNSF tracks in accordance with the terms of this Agreement. Notwithstanding the foregoing provisions of this Paragraph, nothing in this Agreement is intended to release any claims, rights or indemnifications that either Party may have as a result of any incidents of damage to property (including contamination of any real property) or injury or death to persons that occur prior to the date of this Agreement; it being agreed that as between the Parties, the terms of the SUA in effect prior to the date of this Agreement shall continue to apply with respect to any such incidents that occur prior to the Closing.

3. LACMTA shall construct on the Phase 2B Segment in accordance with the conceptual plans approved by BNSF and attached hereto as Exhibit A (the “Approved Conceptual Plans”) and in accordance with the construction phasing plan attached hereto as Exhibit B (the “Construction Phase Plan”) in order to avoid interrupting Freight Rail Service.

4. As the Approved Conceptual Plans evolve into 100% design level plans, BNSF shall have the right to review, comment and approve plans for track work on the Phase 2B Segment in accordance with the same process described in Exhibit “D” to the First Amendment. The Parties will work cooperatively and coordinate their respective activities during the design and construction process to minimize any impacts to their respective operations and activities. In addition, BNSF will support LACMTA (at LACMTA’s expense) in filing and obtaining any regulatory approvals necessary for construction or operation of the Light Rail Tracks and the Freight Track, including California Public Utilities Commission (CPUC) crossing approvals and Federal Railroad Administration (FRA) petition approval.

5. Effective as of the date of this Agreement, the SUA is amended such that the term East End Segment is amended to include the Phase 2B Segment and the Exhibit “E” terms shall apply with respect to the Phase 2B Segment as well as the remainder of the East End

Segment. With respect to all other portions of the Property, the SUA shall remain unmodified.

6. Prior to construction of any further extensions of the light rail system over the Pasadena Subdivision, the parties will meet to discuss the implementation of Phase 2B, which discussions will include, without limitation, indemnity and insurance obligations between the parties. Each party reserves any and all rights they might have under the SUA with respect to.
7. All rights and obligations of BNSF and LACMTA in the SUA that are not expressly amended by this Agreement shall remain unchanged by this Agreement.
8. This Agreement shall be binding upon BNSF, LACMTA and their respective successors and permitted assignees.
9. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California.
10. This Agreement may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, authorized representatives of BNSF and LACMTA have duly executed this Agreement as of the day and year first written herein.

BNSF RAILWAY COMPANY

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY

By: _____
Title:

By: _____
Title:

EXHIBIT A
Approved Conceptual Plans

EXHIBIT B
Construction Phasing Plan



Board Report

File #: 2018-0411, **File Type:** Oral Report / Presentation

Agenda Number: 39.

**CONSTRUCTION COMMITTEE
JULY 19, 2018**

**SUBJECT: PROGRAM MANAGEMENT MAJOR PROJECT STATUS
REPORT**

ACTION: ORAL REPORT

RECOMMENDATION

RECEIVE oral report on the Major Project Status by the Chief Program Management Officer.

DISCUSSION

A. Update report covering the month of July 2018 by the Chief Program Management Officer.

Prepared by:

- **Master Schedule** - Julie Owen, DEO, Project Mgmt., (213) 922-7313
- **Crenshaw/LAX** - Sameh Ghaly, Sr EO Project Mgmt., (213) 418-3369
- **Regional Connector** - Gary Baker, EO Project Mgmt., (213) 893-7191
- **Westside Purple Line Ext 1** - James Cohen, EO Project Mgmt., (213) 922-7911
- **Westside Purple Line Ext 2** - Michael McKenna, EO Project Mgmt., (213) 312-3132
- **Westside Purple Line Ext 3** - Michael McKenna, EO Project Mgmt., (213) 312-3132
- **Patsaouras Plaza Busway Station** - Timothy Lindholm, EO Project Engr., (213) 922-7297
- **Willowbrook/Rosa Park Station** - Timothy Lindholm, EO Project Engr., (213) 922-7297
- **The New Blue** - Androush Danielians, EO Project Engr., (213) 922-7598
- **I-210 Barrier Replacement** - Androush Danielians, EO Project Engr., (213) 922-7598
- **Presentation** - Yohana Jonathan, Departmental System Analyst, (213) 922-7592

Program Management Major Project Status Report

Presented By

Richard Clarke

Chief Program Management Officer


















July 2018

Construction Committee

Los Angeles County Metropolitan Transportation Authority



PROJECT BUDGET & SCHEDULE STATUS SUMMARY CHART

Project	Cost Performance	Schedule Performance	Comments
Crenshaw/LAX			Project is 81.8% complete. Contractor is continuing to fall behind schedule and reported potential delays with their latest schedule update. The forecast revenue service date is under review.
Regional Connector			Project is 51% complete and proceeding on schedule and within budget.
Westside Purple Line Extension-Section 1			Project is 37% complete with no significant issues.
Westside Purple Line Extension-Section 2			Project is 7% complete with no significant issues.
Westside Purple Line Extension-Section 3			<ul style="list-style-type: none"> FTA approval for Entry into Engineering is expected in Summer 2018. FTA approval for Letter of No Prejudice (LONP) is expected in Summer 2018. Award of Contract C1151 Tunnel will occur after LONP approval is received from the FTA.
Patsaouras Plaza			Project is 63% complete with approved substantial completion date of December 2018. Contractor is reporting further delays with forecast of March 2019.
Willowbrook/Rosa Parks Station			Design activities are complete. Early Start Phase (Package E) contract awarded, second contract (Package A and C) in award process.
Metro Blue Line Projects			<p>Early Start Work is at 75% completion.</p> <p>Construction Contract for Package A+C awarded in June 2018.</p> <p>Design Documents for Package B is 95% complete and on target for Late 2018 start of Procurement.</p>
I-210 Barrier Replacement			Finding effective mitigation measures to some of the non-standard freeway features along with mitigation measures to alleviate freeway traffic disruption during construction are delaying the project .

July 2018



On target



Possible problem



Major issue

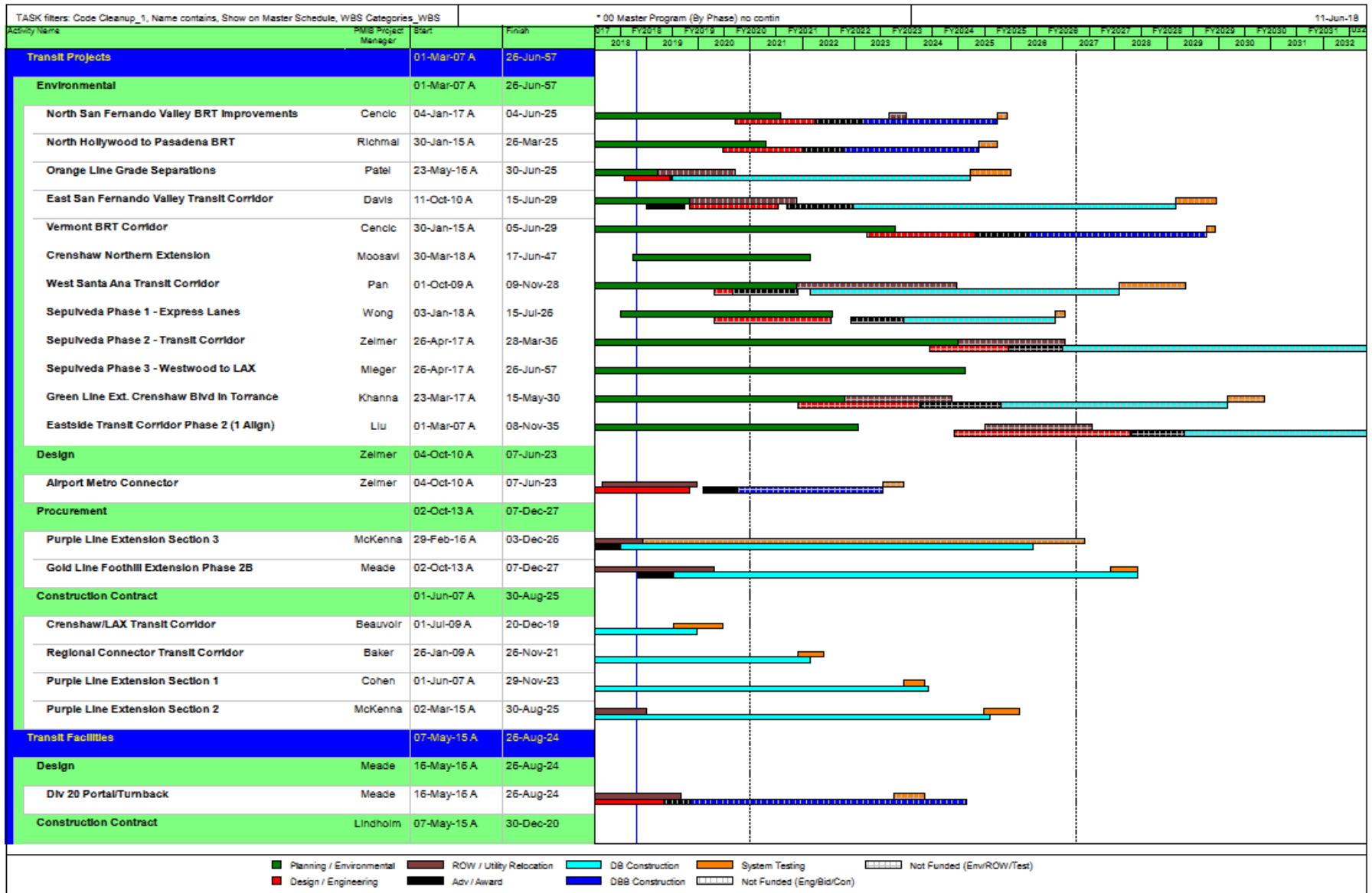


Metro 2

Construction Committee

Los Angeles County Metropolitan Transportation Authority

TRANSIT MASTER SCHEDULE (Page 1 of 2)



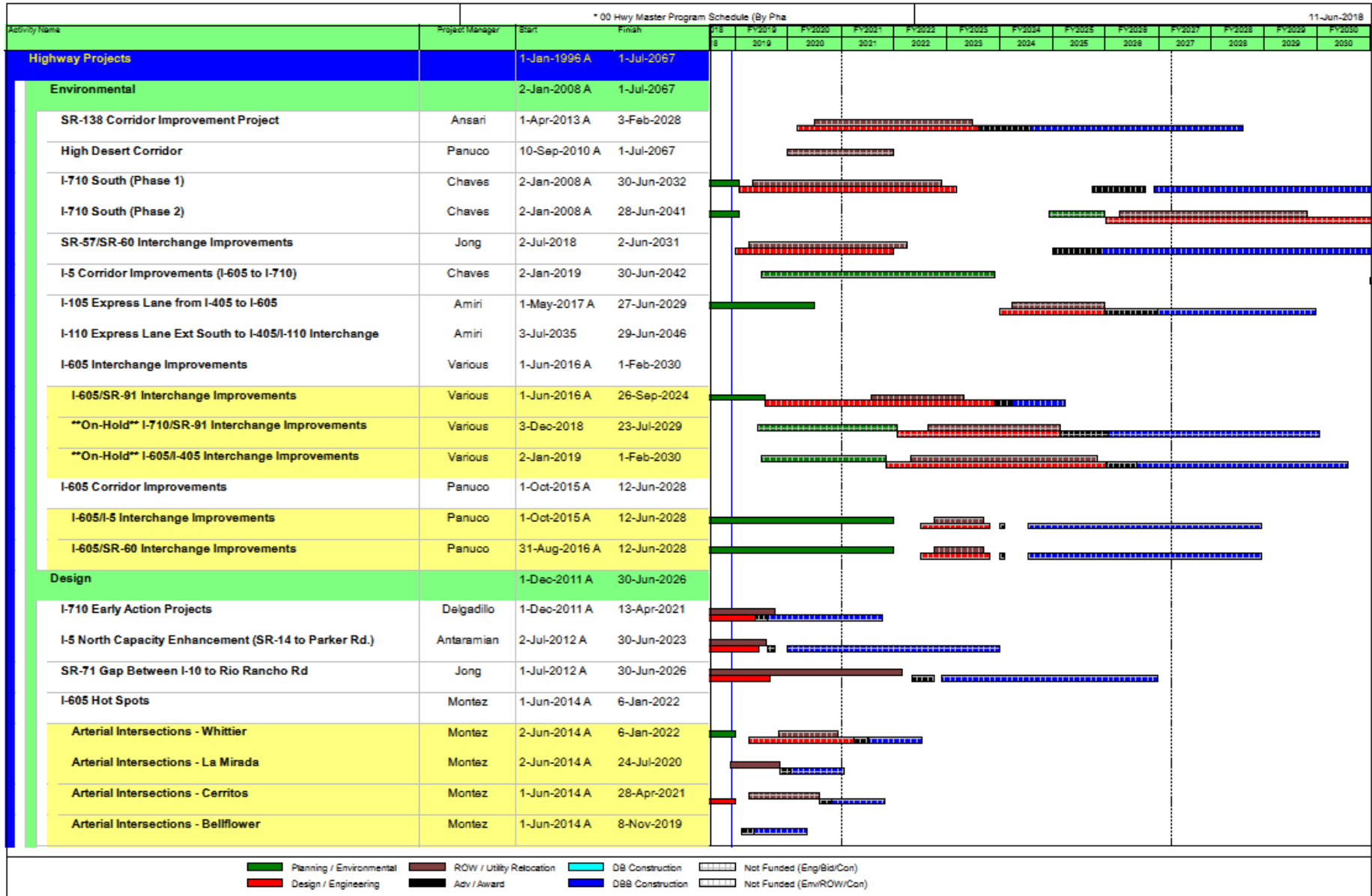
TRANSIT MASTER SCHEDULE (Page 2 of 2)

TASK filters: Code Cleanup_1, Name contains, Show on Master Schedule, WBS Categories_WBS				* 00 Master Program (By Phase) no contin													11-Jun-18			
Activity Name	PMS Project Manager	Start	Finish	FY17	FY2018	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031	FY2032	
Willowbrooks/Rosa Parks Station Improvement	Lindholm	07-May-15 A	30-Dec-20																	
Regional Rail Projects	Owens	02-Sep-13 A	03-Feb-28																	
Environmental	Owens	01-Dec-14 A	03-Feb-28																	
Link Union Station	Owens	01-Dec-14 A	03-Feb-28																	
Design	Owens	01-Apr-15 A	07-Jun-24																	
Brighton to Roxford Double Track	Owens	01-Sep-15 A	24-Jun-22																	
Lone Hill to CP White	Owens	03-May-16 A	27-Sep-22																	
Rosecrans & Marquardt Grade Separation	Owens	01-Apr-15 A	07-Jun-24																	
Construction Contract	Owens	02-Sep-13 A	14-May-18 A																	
Bob Hope Airport Station	Owens	02-Sep-13 A	14-May-18 A																	
Bus Facilities Projects	Gurrola	31-Mar-14 A	14-Feb-19																	
Construction Contract	Gurrola	31-Mar-14 A	14-Feb-19																	
Patsouras Plaza	Gurrola	31-Mar-14 A	14-Feb-19																	
State of Good Repair/Improvements		01-Jul-13 A	06-Jul-20																	
Design		21-Sep-15 A	06-Jul-20																	
210 Freeway Barrier Rail	Danielians	13-Jun-16 A	28-Jun-19																	
MBL Resignalling	Wei	21-Sep-15 A	06-Jul-20																	
Construction Contract		01-Jul-13 A	28-Jun-18																	
Pershing Sq. Esc. Replace & New Canopy Project	Patel	11-May-15 A	31-Aug-17 A																	
MBL Ped Safety Enhancement At-Grade Crossing	Chong	01-Jul-13 A	28-Jun-18																	
Small Capital	Joshl	14-Jul-15 A	28-Feb-20																	
Design	Joshl	01-Mar-16 A	04-Jun-18																	
Eastside Access Improvement Project	Joshl	01-Mar-16 A	04-Jun-18																	
Procurement	Joshl	14-Jul-15 A	28-Feb-20																	
Rail to Rail	Joshl	14-Jul-15 A	28-Feb-20																	

■ Planning / Environmental
 ■ ROW / Utility Relocation
 ■ DB Construction
 ■ System Testing
 Not Funded (Env/ROW/Test)

■ Design / Engineering
 ■ Adv / Award
 ■ DBB Construction
 Not Funded (Eng/Blis/Con)

HIGHWAY MASTER SCHEDULE (Page 1 of 2)



HIGHWAY MASTER SCHEDULE (Page 2 of 2)

* 00 Hwy Master Program Schedule (By Pha)																	11-Jun-2018
Activity Name	Project Manager	Start	Finish	8/18	FY2019	FY2020	FY2021	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	
Construction Contract		1-Jan-1996 A	1-Aug-2022														
South Bay (I-405, I-110, I-105 and SR-91)	Panuco	2-Jan-2014 A	4-Mar-2022														
I-405 Crenshaw Blvd On/Off Ramp Improvements	Panuco	2-Jan-2014 A	4-Mar-2022														
I-405/I-110 Interchange Improvements	Panuco	2-Jan-2014 A	10-Apr-2019														
Countywide Soundwall Construction	Owen	15-Dec-2010 A	21-Jul-2021														
Package #10 - SR-210 Fair Oaks, Lake and Baldwin to Sant	Owen	2-Sep-2014 A	21-Jul-2021														
Package #11 - SR-170 from 101 to Sherman Way and I-405	Owen	15-Dec-2010 A	21-Dec-2020														
I-5 North Capacity Enhancements SR-134 to SR-118	Subeh	1-Apr-1998 A	30-Mar-2022														
SR-118 to SR-170 (Segment 1A)	Subeh	30-Jul-1999 A	15-Jul-2016 A														
SR-170 to Buena Vista (Segments 2)	Subeh	1-Apr-1998 A	16-Dec-2015 A														
Magnolia to SR-134 (Segment 4)	Subeh	1-Apr-1998 A	25-Oct-2019														
Buena Vista to Magnolia (Segment 3)	Subeh	1-Apr-1998 A	30-Mar-2022														
I-5 South Capacity Enhancements from I-605 to Orange Coui	Gau	1-Jan-1996 A	1-Aug-2022														
I-5 Carmenita Road Interchange	Gau	1-Jan-2001 A	22-Mar-2018 A														
Alondra (Segment 1)	Gau	1-Jan-2001 A	19-May-2016 A														
Imperial Highway (Segment 4)	Gau	1-Jan-2001 A	26-Jul-2019														
Shoemaker - Rosecrans (Segment 3)	Gau	1-Jan-1996 A	12-Apr-2019														
Florence (Segment 5)	Gau	1-Jan-2001 A	30-Jul-2020														
Valley View (Segment 2)	Gau	1-Jan-1996 A	1-Aug-2022														

■ Planning / Environmental
 ■ ROW / Utility Relocation
 ■ DB Construction
 Not Funded (Eng/Bid/Con)

■ Design / Engineering
 ■ Adv / Award
 ■ DBB Construction
 Not Funded (Env/ROW/Con)

CRENSHAW/LAX TRANSIT PROJECT

⚠ BUDGET		
	Current	Forecast
TOTAL COST	\$2,058M	\$2,058M

⚠ SCHEDULE		
	Current	Forecast
REVENUE	Oct 2019	Under Review
OPERATION		

- Overall Project Progress is 81.8% complete; contractor behind schedule and forecast revenue service date is under review
- Contractor continues critical underground structures, track, systems and testing activities
- Contractor preparing for removal of street decking and street restoration along Crenshaw Blvd area
- The Southwestern Yard Maintenance Facility (Division 16) is one month behind schedule with mitigation plans being developed to ensure completion of the facility by first quarter in 2019



Continuing construction of main shop building at Southwestern Yard Maintenance Facility

July 2018



On target



Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority



Metro 7

REGIONAL CONNECTOR TRANSIT PROJECT

OK BUDGET		
	Current	Forecast
TOTAL COST	\$1,810M	\$1,810M

* Includes Board approved LOP budget plus finance costs.

OK SCHEDULE		
	Current	Forecast
REVENUE OPERATION	Dec 2021	Dec 2021

- Overall Project Progress is 51%
- Underground:** Sequential Excavation Method (SEM) mining for the crossover cavern, cross passages, tunnel invert, and walkway installation are ongoing
- Little Tokyo/Arts District Station:** Excavation and related support of excavation at station (SOE) and Wye continues
- Historic Broadway Station:** Underpinning of LA Times Building has been completed and station box excavation continues
- Grand Av Arts/Bunker Hill Station:** Permanent structural concrete construction continues
- Flower Street:** Fine grading north of 5th Street complete and structural concrete sequence initiated; SOE and excavation south of 5th Street continues



Sequential Excavation Method (SEM) in Historic Broadway Station

July 2018



On target



Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority



Metro 8

WESTSIDE PURPLE LINE EXTENSION – SECTION 1

OK BUDGET

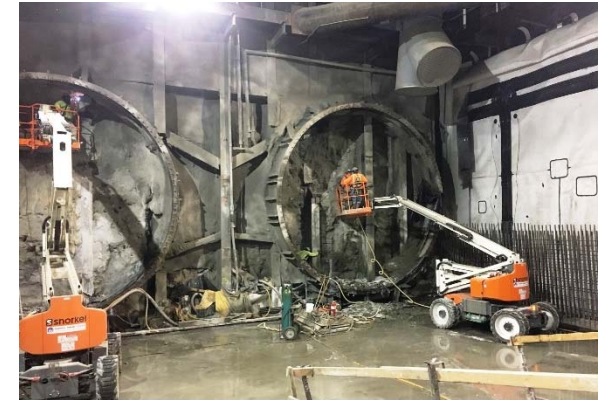
	Current	Forecast
TOTAL COST*	\$3,154M	\$3,154M

* Includes Board approved LOP budget plus finance costs.

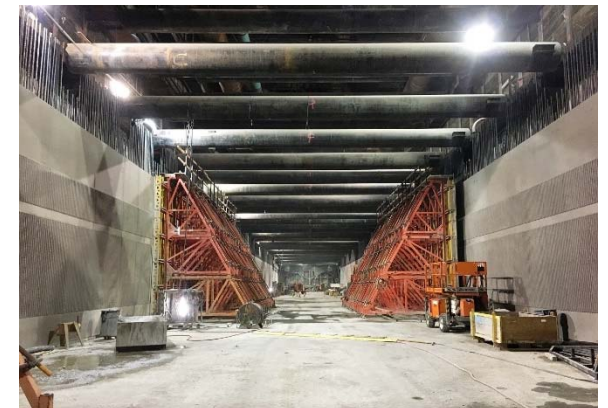
OK SCHEDULE

	Current	Forecast
REVENUE OPERATION	Oct 2024 (FFGA)	Nov 2023

- Overall Project Progress is 37% complete.
- At the Wilshire/Western Retrieval Shaft, excavation and bracing continues with Level A strut installation and utility hanging in the south, and Level B waler installation in the north.
- Concrete wall pours at Wilshire/La Brea Station needed to support TBM assembly are scheduled to complete at end of June 2018. Installation of rebar, embeds and HDPE continue along with mining support equipment in the south yard.
- Excavation to Level D at the Wilshire/Fairfax Station continues, along with waler and strut installation. Excavation is now clear of the Paleo zone (Elevation 105'). Alimak installation to Level C and work on the pipe canopy tunnel eye is in progress.
- Station excavation under the concrete deck at Wilshire/La Cienega Station continues. Work on the permanent power duct bank and hanging utilities moves forward.
- Tunnel Boring Machines (TBMs) were delivered to Los Angeles in December 2017. TBM assembly at Wilshire/La Brea Station is scheduled for July 2018. Tunneling is planned to start in September 2018.



Wilshire/La Brea Station



July 2018
Construction Committee

Los Angeles County Metropolitan Transportation Authority



On target



Possible problem



Major issue



Metro 9

WESTSIDE PURPLE LINE EXTENSION – SECTION 2

BUDGET

	Current	Forecast
TOTAL COST*	\$2,530M	\$2,530M

* Includes Board approved LOP budget plus finance costs.

SCHEDULE

	Current	Forecast
REVENUE OPERATION	Dec 2026 (FFGA)	Aug 2025

- Overall project progress is 7% complete.
- Final design progress is 66% complete.
- Century City Constellation:
 - AT&T and LADWP (Power) utility relocations are ongoing and civil work for both is anticipated to complete in Summer 2018.
 - Demolition and setup of construction staging areas are ongoing.
- Wilshire/Rodeo:
 - Southern California Gas and AT&T utility relocations are ongoing and anticipated to complete in September 2018.
 - Geotechnical fault line investigation borings are ongoing.
 - Final negotiations with the City of Beverly Hills for a Memorandum of Agreement (MOA) for the C1120 Contract are anticipated to complete in Summer 2018.



AT&T Utility work in Century City



SCG utility work in Beverly Hills

July 2018



On target



Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority



Metro 10

WESTSIDE PURPLE LINE EXTENSION – SECTION 3

OK BUDGET

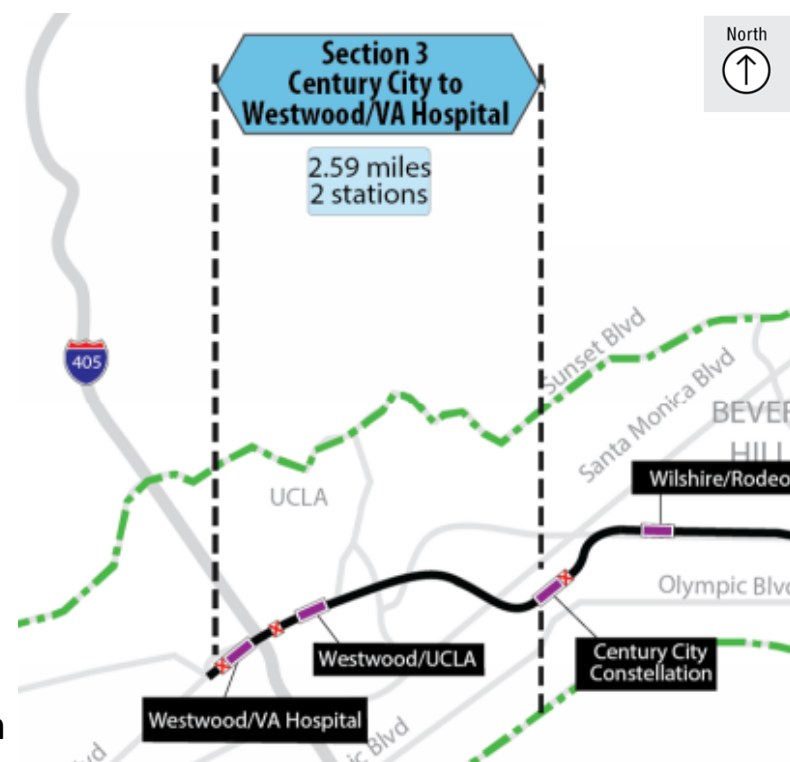
	Current	Forecast
TOTAL COST*	\$3,664M	\$3,664M

* Includes finance costs.

OK SCHEDULE

	Current	Forecast
REVENUE OPERATION	TBD	2026

- FTA approval for Entry into Engineering is expected in Summer 2018.
- FTA approval for Letter of No Prejudice (LONP) for the Tunnel Contract is expected in Summer 2018.
- C1151 Tunnel Contract – Contract award is subject to FTA approval of the LONP.
- C1152 Stations, Trackwork and Systems Contract – Request for Qualifications (RFQ)/Request for Proposals (RFP) was issued on September 15, 2017. Proposals are due on August 22, 2018.
- C1153 Advanced Utility Relocations (AUR) Contract – Construction began at the intersection of Wilshire and Westwood Boulevards. The first DWP vault was installed on May 12, 2018.



July 2018



On target



Possible problem



Major issue



Metro 11

Construction Committee

Los Angeles County Metropolitan Transportation Authority

PATSAOURAS PLAZA BUSWAY STATION

OK BUDGET		
	Current	Forecast
TOTAL COST	\$39.7M	\$39.7M

! SCHEDULE		
	Current	Forecast
SUBSTANTIAL COMPLETION	Dec 2018	Mar 2019

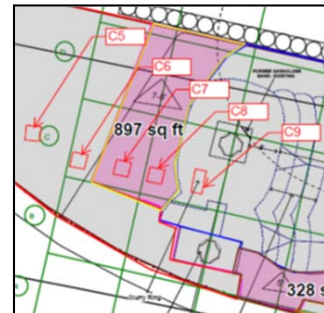
- Overall project progress 65% complete
- Bridge deck work completed, Pedestrian Overcrossing and Canopy foundations stopped
- Contractor complete demobilization as of June 7th pending resolution of the following:
 - On April 24th Native American tribe halted micropile work
 - On May 11th Caltrans designated portion of project site as “Environmentally Sensitive Area”
 - On May 17th subsequent to direction from SHPO, Metro halted all ground level work
- Staff is working with FTA and Section 106 Consulting Parties to resume work where no further excavation required, in previously disturbed areas and Metro R/W:



Retaining wall located near features requires no further excavation



Elevator foundation on Metro R/W requires only forming and concrete pour



5 Canopy Foundations are located in SoCal Gas RAP



4 Ped OC foundations are incomplete and require only forming and pour

July 2018



On target



Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority



Metro 12

WILLOWBROOK/ROSA PARKS STATION

OK BUDGET		
	Current	Forecast
TOTAL COST	\$109.3M	\$109.3M

OK SCHEDULE		
	Current	Forecast
SUBSTANTIAL COMPLETION	July 2020	July 2020

- Early Start Phase (Package E) Construction at 65% completion.
- Notice of Award issued to Icon West Construction for Package A and C.
- Pedestrian grade crossing documents submitted to Union Pacific and Public Utilities Commission.



Early Start Construction

July 2018



On target



Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority



Metro 13

THE NEW BLUE

<u>Project Name</u>	Budget	Percent Completed	Forecast Completion	Status
▪ Pedestrian Gates	\$31.4M	98%	Jun 2018	OK
▪ City of Long Beach Fare Gates Design	\$6M*	100%(Design)	Mar 2018	OK
▪ Blue Line Signal Rehabilitation (OCS, Signals, Div. 11)	\$119M	18%	Aug 2019	OK
▪ Blue Line Track and System Refurbishment (Track, Turnouts, OCS and includes 2 Stations Fare Gates Phase I)	\$90.8M	N/A	Aug 2019	OK
Total: \$247.2M				

Project Status

- **Pedestrian Gates**
 - All 27 Gates are complete and operational
- **City of Long Beach Fare Gates Design**
 - Design completed on 5th and Wardlow Stations
- **MBL Signal Rehab 85% Design in Review. Partial AFC packages developed for early work to be this summer**
- **MBL Track and System Refurb**
 - Received bids on April 13, 2018



*Budget Estimate

July 2018

OK On target

Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority

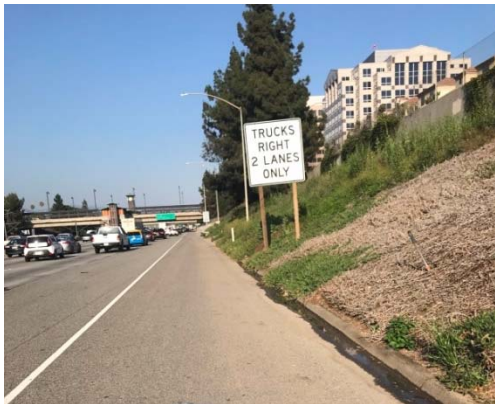


I-210 BARRIER REPLACEMENT PROJECT

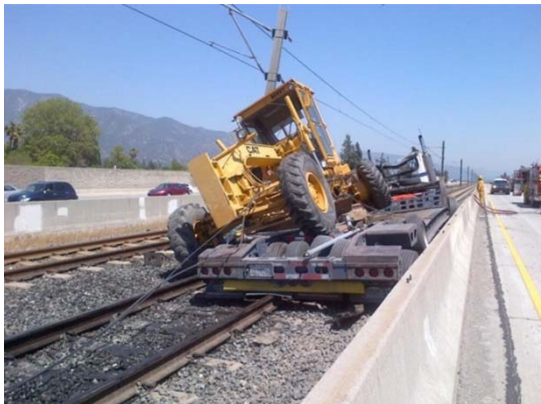
◆ BUDGET	Current	Forecast
TOTAL COST	\$11.08M	\$11.08M

◆ SCHEDULE	Current	Forecast
Complete Design	June 2019	June 2019

- Completed Risk Analysis Study. Identified High, Moderate and Low Risk areas
- Obtained approval from Caltrans on the barrier types to be used
- Prepared plans and specifications for Intrusion Detection System
- Coordinated with Caltrans to install speed limit signs for the trucks
- Conducting traffic studies to quantify the traffic disturbance during construction
- Coordinating with Operations to identify locations where the barrier could be installed within Metro right of way to mitigate or maintain some of the existing freeway non-standard features
- Project Scoping Meeting scheduled with Caltrans to discuss and obtain concurrence on mitigation measures for non-standard freeway features



Newly Installed Caltrans Freeway Sign



Incident in 2014



Newly Installed Speed Limit Sign

July 2018



On target



Possible problem



Major issue

Construction Committee

Los Angeles County Metropolitan Transportation Authority

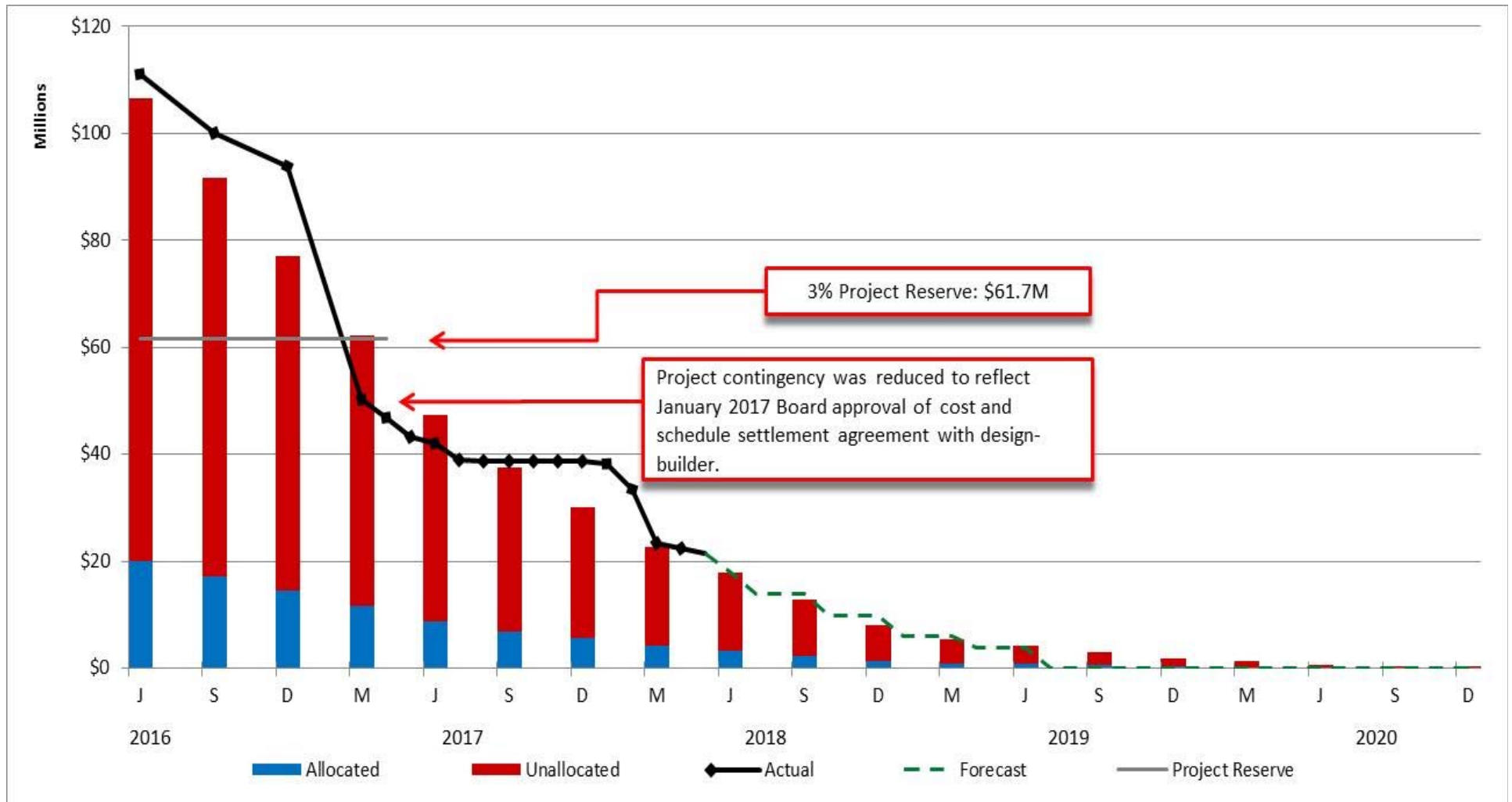


Metro 15

Crenshaw/LAX Transit Project

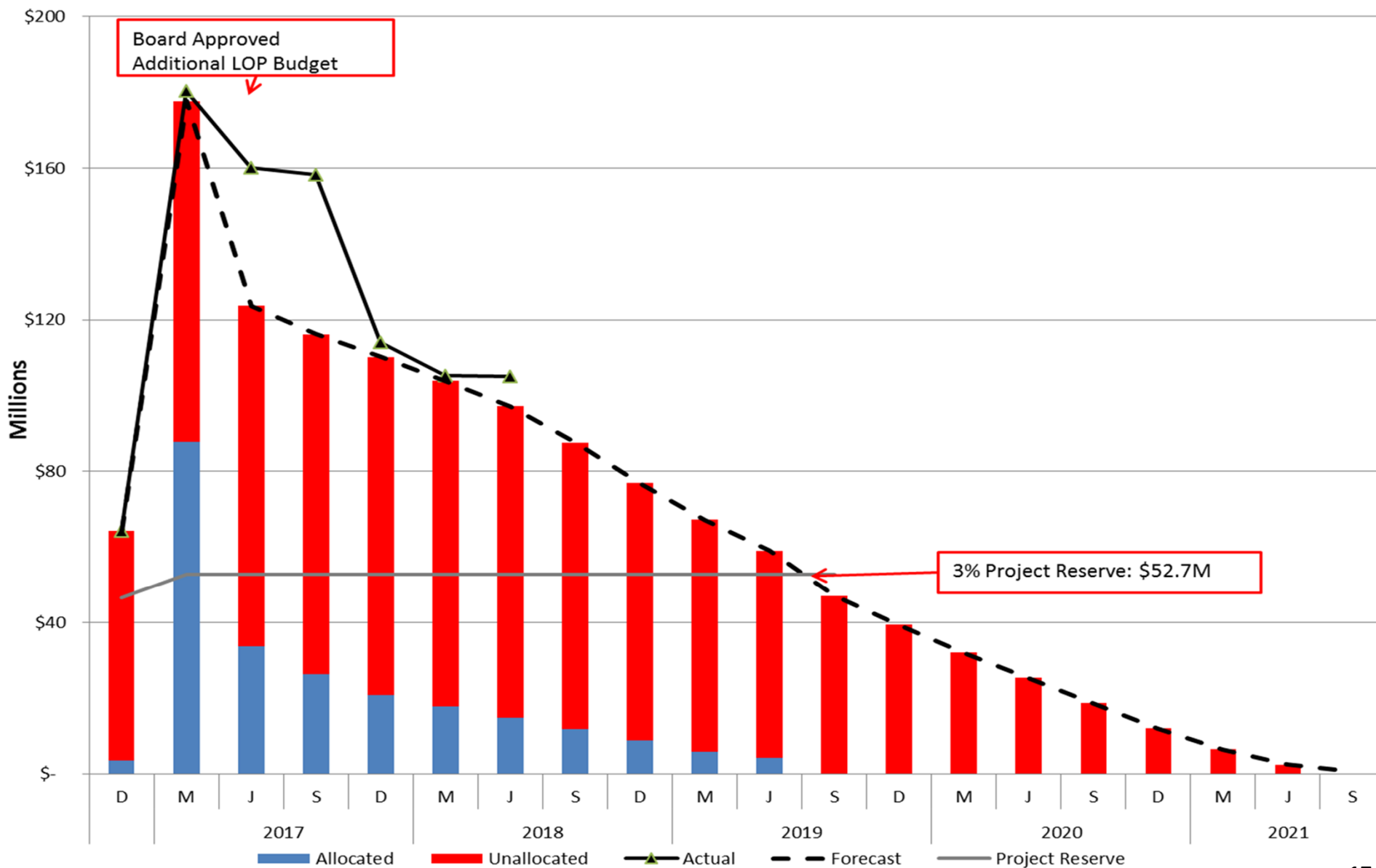
Project Cost Contingency Drawdown

May 2018



Regional Connector

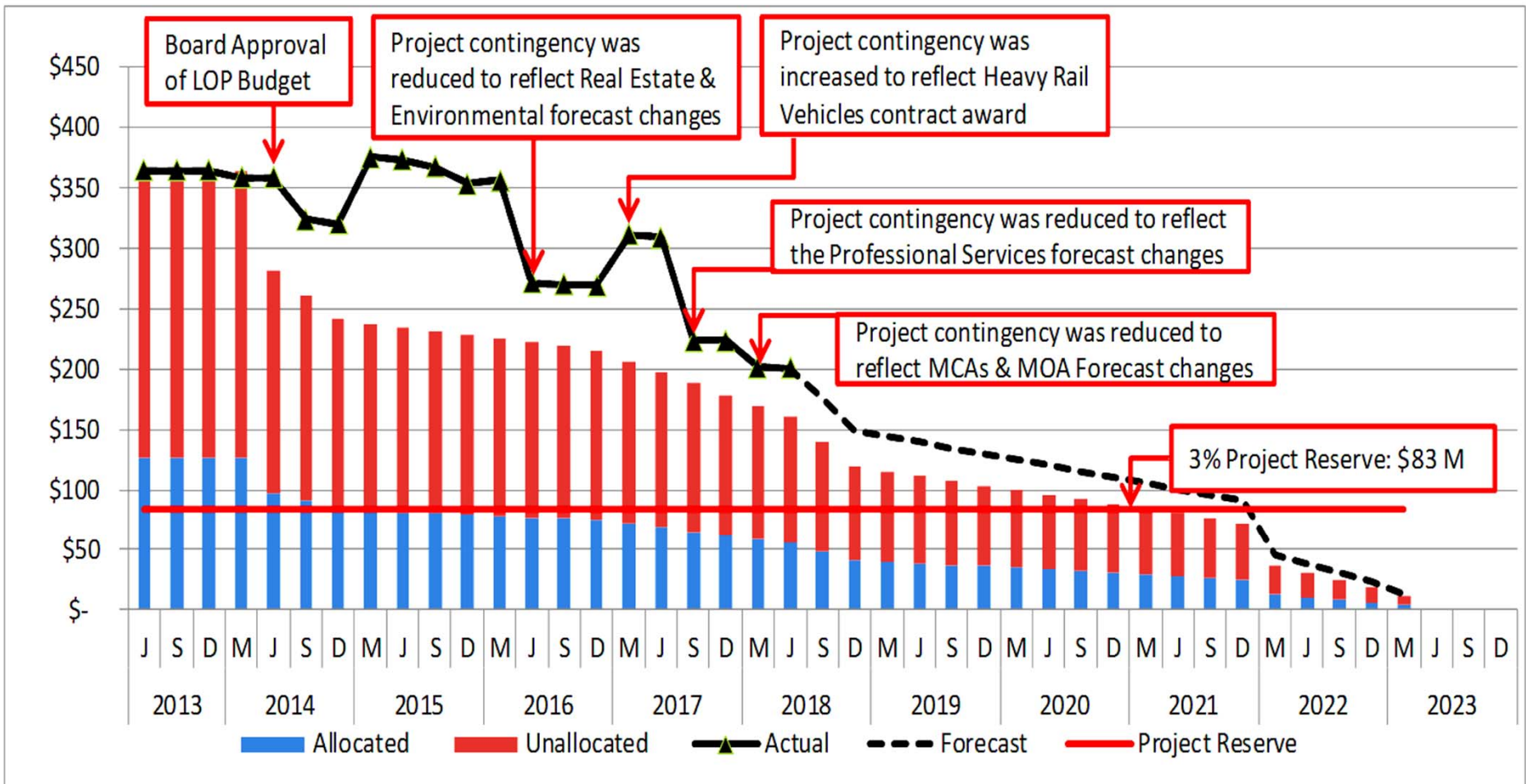
Project Cost Contingency Drawdown



Westside Purple Line Extension – Section 1

Project Cost Contingency Drawdown

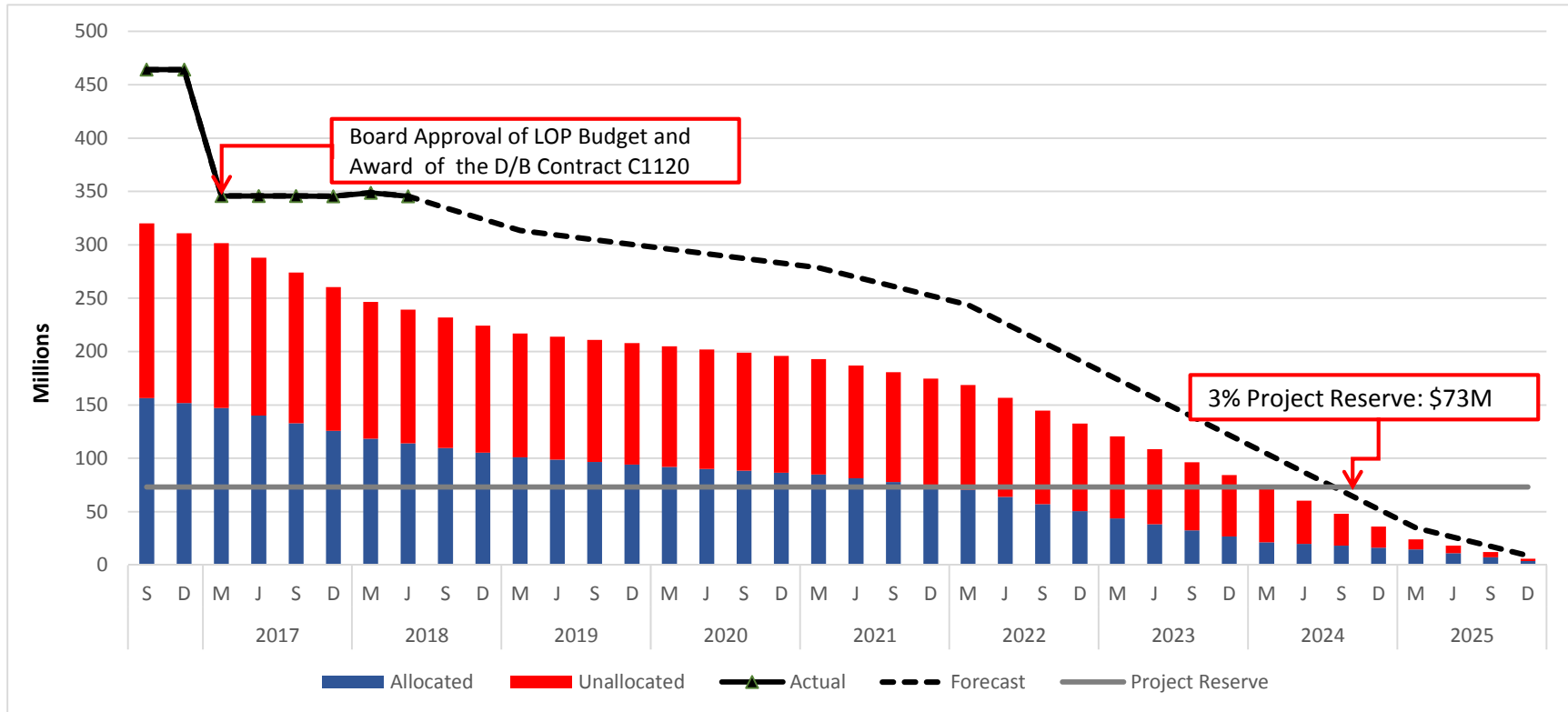
May 2018



Westside Purple Line Extension – Section 2

Project Cost Contingency Drawdown

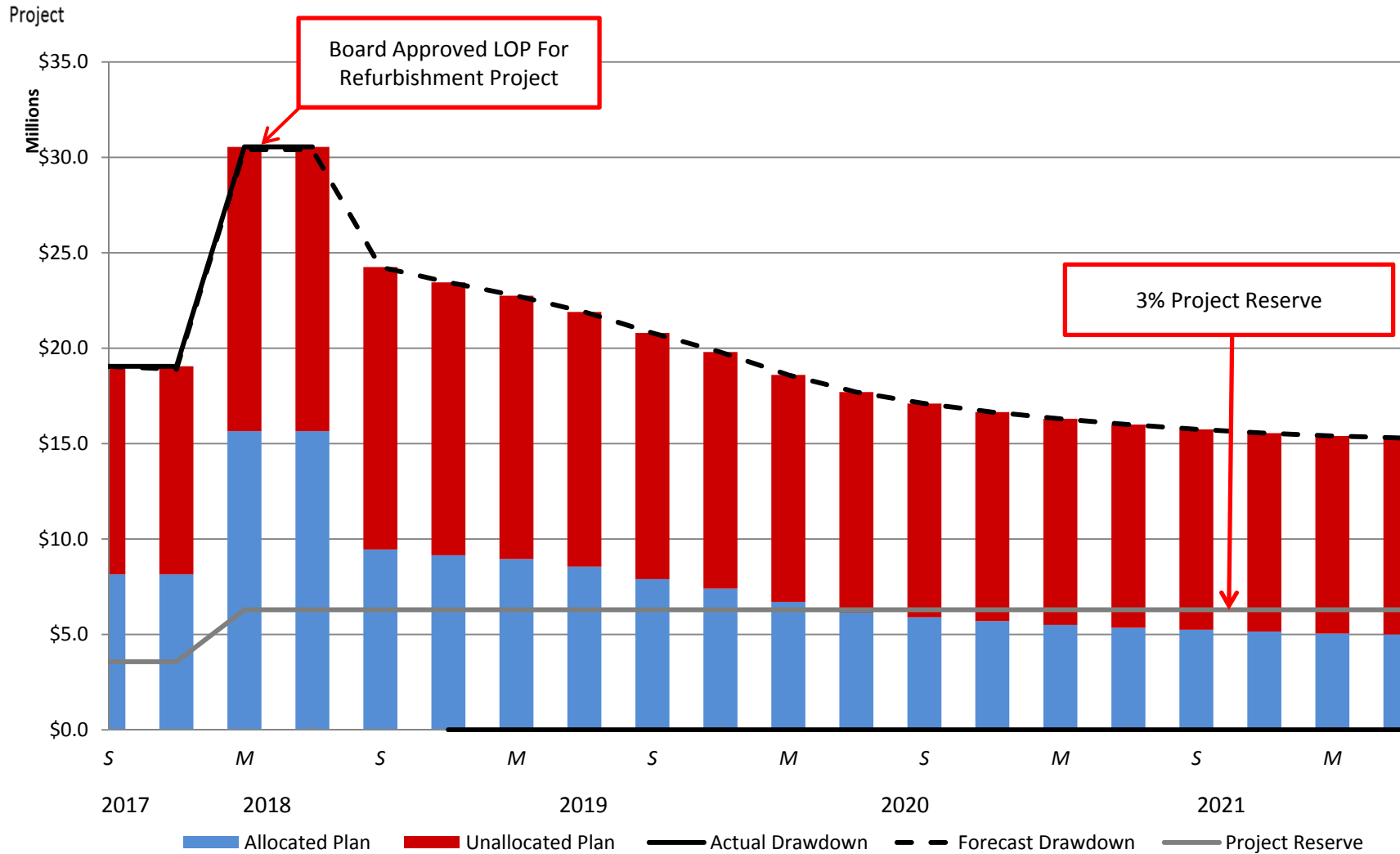
May 2018



The New Blue

Project Cost Contingency Drawdown

May 2018



- Blue Line Signal Rehabilitation
- Blue Line Track and System Refurbishment



Board Report

File #: 2018-0393, **File Type:** Informational Report

Agenda Number: 40.

**CONSTRUCTION COMMITTEE
JULY 19, 2018**

**SUBJECT: PROGRAM MANAGEMENT QUARTERLY CHANGE
REPORT**

ACTION: RECEIVE AND FILE

RECOMMENDATION

RECEIVE AND FILE Program Management Quarterly Change Report.

DISCUSSION

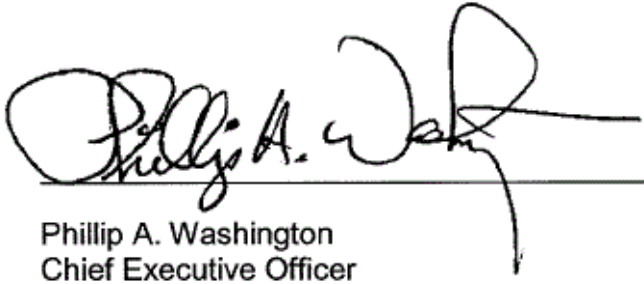
At the January 26, 2018 Board meeting, the Board approved the continuation and expansion of the delegation of authority within Life of Project (LOP) budget management on all Transit and Regional Rail Capital Projects. Staff was directed to provide quarterly reports to the Board on change orders and modifications that are above \$500,000. The change activities for the reporting period between March 1, 2018 and May 31, 2018 are included in Attachment A.

ATTACHMENT

Attachment A - Quarterly Change Report for Reporting Period Between March 1, 2018 - May 31, 2018

Prepared by:

- **Crenshaw/LAX** - Sameh Ghaly, Sr EO Project Mgmt., (213) 418-3369
- **Regional Connector** - Gary Baker, EO Project Mgmt., (213) 893-7191
- **Westside Purple Line Ext 1** - James Cohen, EO Project Mgmt., (213) 922-7911
- **Westside Purple Line Ext 2** - Michael McKenna, EO Project Mgmt., (213) 312-3132
- **The New Blue** - Timothy Lindholm, EO Project Engr., (213) 922-7297
- **Report** - Brian Boudreau, Sr EO Program Control, (213) 922-2474



Phillip A. Washington
Chief Executive Officer

CRENSHAW/LAX TRANSIT PROJECT

I. APPROVED MODIFICATIONS/CHANGES GREATER THAN \$500K IN THIS REPORTING PERIOD (March 1, 2018 - May 31, 2018)

A. DESIGN BUILD CONTRACT No. C0988 - WALSH SHEA CORRIDOR CONSTRUCTORS						
Mod/Change #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount*	Approved Amount
CO-00209.1	<u>Preliminary 45 Day Schedule Recovery</u> : Contractor shall schedule critical activities at specified locations over the next 45 days to benefit the project's schedule. The estimated period of performance is from March 12, 2018 to April 25, 2018.	Schedule Recovery	3/12/2018	3/29/2018	N/A	\$8,000,000
MOD-00367	CLAIM 61 COS Load at Underground 3 (UG3) and CLAIM 99 - 18inch Storm Drain at UG1: Item 1: Final and full resolution of Claim No. 61 and RFC No. 131 for work directly related to the design and construct the Support of Excavation (SOE) at UG3 in order to comply with LABOE's requirement that there be no additional loading on the Central outfall Sewer (COS). Item 2: Final and full resolution of Claim No. 99 and Request for Change (RFC) No. 84 and RFC No. 208 for work directly related to design and relocation of unknown 18" SD to avoid the UG1 crossing.	Comprehensive Claims	5/4/2018	5/18/2018	\$1,040,597	\$500,000

B. PROFESSIONAL SERVICES CONTRACT No. E0117 - MOTT MACDONALD, LLC						
Mod/Change #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount	Approved Amount
MOD-00044	<u>Extend Crenshaw/LAX Phase III Design Support During Construction (DSDC) and Commence Phase IV System Activation</u> : It is critical that there is no disruption in Phase III design service during construction and Phase IV "System Activation." The Revenue Service Date (RSD) is October 2019 and close out is through 2020.	Extra Work	4/11/2018	4/11/2018	N/A	\$6,000,000

C. OTHER AGREEMENTS						
Mod/Change #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount	Approved Amount
	Nothing to report					

* Certain CO/MOD does not have "Contractor's Proposed Amount" because it is a:

- 1) Unilateral Change Order (based on Metro's Independent Cost Estimate) issued when work needs to be done and Metro has not received the Cost/Schedule Proposal (CSP) from contractor in a timely manner.
OR
- 2) Change Order as Time & Material (based on Metro's Independent Cost Estimate) or a change Order to be negotiated (should be 80% of the Independent cost estimate value), issued if the work is Urgent.

II. PENDING MODIFICATIONS/CHANGES GREATER THAN \$500K

A. DESIGN BUILD CONTRACT C0988 - WALSH SHEA CORRIDOR CONSTRUCTORS

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
MOD-00304	Back Charge for Metro payments to City of LA (COLA) for in scope of contract Traffic Control Officers (TCO) Services: This credit change is to back charge WSCC for TCO for the period of January 2014 thru June 30, 2017 (paid by Metro to LADOT per the Master Cooperative Agreement with City of Los Angeles.)	Other	Credit between \$1M and \$5M
MOD-00347.1 CO-00122.1	UG1 Center Walkway Lighted Handrail: Replace the non-lighted center handrails in the two (2) covered sections of UG1 with lighted handrails to provide an added measure of walkway lighting to facilitate evacuation of patrons during an emergency situation.	Safety Conditions	Between \$1M and \$5M
MOD-00354	COLA Request to Replace Concrete Street Light and Signal Poles with Steel Poles - MLK area: Revise street lighting design for Segment C limits between 48th St to Exposition Blvd per LABSL comments on the Segment C 85%-2 Street Lighting Design. Restore steel 15 ft. /40 ft. Davit pedestrian/street lights poles, and remove/replace concrete street light poles with steel 40 ft. Davit light poles.	Owner Design Changes	Between \$1M and \$5M
CO-00129	Elimination Crossover Sta 56+57.50: Design builder shall eliminate the crossover at Sta. 56+57.50, north of 104th (or sought of Aviation/Century Station) and provide a credit to Metro labor, material and equipment, testing and commissioning to furnish and install crossover.	Deletion of Work	Credit between \$500K - \$1M
CO-00152.1	Radio System - Additional Tunnel Amplifiers: The Radio Section (9.6) of the MRDC (Metro Rail Design Criteria) was prepared by an outside consultant who did not have a clear understanding of Metro's requirements for radio systems. Section 9.6 was added as an addendum to the full Metro Rail Design Control (MRDC) that was released to the CLAX bidders; without Metro's technical staff - familiar with the radio requirements - having been given an opportunity to review the document for accuracy. As a result, the winning Contractor's bid did not take into account certain elements of what was actually needed to meet Metro's true requirements. One of these elements was redundant amplifiers (or one set for the northbound tunnel and one set for the southbound tunnel) in the various crosspassages.	Owner Design Changes	Between \$500K - \$1M
CO-00153.1	Radio System - Additional Head-End Equipment: The Uplink antennas, which bring the radio signal from the underground locations, need to be relocated to another site since there were concerns raised by Metro technical staff that there could be a potential for signal interference (insufficient physical isolation) between them and the Downlink antennas, which bring the radio signal from above ground to the underground stations, since they were originally co-located at the same site. Spacing them physically apart will eliminate this potential.	Owner Design Changes	Between \$500K - \$1M
CO-00173.4	Fire Rated Conduit and Cable for Tunnel Emergency Lighting: Provide procurement and construction of additional wires and junction boxes for galvanized rigid conduit for emergency lighting at underground tunnels.	Owner Design Changes	Between \$1M and \$5M
CO-00176.1	Underground Station Emergency Ventilation Fan and Damper Modifications: At the time of bid, galvanized steel conduit was identified in the contract to be used for all exposed work in dry areas no likely to present corrosion problems, including underground tunnels and stations. For locations where exposed conduits are located in accordance with the contract, this change allows use of products that currently pass the UL VSR (Verification of Services Report) and are expected to be UL Listed. The use of high temperature phenolic fiberglass conduit does not have the zinc compatibility issue that galvanized rigid steel has.	Outside Agency	Between \$500K - \$1M
CO-00180.4	Cable Transmission System Update - Construction: The CTS communications platform has been Synchronous Optical Network (SONET), which is a legacy communications technology. The SONET network complicates, if not prohibits critical communication paths between stations (Finite Element Method/ Electromagnetic Pulse (FEM/EMP) station to station Comms) in the event the Rail Operations Center (ROC) is unavailable. Metro Engineering has elected to update the CTS to a Native Ethernet platform. The change to Ethernet - facilitates implementation of a remote/backup ROC (Survivable Remote Site Telephony) and station to station communication, facilitates maintenance, future proofs the network and is cost effective.	Owner Design Changes	Between \$1M and \$5M
CO-00202	Crenshaw Median Landscaping & Maintenance: Construct drought-resistant landscaping with a drip irrigation system in the median of Crenshaw Blvd., on both sides of the Light Rail Transit (LRT) Guideway within the Park Mesa Heights Area from 60th Street to Vernon Ave, in lieu of the originally designed hardscape median (striped AC pavement) per the latest revised landscape & irrigation plans & details for Segments B-2 & C.	Owner Design Changes	Between \$1M and \$5M
CO-00204	Radio Redundancy Radio Rooms: The baseline contract documents only required open niches at UG-1 and UG-3, but Metro required that fully enclosed radio rooms be constructed to contain and secure the radio system equipment. This added scope of work is a change to the Contract.	Extra Work	Between \$500K - \$1M

B. PROFESSIONAL SERVICES CONTRACTS

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
	Nothing to report		

C. OTHER AGREEMENTS

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
	Nothing to report		

REGIONAL CONNECTOR TRANSIT PROJECT

I. APPROVED MODIFICATIONS/CHANGES GREATER THAN \$500K IN THIS REPORTING PERIOD (March 1, 2018 - May 31, 2018)

A. DESIGN BUILD CONTRACT - Contract No. C0990 - REGIONAL CONNECTOR CONSTRUCTORS						
Mod/Change #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount	Approved Amount
MOD-00111	Left Tunnel Boring Machine (TBM) Steel Strike Differing Site Conditions: This change resolves all remaining impacts of the differing site conditions encountered during mining of the left tunnel, including a 32 day compensable time extension.	Extra Work	9/18/2017	3/30/2018	\$7,603,491	\$7,062,237
MOD-00119	Addition of Special Conditions to Cal OSHA Tunnel Classification: This change compensates the Contractor for continuous gas testers required due to Cal OSHA's revision to the Tunnel Classification for the Project.	Extra Work	9/25/2017	3/29/2018	\$782,389	\$585,148

B. PROFESSIONAL SERVICES CONTRACT						
	Nothing to report					

C. OTHER AGREEMENTS						
Mod/Change #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount	Approved Amount
N/A	REVISED DESIGN PARAMETERS AGREEMENT WITH TRIBUNE: Metro agreed to revise the design and construction of the 2nd/Broadway Station to accommodate Tribune's future Overbuild Structure. In consideration of these revisions, Tribune agreed to pay Metro \$1,583,443.	N/A	N/A	3/23/2018	N/A	\$1,583,443

II. PENDING MODIFICATIONS/CHANGES GREATER THAN \$500K

A. DESIGN BUILD CONTRACT No. C0980 - Regional Connector Constructors

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
C0980-CN-00099	REVISE 2ND/HOPE STATION PEDESTRIAN- CONSTRUCTION: Construct the 2nd/Hope Pedestrian Bridge in accordance with revised design.	Extra Work	Between \$1M and \$5M
C0980-CN-00106.1	REVISIONS TO METRO COMMUNICATIONS SYSTEMS: This change revises eliminates the Fujitsu Flashwave 9500 as a Metro-Furnished Good. Contractor shall procure the Optical Network switch using Native Ethernet (10GB); re-configure the existing Gold Line Eastside Cable Transmission System (CTS) to operate via the communications room at Location 61A of Division 20; and relocate the existing Little Tokyo CTS node and associated circuits to the communications room at Location 61A of Division 20.	Extra Work	Between \$500K and less than \$1M
C0980-CN-00111	ADDITIONAL ACOUSTICAL TREATMENTS FOR AREAS NOT SPECIFIED IN THE PROJECT: Construct additional acoustical treatments in all stations beyond what was indicated in the Contract Documents. This change includes approximately 92,471 SF of additional acoustical treatments.	Extra Work	Between \$1M and \$5M
C0980-CN-00145	ADD WYE JUNCTION FAN PLANT - CONSTRUCTION: Construct an additional fan plant at the 1st & Alameda Junction (also referred to as the "wye") based on the following approved MODS: C0980-MOD 0033/CN 00053.2 Add "Wye" Junction Fan Plant Design Only and C0980-MOD 0087/CN-00108 Revision to Wye Junction Fan Plant Design. This work also includes the elimination of the previously designed eight tunnel booster fans with all associated mechanical, electrical and system components.	Extra Work	Between \$10M and \$15M
C0980-CN-00148	PLATFORM STAND-ALONE VALIDATORS: Contractor shall modify the Stations to accommodate installation of six (6) Stand-Alone Validators (SAVs) on the platforms. Provide and install communication conduit, with pull strings, from each SAV to the Train Control and Communication (TC&C) room. Provide and install power conduit and cable, from each SAV to the East and West power panels. Provide additional 20-amp 1-pole breakers and/or reassign spare breakers as indicated. Contractor shall allow for a load of 35 Watts per SAV; Accommodate SAV base opening 6" wide by 4" deep for power and communication conduits; Metro will furnish and install SAVs in a similar manner as for other UFS equipment.	Extra Work	Between \$500K and less than \$1M
C0980-CN-00158	2ND AND BROADWAY STATION REVISED OVERBUILD DESIGN PARAMETERS (CONSTRUCTION): Contractor shall provide all necessary labor, materials, and supervision to redesign various components of the 2nd and Broadway Station, and to design and construct an overbuild load transfer system in accordance with the Revised Overbuild Loading Parameters to accommodate future development by Tribune, including relocation of the emergency stairways, ventilation shafts/ducts and other elements as needed to accommodate the Overbuild Structure Load Transfer System.	Extra Work	Between \$1M and \$5M
C0980-CN-00161	FLOWER STREET TRAFFIC CONTROL FOR DWP CABLE PULLING: Contractor shall provide all traffic control for DWP cable pulling activities for relocated power utilities at 6th and Flower.	Extra Work	Between \$500K and less than \$1M

B. PROFESSIONAL SERVICES CONTRACTS

	Nothing to report		
--	-------------------	--	--

C. OTHER AGREEMENTS

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
N/A	EXTENSION OF MANGROVE LEASE WITH CITY OF LOS ANGELES	N/A	Between \$10M and \$15M
N/A	PERMANENT EASEMENT FOR FAN PLANT AT MANGROVE	N/A	Between \$1M and \$5M

WESTSIDE PURPLE LINE EXTENSION - SECTION 1 PROJECT

I. APPROVED MODIFICATIONS/CHANGES GREATER THAN \$500K IN THIS REPORTING PERIOD (March 1, 2018 - May 31, 2018)

A. DESIGN BUILD CONTRACT No. C1078 - CLARK CONSTRUCTION GROUP

MOD/CHANGE #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount	Approved Amount
MOD-11	Schedule Impacts from Arcadis Work (includes Chalmers Impacts): Change to accommodate construction schedule extension due to site impacts.	Delay of Work (Compensable)	11/21/2016	3/5/2018	\$ 2,408,228.00	\$ 2,187,476.00

B. PROFESSIONAL SERVICES CONTRACT

	Nothing to Report					
--	-------------------	--	--	--	--	--

C. OTHER AGREEMENTS

	Nothing to Report					
--	-------------------	--	--	--	--	--

II. PENDING MODIFICATIONS/CHANGES GREATER THAN \$500K

A. DESIGN BUILD CONTRACT No. C1045 - SKANSKA-TRAYLOR-SHEA, A JOINT VENTURE

Mod/Change #	Description	Change Type	Approved Amount
CN-42.3	<u>Radio Subsystem Redundancy</u> : Procure and install a complete switching network to allow failover switching on Westside Purple Line Extension (WPLE) Sections 1 and 2 including redundancy of the radio system. Metro has revised the radio system to avoid a Single Point of Failure of the primary radio system.	Owner Design Changes	Between \$500K - \$1M
CN-43.4	<u>Isolate Track Circuits at Wilshire</u> : Design, construct, install and test new Audio Frequency (AF) Track Circuit equipment at Wilshire/Western. This new equipment will be isolated from the existing track circuit equipment. This change is issued to avoid potential safety issues related to failures of track circuits due to equipment between different manufactures, when placed into service.	Safety Conditions	Between \$500K - \$1M
CN-56	<u>Implement CoBH MoA</u> : This Change will compensate the Design-Build Contractor for revised work hours, holiday schedule and additional mitigation measures required by the Memorandum of Understanding (MOA). Work is currently being performed under the terms of the MOA with the City of Beverly Hills (CoBH).	Extra Work	More than \$15M
CN-63	<u>La Brea - Additional Instrumentation Requested by BOE</u> : Provides new/revised criteria that the Contactor must now use for the design and evaluation of the Support of Excavation (SOE) for the Wilshire/La Brea Station. Given the larger than expected settlement predictions, LABOE has requested additional instrumentation to be installed.	Extra Work	Between \$1M - \$5M
CN-64.1	<u>La Brea - Impacts from Metro SOE Deviation Request</u> : Provides new/revised criteria that the Contactor must now use for the design and evaluation of the Support of Excavation (SOE) for the Wilshire/La Brea Station.	Extra Work	Between \$500K - \$1M
CN-65.1	<u>Fairfax - Impacts from Metro SOE Deviation Request</u> : Provides new/revised criteria that the Contactor must now use for the design and evaluation of the Support of Excavation (SOE) for the Wilshire/Fairfax Station.	Extra Work	Between \$500K - \$1M
CN-66	<u>La Brea - Additional Dewatering Treatment and Discharge Costs</u> : The Contractor has encountered two different 'Differing Site Conditions' (DSC) that have resulted in additional costs to operate and maintain the dewatering systems.	Extra Work	Between \$1M - \$5M
CN-67.1	<u>Tactile Guidance: Construction and Plaza Material Change</u> : This change was requested by Metro Systemwide Planning in coordination with Metro Americans Disabilities Act (ADA). Two tone tiles to be installed at all three stations to ensure sufficient contrast to meet ADA requirements.	Extra Work	Between \$500K - \$1M
CN-68	<u>Increased Ventilation of Station Ancillary Rooms</u> : Change to increase the ventilation requirements at the station stairs and corridor areas to accommodate surrounding soils.	Owner Design Changes	Between \$1M - \$5M
CN-72.1	<u>Stations - Art Related Changes</u> : Installation of Light-Emitting Diode (LED) lighting at the plaza level (edge of the art glass) to reduce the foot-candle requirements and art area. This change will reduce the cost of installation and Storage of Work.	Deletion of Work	Between \$500K - \$1M

CN-77.1	<u>Additional Interpretation for Building Settlement - Project Wide</u> : The additional instrumentation required by Metro and LABOE will require additional reporting and analysis by the contractor. This change will accommodate the additional analysis and reporting.	Extra Work	Between \$1M - \$5M
CN-78.1	<u>Fairfax - DWP Ductbank Conflicts with Deck Beams</u> : The location of LADWP ductbanks at Wilshire/Fairfax Station were higher than indicated on the as-built drawings. This change accommodates the mitigation efforts needed to remediate the higher ductbank.	Extra Work	Between \$500K - \$1M
CN-79	<u>Western - Property Status Change (Fee to Temporary Construction Easement (TCE)) Impacts, Parcel W-0103</u> : Accommodates the change in parcel handoff 'status from a 'Fee Take' to a 'TCE'.	Extra Work	Between \$500K - \$1M
CN-83	<u>Western - Additional Dewatering and Treatment</u> : To accommodate the higher than expected groundwater inflows experienced at the Wilshire/Western shaft.	Extra Work	Between \$1M - \$5M
CN-84	<u>Western – Impacts from Metro SOE Deviation Request</u> : Provides new/revised criteria that the Contactor must now use for the design and evaluation of the Support of Excavation (SOE) for the Wilshire/Western Retrieval Shaft.	Extra Work	Between \$500K - \$1M
CN-85	<u>La Brea - BOE Additional Utility Hanging Requirements</u> : Accommodates additional utility supports required by LABOE for the Sewer and Storm Drain Lines at the Wilshire/La Brea Station.	Extra Work	Between \$500K - \$1M
CN-87	<u>La Brea - Bracing Impacts due to DWP ductbank (ECI-004)</u> : Accommodates the re-installation of four struts at Wilshire/La Brea Station due to conflicts with the existing electrical ductbanks.	Extra Work	Between \$1M - \$5M
CN-93	<u>La Brea - Center Access Shaft - Design and Construction Costs (incl ECI-003)</u> : Construction of a central muck shaft on Wilshire Blvd at La Brea Station to help increase station excavation rates and facilitate material placement.	Extra Work	Between \$500K - \$1M
CN-102	<u>Golder Gas Investigation and Report</u> : Change to accommodate additional Geotechnical field work, analysis and investigation.	Extra Work	Between \$500K - \$1M
CN-105	<u>Track Crossovers - Shop Drawings and Associated Track Components (Dsgn+ Const Delta)</u> : Metro provided the contractor a revised geometry, along with new requirements, for the fully guarded track crossover. This Change Notice (CN) allows the contractor to bring on-board a special trackwork manufacturer to complete the detailed shop drawings required to install this component of work. It also includes the additional materials, installation and construction (outside the base scope of work) required to install the crossover.	Owner Design Changes	Between \$1M - \$5M
TBD	<u>Oil Well Horizontal Investigation in lieu of TBM Probe-ahead</u> : Change to accommodate horizontal directional drilling to locate abandoned oil wells.	TBD	Between \$1M - \$5M
TBD	<u>La Cienega SCE Line (N-S) at Hamilton Dr. to Remain</u>	TBD	Between \$1M - \$5M
TBD	<u>La Brea - Alternate Grounding - Tie Grid to Piles (Ltr 450)</u>	TBD	Between \$1M - \$5M

DESIGN BUILD CONTRACT No. C1078 - CLARK CONSTRUCTION GROUP

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
CN-16	<u>Install Street Lights Both Sides, Trees and Drip Irrigation</u> : Site restoration in accordance with LABOE requirements.	Extra Work	Between \$500K - \$1M

B. PROFESSIONAL SERVICES CONTRACTS

	Nothing to Report		
--	-------------------	--	--

C. OTHER AGREEMENTS

	Nothing to Report		
--	-------------------	--	--

WESTSIDE PURPLE LINE EXTENSION SECTION 2 PROJECT

I. APPROVED MODIFICATIONS/CHANGES GREATER THAN \$500K IN THIS REPORTING PERIOD (March 1, 2018 - May 31, 2018)

A. DESIGN BUILD CONTRACT No. C1120 -TUTOR PERINI-O & G (TPOG)						
Mod/Change #	Description	Change Type	Submission Date	Approval Date	Contractor's Proposed Amount	Approved Amount
MOD-00010	<p>Worksite Traffic Control for SCG & AT&T Advanced Utility Relocation (AUR): Southern California Gas (SCG) and AT&T are scheduled to perform AUR simultaneously and within close proximity of each other. The Project's master schedule assumes each utility will provide its own traffic control. However, the overlap in traffic control areas may cause conflicts, and both utilities are concerned that one utility's traffic control efforts may interfere with the other's work. To mitigate this and to expedite the work, both utilities have agreed to allow the C1120 Contractor (TPOG) to provide overall traffic control. WSP has designed the traffic control plans and obtained City of Beverly Hills approval, and TPOG will implement the traffic control plans per WSP's design. Initially processed as a Unilateral CO-2, approved 01/26/2018.</p>	Extra Work	5/2/2018	5/18/2018	\$3,931,012	\$3,650,000
MOD-00011	<p>Temporary K-Rail Noise Barrier AUR Work: This scope of work supplements MOD-0010 by altering the type of panel fitted to the K-rails from chain link to a sound panel design in order to meet City of Beverly Hills' requirements of the to use the panels for Public Information Graphics.</p>	Extra Work	5/4/2018	5/18/2018	\$1,033,914	\$978,982
MOD-00012	<p>Oil Line Abatement at Launch Box Century City Constellation Station (CCCS): Metro had included the removal of the abandoned oil pipelines under the C1120 Contract. However, asbestos containing insulation materials were found surrounding the inner (product) pipes during initial work performed for the Advanced Utility Relocation. This asbestos containing material surrounding the inner product pipe was not anticipated during the design stage.</p>	Extra Work	5/8/2018	5/18/2018	\$801,420	\$757,306
CO-00003	<p>Century City Constellation Station: Main Entrance (Design): Information regarding the main entrance at the Century City Constellation Station that was provided in the Contract Documents at the time of the RFP was based on a standard entrance configuration on the property at 1950 Avenue of the Stars in the location given in the Final EIS/EIR. The property owner was known to be planning a development, but hadn't informed Metro of its final configuration. Since then, the property owner has begun planning for its development and has been working with Metro to coordinate a station entrance that supports both the needs of the Project and the development. That coordination resulted in issuance of CN-3 in June 2017. Subsequently, the developer revised its plan necessitating changes to the proposed station entrance configuration for coordination purposes. In addition to reconfiguring the main entrance, the appendages associated with the east ancillary module that were located on 1950 Avenue of the Stars have also been reconfigured to better manage the special constraints of the development footprint of the site.</p> <p>Metro issued this Unilateral Change on 02/02/2018 to formally direct the Contractor to commence work and invoice for work performed while both parties continue evaluating the Scope of Work and continue negotiations. Once the Scope of Work and pricing is agreed upon, Metro intends to issue a Contract Modification.</p>	Owner Design Changes	N/A	N/A	N/A	\$983,114

B. PROFESSIONAL SERVICES CONTRACT

	Nothing to report					
--	-------------------	--	--	--	--	--

C. OTHER AGREEMENTS

	Nothing to report					
--	-------------------	--	--	--	--	--

II. PENDING MODIFICATIONS/CHANGES GREATER THAN \$500K

A. DESIGN BUILD CONTRACT No. C1120 -TUTOR PERINI-O & G (TPOG)

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
CN-14.0	Field Office Tenant Improvements at Former AAA Building (1950 Century Park East): The Project acquired the property located at 1950 Century Park East which was owned by the Automobile Club of Southern California ("AAA"). The office building will be used by the construction management team as its field office during the period of construction, as such, it will require tenant improvements to accommodate the team.	Extra Work	Between \$1 and \$5 Million

B. PROFESSIONAL SERVICES CONTRACTS

Mod/Change #	Description	Change Type	Rough Order of Magnitude Cost
Design Support Services During Construction Contract No. PS43502000 - WSP			
MOD-00066	Continuation of Design Support Services During Construction	Extra Work	Technical Analysis being performed
Construction Management Support Services Contract No. MC072 - Purple Line 2 CM Partners			
MOD-00001	Continuation of Design Support Services During Construction	Extra Work	Technical Analysis being performed

C. OTHER AGREEMENTS

	Nothing to report		
--	-------------------	--	--

METRO BLUE LINE SIGNAL SYSTEM REHABILITATION

I. APPROVED MODIFICATIONS/CHANGES GREATER THAN \$500K IN THIS REPORTING PERIOD (March 1, 2018 - May 31, 2018)

A. DESIGN BUILD CONTRACT						
	Nothing to Report					
B. PROFESSIONAL SERVICES CONTRACT						
	Nothing to Report					
C. OTHER AGREEMENTS						
	Nothing to Report					

II. PENDING MODIFICATIONS/CHANGES GREATER THAN \$500K

A. DESIGN BUILD CONTRACT No. C1081 - MASS ELECTRIC CONSTRUCTION COMPANY			
Mod/Change #	DESCRIPTION	Change Type	Rough Order of Magnitude Cost
CN002	<u>Non-Vital Relays Replacements and Implementations of the Aspect Configurations -</u> This CN is for modifications on the Train Control scope to include the replacement of the existing non-vital relays for the existing interlockings and to complete the aspect configurations modifications for the entire Blue Line. Contract Documents Affected: Scope Modifications to Section 01 11 00 Scope of Work Drawings Nos. TC-100 thru TC-1 20 and TC-122 thru TC-140	Extra Work	Between \$1M and \$5 Million
CN003	<u>OCS Work Scope in Los Angeles Central Business District –</u> This CN is for Modifications on the Overhead Catenary System (OCS) scope to include: 1) The replacement of the contact wire(s) for the MBL/Expo Junction 2) Lowering of the conductor wire at Flower Venice crossing 3) Replace existing OCS under the 1-10 structure to overhead contact rail (OCR) The Los Angeles Central Business District (CBD) from intersection of Flower and Venice to the intersection of Flower/18th Street and the MBL/Expo Junction	Extra Work	Between \$500K and \$1 Million
CN004 (Cancelled and to be removed from next report)	<u>Fire Suppression in the New Train Control Bungalows –</u> This CN is for Modifications on the Train Control Scope to include the installation of the clean agent fire suppression system in the new train control bungalows. Documents affected: Scope Modifications to Section 01 11 00 of the Scope of Work, Subsection 1.03.A.3	Extra Work	Between \$500K and \$1 Million
CN005 (CN number not yet formally assigned)	<u>Solution to Discrepancies between Service Drawings and As-Builts -</u> This CN is in response to RFI 16. At new Slauson interlocking, Mass Electric noticed Florence interlocking has discrepancies between the as-in service drawings located in the train control and communication bungalow, and the as-built control lines. Scope Modifications to Section 01 11 00 Scope of Work	Extra Work	Between \$1M and \$5 Million

B. PROFESSIONAL SERVICES CONTRACTS						
	Nothing to Report					

C. OTHER AGREEMENTS						
	Nothing to Report					

WILLOWBROOK ROSA PARKS STATION IMPROVEMENT PROJECT

I. APPROVED MODIFICATIONS/CHANGES GREATER THAN \$500K IN THIS REPORTING PERIOD (March 1, 2018 - May 31, 2018)

A. DESIGN-BID-BUILD CONTRACT						
	Nothing to report					

B. PROFESSIONAL SERVICES CONTRACT						
	Nothing to report					

C. OTHER AGREEMENTS						
	Nothing to report					

II. PENDING MODIFICATIONS/CHANGES GREATER THAN \$500K

A. DESIGN-BID-BUILD CONTRACT No. C1157 - ACCESS PACIFIC				
Mod/Change #	DESCRIPTION	Change Type	Rough Order of Magnitude Cost	
CN001	Deletion of Elevator – This CN is to delete the one elevator in the scope of work from the scope of work. This CN is to delete the elevator scope from the Package E (Early Start) scope contract. With the elevators a central part of the Blue Line Improvements at Willowbrook Rosa Parks project, the project team along with the Package E Contractor agreed that the scope should be in the separate Package C contract – which will carry the bulk of the station improvement work. In addition, with the tight schedule of the Blue Line shut down, this elevator work would have caused significant logistic and scheduling difficulties if this scope were to remain in the original Early Start contract.	Deletion of Work	Credit Between \$1M and \$5 Million	

B. PROFESSIONAL SERVICES CONTRACTS				
	Nothing to report			

C. OTHER AGREEMENTS				
	Nothing to report			



Board Report

File #: 2018-0244, **File Type:** Contract

Agenda Number: 48.

**REGULAR BOARD MEETING
SEPTEMBER 27, 2018**

**SUBJECT: CONSTRUCTION MANAGEMENT SUPPORT SERVICES FOR METRO RAIL
PROJECTS**

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

AUTHORIZE:

- A. an increase to the total authorized funding for Contract No. PS601830026445 with Destination Enterprises, Inc., for pending and future task orders to provide Construction Management Support Services (CMSS), in an amount not to exceed \$6,123,000 increasing the total contract value from \$3,000,000 to \$9,123,000; and
- B. the Chief Executive Officer to execute individual Task Orders (TOs) and Contract Modifications within the Board approved contract funding amount.

ISSUE

In December 2016, the Metro Board awarded contract PS601830026445 to Destination Enterprises (DE), a Metro Small Business Enterprise and female owned firm, for CMSS for rail facilities in an amount of \$3,000,000 for a term of three years, inclusive of two one-year options. To date, staff has awarded task orders totaling \$2,493,336 and has approximately \$500,000 of the authorized funding remaining. The amount remaining is not sufficient to support capital projects that are currently in planning or under contract.

BACKGROUND

The primary role of DE is to provide skilled and qualified staff to augment Metro staff in the performance of construction management services for Metro’s rail facilities construction contracts. Both Metro and DE staff work side-by-side in integrated project management offices (IPMO). In essence, the DE contract allows Metro to efficiently and effectively augment Metro Construction Management staff as required, so that the proper resources required to manage a contract are available to Metro both in terms of staff availability and technical expertise. Contract funds are

authorized by issuing separate TOs for various projects using labor classifications and rates set forth in the contract, with funding solely supported through their respective Life of Project budget. This method of funding and releasing work under the contract results in more efficient cost and schedule management, since TOs and modifications to existing TOs are negotiated and issued as the work or changed work is identified and defined. For each TO or modification, Metro prepares a scope of work and an estimate of hours, and DE subsequently provides a proposal. If there is a discrepancy, Metro and DE will fact-find and negotiate the hours. After agreement, the task order is issued and the work proceeds.

The initial \$3,000,000 contract award was calculated based on three years of small to midsize TOs, primarily for Resident Engineers, Office Engineers, Inspectors and night-time oversight on construction jobsites for rail facilities capital projects. However, due to the technical expertise of DE's staff, their team has also been able to assist Metro with other needs, such as constructability reviews, cost and schedule analysis, and railroad flagging operations. DE's services are also being used to support projects funded by departments outside of Program Management. For example, DE was able to provide support for Division 14 Rail Operations and Maintenance Facility in Santa Monica, Inspection support for Metro Facilities grouting and repairs within the Red Line tunnel, and oversight for adjacent development construction along multiple rail lines.

The New Blue

DE's original scope of work included Metro Blue Line Rail Replacement and Booting project, Metro Blue Line Overhead Catenary System Rehabilitation, and Metro Blue Line Signal System Rehabilitation. These individual projects are now included in the New Blue initiative. However, since the execution of the DE contract, the scope and magnitude of these projects has increased, and the New Blue initiative has commenced. The New Blue now includes Willowbrook/Rosa Parks Rehabilitation, along with multiple additional Maintenance of Way and State of Good Repair projects. Additionally, the plan to perform the New Blue initiative under full closures of the Metro Blue Line now requires 2nd and 3rd shift work that was not contemplated within DE's original scope of work. Due to the complex nature of the New Blue, staff has determined that consistency of project and construction management across the multiple New Blue projects is desired. It is primarily due to this support that staff is requesting additional funding. Current budget forecasts reflect a total value of \$6,123,000 in staff augmentation for projects related to the New Blue. A listing of the current task orders, proposed projects, and forecasted task order amounts is included as Attachment B. As shown on the attachment, the requested contract value is \$9,123,000.

Destination Enterprises, a SBE Prime, made a 56% SBE commitment. Destination Enterprises is currently exceeding their SBE commitment with an SBE participation of 64.46%.

DETERMINATION OF SAFETY IMPACT

This Board action will not have an impact on established safety standards for Metro's construction projects.

FINANCIAL IMPACT

The funding for these services is included in the approved FY19 budget in various rail facilities capital projects, as indicated in Attachment B. Task Orders will be issued and funded from the associated life-of-project (LOP) budgets. The funding source differs depending on the individual project. The contract task orders can only be issued when there is sufficient funding within the approved life-of-project budget for each respective project.

Since this is a multi-year contract, the cost center manager, Chief Program Management Officer and Deputy Executive Officer, Construction Management will be responsible and accountable for budgeting the cost of the annual work program for the current and future fiscal years for the term of the contract, including any option(s) exercised.

Impact to Budget

Funding for this action will come from various sources eligible for rail facilities capital expenditures and major construction projects funded with specific grant and local sales tax matching sources. Approval of this action will result in use of funding which are also eligible for Rail Operations.

ALTERNATIVES CONSIDERED

The Board may elect to discontinue using Destination Enterprises, Inc., for CMSS. Staff does not recommend this alternative as the construction projects are in various degrees of completion and the loss of staff would cause these projects to be significantly impacted.

Another alternative would be to hire Metro staff to perform the required services. This alternative is also not recommended since the intent of the CMSS is to augment Metro staff in terms of technical expertise and availability of personnel. CMSS are typically required on a periodic or short-term basis to accommodate for peak workloads or specific tasks over the life of the projects. Further, for some projects, the specific technical expertise required may not be available within the ranks of Metro staff, whereas the CMC consultant can provide the technical expertise on an as-needed basis.

NEXT STEPS

Upon Board approval, staff will issue a contract modification and issue task orders, as needed.

ATTACHMENTS

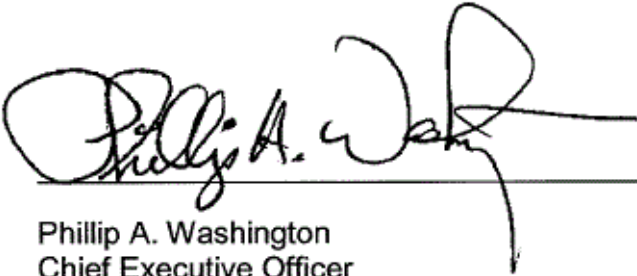
Attachment A - Procurement Summary
Attachment B - Contract Task Order/Modification Log

Attachment C - DEOD Summary

Prepared by: Brad Owen, Deputy Executive Officer, Construction Management (213) 418-3143
Tim Lindholm, Executive Officer, Project Management (213) 922-7297

Reviewed by:

Debra Avila, Chief Vendor/Contracts Management Officer, (213) 418-3051
Richard F. Clarke, Chief Program Management Officer, (213) 922-7447



Phillip A. Washington
Chief Executive Officer

PROCUREMENT SUMMARY

**CONSTRUCTION MANAGEMENT SUPPORT SERVICES (CMSS) FOR
METRO RAIL PROJECTS / PS601830026445**

1.	Contract Number: PS601830026445		
2.	Contractor: Destination Enterprises, Inc.		
3.	Mod. Work Description: CMSS for Willowbrook/Rosa Parks Station, Metro Blue Line Signal Rehabilitation, Metro Blue Line Track and System Refurbishment, and Rail-to-River Active Transportation Corridor Project		
4.	Contract Work Description: Construction Management Support Services (CMSS) for Metro Rail Projects		
5.	The following data is current as of: May 4, 2018		
6.	Contract Completion Status		Financial Status
	Contract Awarded:	12/01/2016	Contract Award Amount: \$ 3,000,000.00
	Notice to Proceed (NTP):	01/27/2017	Total of Task Orders and Modifications Approved: \$ 2,493,335.89
	Original Complete Date:	01/27/2020	Proposed and Pending Task Orders and Modifications (including this action): \$ 6,506,180.76
	Current Est. Complete Date:	01/27/2021	Current Contract Value (with this action): \$ 9,123,000.00
7.	Contract Administrator: Robert Romanowski		Telephone Number: (213) 922-2633
8.	Project Manager: Brad Owen		Telephone Number: (213) 418-3143

A. Procurement Background

On December 1, 2016, the Board approved award of this SBE set-aside procurement of Contract No. PS601830026445 to Destination Enterprises, Inc., in the amount of \$3,000,000, for Construction Management Support Services (CMSS) including Resident Engineers, Office Engineers, Project Controls, and staff augmentation in those areas of expertise.

Destination Enterprises has two significant subcontractors on its team to help perform those services. To date, Arcadis U.S., Inc. has performed \$650,038.62 of the work and CER Scheduling Consultants has performed \$371,306.40 of the work.

Attachment B shows that seventeen Contract Task Orders and Modifications have been issued to date to authorize and/or delete work and two Contract Task Order Modifications are currently in negotiations.

This Board Action is to approve an increase to the total authorized funding for Contract No. PS601830026445 in support of additional Construction Management Support Services (CMSS) for projects including Willowbrook/Rosa Parks Station, Metro Blue Line Signal Rehabilitation, Metro Blue Line Track and System Refurbishment, and Rail-to-River Active Transportation Corridor Project. This Contract Modification also extends the period of performance through January 27, 2021.

B. Cost/Price Analysis

All direct labor rates and the negotiated fixed fee factor for this cost reimbursable plus fixed fee contract remain unchanged from the original contract.

A fair and reasonable price for all future Task Orders will be determined based upon fact finding, technical evaluation, cost analysis, and negotiations, before issuing work to the Consultant. Task Orders will be processed in accordance with Procurement Policies and Procedures, within the additional funding requested.

CONTRACT TASK ORDER / MODIFICATION LOG

CONSTRUCTION MANAGEMENT SUPPORT SERVICES (CMSS) FOR
METRO RAIL PROJECTS / PS601830026445

Mod/ Task Order (TO) No.	Description	Status	Contract Value (A)	Mod/ TO Value (B)	Board Approved CMA (C)
N/A	Initial Award		\$ 3,000,000.00		\$ 3,000,000.00
1	CMSS for Bob Hope Airport/ Hollywood Way Station: Resident Engineer (RE) & Inspector Support	Approved (in- process)		\$ 340,194.49	
Mod 1.1	Additional Level of Effort for Bob Hope Airport / Hollywood Way Station	Approved (in- process)		\$ 63,370.55	
2	CMSS for Ivy Station Culver City J.D. Project: RE Support	Approved (in- process)		\$ 128,958.80	
3	Railroad Flaggers Support for Metro Blue Line (MBL) Pedestrian and Swing Gate Installation Project	Approved (in- process)		\$ 323,352.20	
Mod 3.1	Railroad Flaggers Support for Metro Blue Line (MBL) Signal System Rehabilitation Project	Approved (in- process)		\$ 326,686.42	
4	CMSS for Metro Facilities Grouting & Repairs – Construction Inspector Support	Approved (in- process)		\$ 65,728.14	

Mod 4.1	Additional Level of Effort for Metro Facilities Grouting & Repairs – Construction Inspector Support	Approved (in-process)		\$ 200,076.19	
5	CMSS for Construction Management Manual Revision	Approved (Complete)		\$ 21,600.00	
6	CMSS for Rail to River – Project Controls Pre-Construction Services	Approved (in-process)		\$ 28,607.18	
7	<i>Eastside Access Project Controls</i>	<i>On Hold</i>		\$ 0.00	
8	Patsaouras Plaza Scheduling Support	Approved (in-process)		\$ 90,556.23	
Mod 8.1	Patsaouras Plaza – Field Engineer Support	Approved (in-process)		\$ 50,294.09	
9	Soundwall Package 11 Scheduling Support	Approved (in-process)		\$ 127,916.44	
10	LAX Airport / Metro Connector Scheduling Support	Approved (in-process)		\$ 52,888.53	
11	Construction Inspector Support Services in Support of LADWP Project	Approved (Complete)		\$ 9,894.39	
Mod 11.1	Deletion of Work and Closeout of Task Order #11	Approved (Complete)		(\$ 4,323.39)	
12	Willowbrook/ Rosa Parks Scheduling Support – Phase E&F	Approved (in-process)		\$ 52,888.53	

Mod 12.1	Willowbrook/ Rosa Parks – Office Engineer Support – Phase E&F	Approved (in-process)		\$ 77,375.52	
Mod 12.2	Additional Level of Effort for Willowbrook/ Rosa Parks – Office Engineer Support – Phase E&F	Approved (in-process)		\$ 91,058.41	
Mod 12.3	Willowbrook/Rosa Parks – Field Engineer Support – Phase E&F	Approved (in-process)		\$ 121,022.56	
13	Willowbrook/Rosa Parks Scheduling Support – Phase A&C	Approved (in-process)		\$ 18,449.49	
Mod 13.1	Willowbrook/Rosa Parks Scheduling Support – Phase A&C – No Cost Time Extension	Approved (in-process)		\$ 0.00	
14	Constructability Review for LAX Airport / Metro Connector (AMC) Project	Approved (in-process)		\$ 159,532.40	
15	Division 20 Widening Project – Inspection Support Services for Design Services	Approved (in-process)		\$ 21,293.74	
16	Metro Blue Line (MBL) Signal Rehabilitation Project – OE Support	Approved (in-process)		\$ 61,900.42	
Mod 16.1	MBL Signal Rehabilitation Project – Constructability Review	Approved (in-process)		\$ 21,427.07	

17	Division 14 – Seismic Retrofit – Inspection Support Services	Approved (in-process)		\$ 42,587.49	
Subtotal Approved Task Orders and Modifications				\$ 2,493,335.89	
Mod 13.2	Willowbrook/Rosa Parks Phase A&C Resident Engineer Support	Pending		\$ 227,574.36	
Mod 16.2	Metro Blue Line (MBL) Signal Rehabilitation Project – Scheduling Support	Pending		\$ 155,606.40	
Subtotal Pending Modifications				\$383,180.76	
Subtotal Approved and Pending Task Orders and Modifications				\$ 2,876,516.65	
TBD	Willowbrook/Rosa Parks – Resident Engineer	Proposed		\$ 1,007,400.00	
TBD	Willowbrook/Rosa Parks – Project Engineer	Proposed		\$ 800,800.00	
TBD	Willowbrook/Rosa Parks – Civil Inspector – Nights /Weekends	Proposed		\$894,000.00	
TBD	Willowbrook/Rosa Parks – Project Controls – Scheduling	Proposed		\$305,000.00	
TBD	Metro Blue Line (MBL) Signal Rehabilitation – Resident Engineer	Proposed		\$623,000.00	
TBD	MBL Signal Rehabilitation – Project Engineer	Proposed		\$443,000.00	
TBD	MBL Signal Rehabilitation – Civil Inspector	Proposed		\$503,000.00	

TBD	MBL Signal Rehabilitation – Scheduling	Proposed		\$199,800.00	
TBD	MBL Track & System Refurbishment – Project Engineer	Proposed		\$403,200.00	
TBD	MBL Track & System Refurbishment – Civil Inspector – Daytime	Proposed		\$419,000.00	
TBD	MBL Track & System Refurbishment – Civil Inspector – Nights/Weekends	Proposed		\$391,400.00	
TBD	MBL Track & System Refurbishment – Scheduling	Proposed		\$133,400.00	
Subtotal Future Proposed Task Orders				\$ 6,123,000.00	
Subtotal Approved Task Orders and Modifications					\$2,493,335.89
Subtotal Pending Modifications					\$ 383,180.76
Subtotal Approved Task Orders and Modifications and Pending Modifications					\$2,876,516.65
Subtotal Proposed Task Orders					\$6,123,000.00
Original Contract Value					\$3,000,000.00
TOTAL					\$9,123,000.00

DEOD SUMMARY

CONSTRUCTION MANAGEMENT SUPPORT SERVICES (CMSS) FOR
METRO RAIL PROJECTS / PS601830026445

A. Small Business Participation

Destination Enterprises made a 56% SBE commitment. The project is 40% complete. Destination Enterprises is currently exceeding their SBE commitment with an SBE participation of 65.52%.

Small Business Commitment	56.00% SBE	Small Business Participation	65.52% SBE
----------------------------------	-------------------	-------------------------------------	-------------------

	SBE Subcontractors	% Committed	Current Participation¹
1.	Destination Enterprises, Inc.	56.00%	65.52%
	Total	56.00%	65.52%

¹Current Participation = Total Actual amount Paid-to-Date to DBE firms ÷ Total Actual Amount Paid-to-date to Prime.

B. Living Wage and Service Contract Worker Retention Policy Applicability

The Living Wage and Service Contract Worker Retention Policy is not applicable to this Modification.

C. Prevailing Wage Applicability

Prevailing Wage requirements are applicable to this project. DEOD will continue to monitor contractors' compliance with the State of California Department of Industrial Relations (DIR), California Labor Code, and, if federally funded, the U S Department of Labor (DOL) Davis Bacon and Related Acts (DBRA).

D. Project Labor Agreement/Construction Careers Policy

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract.



Board Report

File #: 2018-0388, **File Type:** Contract

Agenda Number: 43.

**CONSTRUCTION COMMITTEE
JULY 19, 2018**

**SUBJECT: EXPOSITION METRO LINE CONSTRUCTION
AUTHORITY CLOSEOUT AND DISSOLUTION**

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute the Memorandum of Understanding (MOU) between the Los Angeles County Metropolitan Transportation Authority (Metro) and the Exposition Metro Line Construction Authority (Authority) for closeout of the Expo Phases 1 and 2 Projects (Attachment A);
- B. AUTHORIZING distribution of the remaining balance of estimated unused project funds as of June 2018 in the amount of \$216,600,000 (*), in accordance with the Funding Agreement (Attachment B) from Expo accounts to Metro accounts for allocation and use as follows:
 - 1. \$11,500,000 to be distributed for the Metro Blue Line Track & System Refurbishment Project (CP 205115);
 - 2. \$5,100,000 to be distributed for Expo project close-out items; and
 - 3. \$200,000,000 distributed to the Metro Westside Purple Line Project, Section 2; and
- C. ADOPTING Board Resolution to accept the Delegation of Plan Administration (Attachment C) of the Expo Construction Authority Public Agency Retirement System (PARS) retirement plan.

ISSUE

The Authority is an independent transportation agency created in 2003 by the California State Legislature, SB 504. The agency was created to design, contract, and construct the Los Angeles to Santa Monica Expo Line (Expo Phases 1 and 2). Upon completion of the project, SB 504 requires the Authority to be dissolved and Metro to assume responsibility for operating and maintaining the Line.

Given that the Expo Corridor projects have been turned over for operation by Metro, it is anticipated

the Authority will dissolve by the end of calendar year 2018. Further, the distribution of funds needs to occur consistent with the June 2016 previous Board direction for the CEO to assume that all savings from the Expo Phase 2 project be redirected to the Westside Purple Line Section 2 project at such time as the Expo project is closed out and the necessary actions of the Metro Board can be secured to free up those funds

BACKGROUND

Expo Phase 1: Metro and the Authority entered into a Memorandum of Understanding (MOU) in May 2006, which was revised in March 2011 (Attachment D Amended MOU) to design and construct Phase 1 of the Expo Light Rail Line. The MOU defined the conditions for the Authority to administer the Phase 1 Project and receive funding from Metro as the funding agency. The MOU also defined the conditions under which the Authority designed and constructed the project, completed all testing and start up activities and received California Public Utilities Commission certifications. Phase 1 of the project was turned back to Metro for revenue operations in 2012 and demonstration of system performance has been achieved.

Expo Phase 2: On January 28, 2014, a Master Cooperative Agreement (and the Funding Agreement) were executed between Metro and the Authority to define the administration and funding for the Expo Phase 2 Light Rail Project. These agreements defined the requirements for design, construction and turnback of the completed project from the Expo Construction Authority to Metro. The project was completed and turned back to Metro for Revenue Operations on May 20, 2016, on time and under budget. The Authority and their contractors have been working with Metro support staff to complete remaining punch list and warranty items in order to close out the project. The Construction Authority has submitted a letter (ATTACHMENT D) certifying project completion in accordance with the Master Cooperative Agreement.

At last month's meeting, the Metro Board approved the reprogramming of \$11,500,000 in funds previously reserved for the Metro Blue Line Washington Siding Project from Mid-City Exposition Blvd LRT to the Metro Blue Line Track and System Refurbishment Project (CP 205115).

DISCUSSION

Remaining Balance: Expo Phase 1 was turned back to Metro for revenue operations in 2012. The project has achieved system performance as required by the Project MOU between Metro and the Construction Authority. Given that the project was turned over and is operating as required, Expo 1 has items remaining to be addressed including construction of a Clean Mobility Bicycle Center and Restoration of Station Art Frames. The funds for the Metro Blue Line Washington Siding were reprogrammed last month to the New Blue.

Expo Phase 2 was turned back to Metro for revenue operations in May 2016. The Expo 2 Project has achieved system performance as required by the Master Cooperative and Funding Agreements for this project. Expo 2 was completed on time and under budget with surplus funds remaining. Similar to Expo 1, a number of items remain to be addressed, and a portion of remaining Expo funds are allocated for completion of the project close-out. The Expo Contractor has been working to complete these items with support from Metro staff.

Given the requirements of SB 504 requiring the Authority to be dissolved upon turnback of Expo 1 and Expo 2, Metro staff has coordinated with Authority staff on a draft Closeout MOU to transfer funds remaining as surplus funds back to Metro. As defined in the RECOMMENDATION Section of this Board Report, Metro and the Authority have agreed that remaining funding will be transferred to Metro for use as requested in RECOMMENDATIONS A, B and C to allocate surplus and reprogrammed Expo Corridor funds, address remaining Expo 1 and Expo 2 project needs and administer the Construction Authority PARS Retirement Program. The parties desire to enter into this MOU to identify the respective obligations and memorialize funding and implementation of the items that will remain after the Authority is dissolved.

PARS Administration: As part of the close out of the Authority, it is necessary to delegate the plan administration of the employee's PARS defined benefit plans to Metro to ensure that the current and future eligible Authority retiree's benefits will be delivered in accordance with plan requirements

The Authority approved the establishment of the PARS defined benefit pension plan in 2006 as an alternative to the California Public Employees Retirement System (CalPERS). In previous actions the Authority closed the plan as of June 30, 2017, and fully funded the Plans on a self-funded basis utilizing conservative investment return assumptions in March 2017. It is projected that the funding will be adequate to cover all benefit obligations and administrative costs associated through the life of the plans. As of this date, all six of the eligible employees are in retirement status.

The Authority had also established the PARS defined Contribution Plan in 2006. The Authority terminated that plan as of March 31, 2017, and all plan assets were distributed to the participants. In December 2016, the Authority approved terminating the contract with CalPERS effective as of June 30, 2017. A full funding deposit was made in May 2017 and CalPERS assumed all financially and administrative responsibilities for the plan pursuant to the CalPERS close out agreement as of June 1, 2017.

DETERMINATION OF SAFETY IMPACT

There are no safety impacts resulting from this request.

FINANCIAL IMPACT

The Authority is turning back estimated surplus and reprogrammed funds from the Expo Corridor Projects in the amount of \$216,600,000. Staff is recommending the allocation of the \$200,000,000 to be distributed to the Metro West Side Purple Line Section 2 in accordance with previous Board direction. Allocation of \$11,500,000 to be distributed to the Metro Blue Line rehabilitation project per previous Board direction and \$5,100,000 to be distributed to remaining Expo Phase 1 and Phase 2 project close-out requirements.

(*) Should final Expo Phase 2 amounts included in Recommendation B.1 above be less than \$16,600,000, pursuant to the Phase 2 Funding Agreement, additional monies will be due to the Cities

of Los Angeles and Santa Monica based on their prorated shares of Measure R contributions to the project.

The Authority is also including funding for Metro's staff to administer the PARS plan over the remaining life of the plan that is estimated to be 30+ years from Phase 2 LOP budget.

NEXT STEPS

Upon Board approval, Metro Chief Executive Officer will execute the final close out MOU with the Authority.

Transmit resolution to PARS to formalize Metro's acceptance of the plans' administration

ATTACHMENTS

Attachment A - MOU for closeout of the Expo Phases 1 and 2 Project

Attachment B - Funding Agreement

Attachment C - PARS Resolution Delegating Plan Administration to Metro

Attachment D - Certification Letter for Project Completion

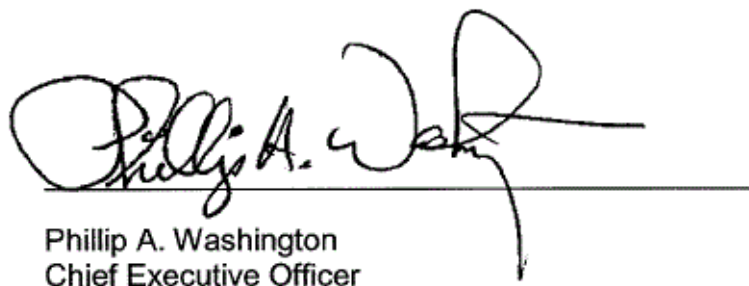
Prepared by:

Rick Meade, Senior Executive Officer, (213) 922-7917

Reviewed by:

Richard Clarke, Chief Program Management Officer, (213) 922-7557

James Gallagher, Chief Operations Officer, (213) 418-3108



Phillip A. Washington
Chief Executive Officer

ATTACHMENT A

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
AND THE
EXPOSITION METRO LINE CONSTRUCTION AUTHORITY
FOR ITEMS THAT REMAIN AFTER THE DISSOLUTION OF THE AUTHORITY**

This Memorandum of Understanding ("MOU") dated and effective as of the ___ day of ____, 2018, is by and between the Los Angeles County Metropolitan Transportation Authority ("Metro") and the Exposition Metro Line Construction Authority ("Authority"), and constitutes the agreements between the parties related to items that may remain after Authority dissolves pursuant to California Public Utilities Code Section 132650.

RECITALS

WHEREAS, Metro is a public entity existing pursuant to P.U.C. section 130050.2, et seq. for, among other purposes, the planning, design, construction and operation of a multi-modal transit system including rail and bus facilities in Los Angeles County; and

WHEREAS, Authority is a public entity existing pursuant to P.U.C. Sections 132600, et seq., for the exclusive purpose of awarding and overseeing all design and construction contracts for completion of the Exposition Metro Line Light Rail Project ("Project") and has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project as defined under PUC Sections 132600(e) and 132610; and

WHEREAS, the Project has been divided into two phases with Phase I extending from downtown Los Angeles to Culver City, and Phase II continuing to Santa Monica; and

WHEREAS, Metro and Authority entered into that certain Memorandum of Understanding for Phase 1 of the Project ("Phase 1 MOU"), as amended and restated pursuant to that certain Amended and Restated MOU dated as of March 18, 2011 between the parties ("Amended and Restated Phase 1 MOU"). The Amended and Restated Phase 1 MOU provided funding and set forth the parties roles and responsibilities with respect to design and construction activities for Phase 1; and

WHEREAS, the Phase 1 Project consisted of approximately 9.6 miles of dual track configuration track alignment extending from Downtown Los Angeles to Culver City which included eight stations and a parking structure; and

WHEREAS, the Phase 1 Project is complete, and turn back of the Phase 1 Project and demonstration of system performance have been achieved; and

WHEREAS, Metro and Authority entered into a Master Cooperative Agreement for the Exposition Light Rail Transit Project Phase 2, dated for reference as of January 28, 2014 ("Phase 2 MCA") and that certain Funding Agreement ("Funding Agreement") which provided for the funding for Phase 2 of the Project; and

WHEREAS, the Phase 2 Project consisted of (i) an alignment project consisting of a light rail project of approximately 6.6 miles of double light rail main track from Culver City to Santa Monica (the "Alignment Project"); and (ii) the operations and maintenance facility (the "O and M Facility"); and

WHEREAS, since the Cities of Los Angeles and Santa Monica (the "Cities") desired the construction of a bikeway that parallels the Phase 2 Project (the "Bikeway Project"), Authority agreed to manage the construction of the Bikeway Project as a separate project from the Phase 2 Project. The Bikeway Project is located in close proximity to the Phase 2 Project, therefore the Authority and Metro agreed to include the Bikeway Project within the Phase 2 MCA; and

WHEREAS, in accordance with PUC Section 132650, upon completion of construction of the Project, Metro shall assume responsibility for operating the Project. Revenue Operations was achieved on May 20, 2016; and

WHEREAS, the Phase 2 Project and the Bikeway Project are complete, demonstration of system performance has been achieved for the Phase 2 Project and turn back of the Phase 2 Project is anticipated by June 2018; and

WHEREAS, the Project audit and accounting requirements specified in the Phase 1 MOU dated May 5, 2006, have been met with the inclusion of Authority's financial activities as a component unit of Metro; and

WHEREAS, per state legislation, upon completion of the project as well as the close out of the contract and the Authority, Authority will be dissolved; and

WHEREAS, the Parties desire to enter into this memorandum of understanding to set forth the respective obligations of the Parties to memorialize funding and implementation for items that may remain after Authority is dissolved;

NOW, THEREFORE, the Parties agree as follows:

SECTION 1. POST DISSOLUTION OBLIGATIONS OF THE PARTIES

1.1 Transfer of pension obligations, accounts. Concurrent with the dissolution of Authority and with respect to former CEO Richard Thorpe, Authority has pre-funded all pension obligations pertaining to the Defined Benefit plan with PARS covering all PARS eligible Authority employees, including Mr. Thorpe. PARS will administer the plan and the Metro Pensions and Benefits Department will assume the Plan Administrator role for the PARS plan effective July 1, 2018. Authority has funded Metro's future administrative staff cost for PARS activities. Authority's CalPERS plan was prefunded and closed out as of June 30, 2017 and CalPERS assumed full responsibility for the plan's administration as of July 1, 2017.

1.2 Lifetime medical benefits. With respect to former CEO Richard D. Thorpe, Authority has pre-funded his lifetime retiree medical benefits into the Los Angeles County Metropolitan Transportation Authority Healthcare & Welfare Benefits Trust. Metro's Pension and Benefits Department will continue to administer these benefits.

1.3 Authority contractors and Third Party Claims. It is currently Authority's intent to close out all claims from Authority's contractors prior to the dissolution effective date. To the extent these or any other claims, including third party claims where Authority is named as a potential defendant, arising prior to the dissolution effective date have not been closed out, the parties agree that following the dissolution effective date, Metro will assume responsibility for and administer the claims and the parties agree to take necessary steps to substitute Metro for Authority as the party to the proceeding. Concurrent with the dissolution effective date, Authority will tender all outstanding claims to Metro, and Metro agrees to assume responsibility for administration of all such claims and litigation. Authority has agreed to fund this potential future liability.

1.4 Phase 1 Project Obligations.

1.4.1 Washington Siding Project – Authority will transfer funding and Metro will continue to administer the Washington Siding Project that is part of the Phase 1 project.

1.4.2 Phase 1 Art Frames – Authority will be responsible for funding the repair of the art frames to address corrosion issues identified after the warranty period. Metro will administer and implement the work.

1.4.3 Clean Mobility Center – Authority will transfer funding and Metro will continue to administer the Clean Mobility Center Project that is part of the Phase 1 project at the Culver City Station.

1.5 Phase 2 Project Obligations.

1.5.1 Continuance of Street Tree Maintenance obligation. The City of Los Angeles has a three year street tree maintenance requirement. The Authority contractor for the main alignment was responsible for the first year of maintenance. The Authority has funded and executed a contract with City Plants for the 2nd and 3rd years of street tree maintenance and will transfer the contract administration to Metro for the remaining time of this contract which is scheduled for completion in May 2019.

1.5.2 OMF Project Modifications. Authority will transfer funding and Metro will administer and perform work on minor items identified during the warranty period of the OMF Project. It was determined to be more efficient to allow Metro staff repair/modify a variety of items due to the minor scope of work and coordination with Metro's daily activities in the facility.

1.5.3 Project Noise Mitigation. Authority will transfer funding and Metro will continue to monitor and mitigate any identified noise levels exceeding those established in the Phase 2 Project EIR.

1.5.4 Monitoring Project Retaining Walls. Authority will transfer funding and Metro will continue to monitor the retaining walls constructed for the Phase 2 Project and address any issues identified.

1.6 Funding for Post-Turnover Obligations. The obligations set forth in this MOU above are noted in Attachment A. Expo will set aside whatever funds are remaining in the line items at the time of dissolution from the Phase 1 Life of Project Budget for the activities noted in 1.4.1, 1.4.2, and 1.4.3. Expo will set aside whatever funds are remaining in the line items at the time of dissolution from the Phase 2 Life of Project Budget for the activities noted in 1.1, 1.3, 1.5.1, 1.5.2, 1.5.3, and 1.5.4. At Metro's discretion, Metro may establish a trust or other restricted fund for this activity or include these funds in a Metro project budget to complete this activity.

1.7 Based on actual costs incurred plus the allowances for Phase 2 open items in 1.1, 1.3, 1.5.1, 1.5.2, 1.5.3, and 1.5.4, Expo will distribute a preliminary proportionate share of Phase 2 project savings based upon their 3% local contributions to the project to the Cities of Los Angeles and Santa Monica. Any funds remaining after Metro completes those Phase 1 and Phase 2 obligations noted above will revert to Metro. From any funds remaining from Phase 2 items above, Metro will make a final distribution to the Cities of Los Angeles and Santa Monica based upon their 3% local contributions to the project.

SECTION 2 MISCELLANEOUS

2.1 Governing Law. This MOU shall be governed by, interpreted under, construed and enforced in accordance with the laws of the State of California.

2.2 Contract Period. This agreement shall be effective from as of the date written above through the last date upon which all obligations of Authority are fulfilled or in no event later than December 31, 2018

2.3 Amendments. No variation, modification, change or amendment of this MOU shall be binding upon either party unless such variation, modification, change or amendment is in writing and duly authorized and executed by both parties. This MOU shall not be amended or modified by oral agreement or understanding between the parties or by any acts or conduct of the parties.

2.4 Counterparts. This MOU may be executed simultaneously or in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

2.5 Assignment. Neither party shall assign this MOU or any of such party's interest, rights or obligations under this MOU without the prior written consent of the other party.

2.6 Further Actions. The parties shall develop and execute any other documents of any kind or type whatsoever, including procedures and policies, necessary to carry out the intent of the provisions of this MOU.

The Balance of this Page was Left Intentionally Blank

IN WITNESS WHEREOF, the parties have caused this MOU to be duly executed and delivered as of the above date and the person executing this MOU by their signatures hereby attest that they have the requisite authority to enter into this MOU.

**LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY**



**EXPOSITION METRO LINE
CONSTRUCTION AUTHORITY**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

Name: _____

Name: _____



ATTACHMENT A

<u>SCOPE</u>	<u>Dollars(1000s)</u>
PARS Administrative Cost	100
Contractor/Third Party Claims	1000
Washington Siding Project	11500
Art Frames	2000
Clean Mobility Center	200
COLA Plant Establishment	200
OMF Modifications	100
Noise Mitigation	500
Retaining Wall Monitoring	1000
	<hr/>
Total	\$16,600,000

FTIP#: LAOF021

PPNO: N/A

Measure R ID#:MR400.01

AGREEMENT.MOU.MR400.01

EXPOSITION METRO LINE CONSTRUCTION AUTHORITY

FUNDING AGREEMENT

This Exposition Metro Line Construction Authority Funding Agreement (“Agreement”) is dated for reference purposes only January 28, 2014 and is by and between the Los Angeles County Metropolitan Transportation Authority (“LACMTA”) and the Exposition Metro Line Construction Authority (“Recipient”) for funding of the following three separate and distinct projects: (i) Design and construction of the light rail line known as Exposition Light Rail Transit Project Phase 2 (Culver City to Santa Monica) (the “Expo Project Phase 2”) LACMTA Measure R ID#: MR#400.01 and FTIP# LAOF021; (ii) procurement by LACMTA of the light rail vehicles (“LRVs”) which are needed for the LACMTA light rail system (the “LRV Project”); LACMTA ID#: 206035 and FTIP#s LAOF075; and (iii) design and construction of the bikeway which runs parallel to the Expo Project Phase 2 (the “Bikeway Project”) LACMTA ID#: 890003 and FTIP # s LAOC8164 and LAF3514.

RECITALS:

A. LACMTA and Recipient have already entered into that certain Memorandum of Understanding (“MOU”) for the Exposition Light Rail Transit Project Phase 1, a light rail project approximately 8.6 miles long, extending from Downtown Los Angeles to Culver City, as more particularly described on **Attachment A** attached hereto (“Expo Project Phase 1”). The parties amended and restated the MOU pursuant to that certain Amended and Restated MOU dated as of March 18, 2011 between the parties (the “Amended and Restated MOU”). The Amended and Restated MOU provides for funding for Phase 1, therefore any Expo Project Phase 1 project costs shall not be reimbursed by LACMTA under this Agreement but under the Amended and Restated MOU.

B. LACMTA adopted Ordinance #08-01, the Traffic Relief and Rail Expansion Ordinance, on July 24, 2008 (the “Ordinance”), which Ordinance was approved by the voters of Los Angeles County on November 4, 2008 as “Measure R” and became effective on January 2, 2009.

C. The Ordinance imposed a one-half cent transaction and use tax to be collected within the County of Los Angeles and to be used for public transit projects, including, without limitation, the Exposition Light Rail Transit Project. The Ordinance became operative on July 1, 2009 and the proceeds of the Ordinance (the “Measure R Funds”) are to be used for the transportation purposes described in the Ordinance.

D. The California legislature authorized imposition of the sales and use tax imposed by the Ordinance by the adoption of Assembly Bill No. 2321, which became effective on January 1, 2009.

E. AB 2321 added Section 130350.5 to the California Public Utilities Code, which among other things, allocates \$925 million of Measure R Funds to the Exposition Light Rail Transit Project.

F. Attached to the Ordinance is an expenditure plan that includes an allocation of \$925 million to the Exposition Light Rail Transit Project, among others.

G. At its February 24, 2011 LACMTA Board meeting, the LACMTA authorized a grant of Measure R funds, Proposition A Funds, Proposition C Funds and the allocation of certain state Funds in the amount of \$1,527,260,170 for the following three separate projects: (i) Expo Project Phase 2 as set forth in **Attachment B** attached hereto (budget of \$1,309,058,000), (ii) the LRV Project (budget of \$202,100,000); and (iii) the Bikeway Project (budget of \$16,102,170), which Bikeway Project description is as set forth in **Attachment C** attached hereto. Excluding the Bikeway Project, as of the date hereof, \$1,511,158,000 shall be the estimated life of project budget for the Expo Project Phase 2 and the LRV Project.

H. LACMTA has entered or intends to enter into separate funding agreements with the Cities of Los Angeles and Santa Monica for the funding of the Bikeway Project (collectively, the "Cities Funding Agreements"). Since Recipient shall also design and construct the Bikeway Project for the Cities of Los Angeles and Santa Monica, for ease of administration, LACMTA will also include in this Agreement the transfer of any funds received by LACMTA from the Cities of Los Angeles and Santa Monica. At this time, LACMTA has entered into a funding agreement with the City of Los Angeles to contribute \$9,508,000 in TEA funds and \$2,377,000 in local funds for a total contribution from the City of Los Angeles of \$11,885,000 toward the Bikeway Project. LACMTA has also entered into a funding agreement with the City of Santa Monica to contribute \$2,018,650 in TEA funds and \$672,000 in local funds for a total contribution of \$2,690,650 toward the Bikeway Project. LACMTA shall be providing \$1,527,170 in LTF funds toward the Bikeway Project.

I. Recipient and LACMTA desire to enter into this Agreement for the grant and allocation of certain funds as set forth herein from LACMTA to Recipient for the Expo Project Phase 2, the LRV Project and the Bikeway Project, subject to the terms and conditions contained in this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

The terms and conditions of this Agreement consist of the following and each is incorporated by reference herein as if fully set forth herein:

1. Part I - Specific Terms of the Agreement
2. Part II - General Terms of the Agreement

FTIP#: LAOF021
PPNO: N/A

Measure R ID# MR400.01
AGREEMENT.MOU MR400.01

3. Attachment A – Expo Project Phase 1 Scope of Work
4. Attachment B – Expo Project Phase 2 project description
5. Attachment C – Phase 2 Bikeway project description
6. Attachment D - Expenditure Plan – Cost & Cash Flow Budget (dated 11/7/13)
7. Attachment E – Project Funding
8. Attachment F - Bond Requirements
9. Attachment G - Federal Transportation Improvement Program (FTIP) Sheet
10. Attachment H1 – State Quarterly Progress and Commitment Report
11. Attachment I – Extra Allowable Costs List
12. Attachment J – Final Unified Cost Management Process and Policy
13. Attachment K – LACMTA Procedure #PRCL12 – Project Contingency
14. Any other attachments or documents referenced in the above documents

In the event of a conflict, the Specific Terms of the Agreement shall prevail over the General Terms of the Agreement.

FTIP#: LAOF021
PPNO: N/A

Measure R ID# MR400.01
AGREEMENT.MOU MR400.01

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the dates indicated below:

LACMTA:

RECIPIENT:

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY

EXPOSITION METRO LINE
CONSTRUCTION AUTHORITY

By: Arthur T. Leahy
Arthur T. Leahy
Chief Executive Officer

By: Richard Thorpe
Richard Thorpe
Chief Executive Officer

Date: 2-3-14

Date: 2/3/14

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

Nossaman, Guthner, Knox and Elliot, LLP

By: [Signature]
Deputy

By: _____
E. George Joseph
General Counsel

FTIP#: LAOF021
PPNO: N/A

Measure R ID# MR400.01
AGREEMENT.MOU MR400.01

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the dates indicated below:

LACMTA:

RECIPIENT:

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY

EXPOSITION METRO LINE
CONSTRUCTION AUTHORITY

By: _____
Arthur T. Leahy
Chief Executive Officer

By: _____
Richard Thorpe
Chief Executive Officer

Date: _____

Date: _____

APPROVED AS TO FORM:

APPROVED AS TO FORM:

JOHN F. KRATTLI
County Counsel

Nossaman, Guthner, Knox and Elliot, LLP

By: _____

E. George Joseph
General Counsel

By: _____
Deputy

FTIP#: LAOF021
PPNO: N/A

Measure R ID#:MR400.01
AGREEMENT.MOU.MR400.01

PART I

SPECIFIC TERMS OF THE AGREEMENT

1. Name of the Projects: Expo Project Phase 2 has been assigned LACMTA Measure R ID# 400.01 and FTIP# LAOF021. The LRV Project has been assigned LACMTA ID#: 206035 and FTIP#s LAOF075. The Expo Phase 2 and LRV Project are collectively referred to herein as the "Projects". The definition of "Projects" do not include the separate Bikeway Project. The Bikeway Project has been assigned LACMTA Project #890003 and FTIP#s LAOC8164 and LAF3514 and provided the Cities Funding Agreements are fully executed, funds for the Bikeway Project are included as part of this Agreement.

2. Funds.

2.1 Pursuant to LACMTA Board Action on February 24, 2011, LACMTA has established a life of project budget for the Projects in an amount up to \$1,511,158,000 (the "Funds"). LACMTA shall make available to Recipient under this Agreement the Funds less an amount equal to (i) the LACMTA Costs as set forth in Part II, Section 7 below, (ii) the Previously Incurred Phase 2 Costs as defined below, and (iii) the local contribution amount described in Part II, Section 8 below (the balance remaining shall be referred to as the "Expo Fund Amount"). Any proposed expenditure by Recipient that would cause total costs for the Projects (not including third party betterments paid in full by third parties) to exceed \$1,511,158,000 must be presented to the LACMTA Board for approval. LACMTA has no obligation to allocate more than \$1,511,158,000 for the Projects. Previously Incurred Phase 2 Costs shall mean those costs Recipient has already incurred for Expo Project Phase 2 prior to execution of this Agreement.

2.2 Pursuant to LACMTA Board Action on January 26, 2012, LACMTA has established a life of project budget for the Bikeway Project in an amount of \$16,102,170 (the "Bikeway Funds"). LACMTA shall make available to Recipient under this Agreement the Bikeway Funds. Any proposed expenditure by Recipient that would cause total costs for the Bikeway Project (not including third party betterments paid in full by third parties) to exceed \$16,102,170 must be presented to the LACMTA Board for approval. LACMTA has no obligation to allocate more than \$16,102,170 for the Bikeway Project.

3. Disbursement of Funds and Bikeway Funds

3.1 Subject to the terms and conditions contained herein, the Expo Fund Amount shall be made available as follows: As part of the Budget Annual Review, the parties shall meet to discuss the annual amount expected to be incurred by Recipient (the "Annual Expo Budget") and the annual amount expected to be incurred by LACMTA as LACMTA Project Costs (the "Annual LACMTA Project Cost Budget") for the upcoming fiscal year. Such budget amounts shall be part of the LACMTA's annual budget. The annual budget shall be reviewed annually by

the parties and such review shall commence no later than February 1 of each year (the “Budget Annual Review”). This Annual Review is important for the Parties to timely and properly plan for the Funds anticipated to be needed by both LACMTA and Recipient for their respective Projects costs in the upcoming fiscal year. During the Annual Review, the parties shall identify any changes, if necessary, to the Expenditure Plan. The Bikeway Funds shall be included as part of the budget process described herein and the costs associated with the Bikeway Project, including any associated LACMTA staff time authorized under the Annual Work Plan, shall be paid from the Annual Expo Budget.

3.2 During the year, LACMTA shall continue to pay invoices presented by Recipient thereby drawing down on the Annual Expo Budget. LACMTA shall also continue to maintain accounting books and records and provide all accounting services for Recipient, including, without limitation, accounts payable, payroll, bookkeeping and related services. Upon written notice that Recipient no longer requires LACMTA to perform these functions, LACMTA shall assist in transitioning these services as requested by Recipient and the parties will amend the payment sections herein accordingly.

3.3 No later than the 25th day of each month, Recipient shall provide the LACMTA Project Manager with a monthly summary of all Recipient, contractors, and subcontractors invoices, costs and expenses (“Monthly Invoice Summary”) paid in the prior month and shall include the certifications set forth in Part II, Sections 6.10 and 6.11. LACMTA and the Recipient shall both comply with the terms of the Cost Management Policy, as defined in Part I, Paragraph 20 below. In support of the Cost Management Policy, the Recipient shall implement and host a Project Management Information System (PMIS) that shall be compatible with LACMTA’s PMIS in order for Recipient to maintain control of and visibility into the cost, schedule and change status of the Expo Project Phase 2. The Recipient shall input timely and accurate information into the Recipient’s PMIS and provide LACMTA the data as needed.

LACMTA will review the Monthly Invoice Summary for compliance that expenditures are consistent with the terms of this Agreement. In the event that LACMTA questions the content of the Monthly Invoice Summary, or the adequacy of the report or of any supporting documentation, LACMTA shall notify Recipient of the dispute, together with its assessment of what documentation is required in order to resolve the dispute. If Recipient is unable or otherwise fails to provide documentation reasonably acceptable to LACMTA within thirty (30) days after receipt of notice of the dispute from LACMTA, the dispute shall be resolved in accordance with the dispute resolution process set forth in **Part II, Section 12.2**. If the final outcome of that dispute resolution process is adverse to Recipient, LACMTA may reduce the disallowed amount from the disbursement first occurring after final resolution of the dispute.

4. The “Project Funding” documents all sources of funds programmed for the Projects as approved by LACMTA and is attached as **Attachment D** to this Agreement. The Project Funding includes the total budget for the Projects and the Bikeway Project, including the Funds allocated or programmed by LACMTA and any Recipient Funding Commitment (local match), if required. Recipient shall submit updates to the Project Funding if there is any change. Recipient may not make any change to the Project Funding that would require an increase in the Funds granted or programmed by LACMTA without LACMTA’s written approval. Notwithstanding the foregoing, LACMTA approval is not needed for the funding of Betterments,

as defined in the MCA, requested by and paid for in full by third parties; provided, however, nothing in this section is intended to circumvent LACMTA approval of and LACMTA shall have the right to approve any Betterment that impacts the operation and maintenance of the Expo Project Phase 2.

5. Expenditure Plan - Cost & Cash Flow Budget

5.1 **Attachment E** is the “Expenditure Plan - Cost & Cash Flow Budget” which documents the proposed cash flow and budget for the Funds and the Bikeway Funds; as well as the fiscal year the Funds and the Bikeway Funds are expected to be expended. Recipient shall submit annually to LACMTA, no later than February 1, a current and up to date **Attachment E** for LACMTA’s budget and programming purposes. Other than third party betterments paid in full by third parties, Recipient may not make any change to the Expenditure Plan that would require an increase in the Funds or LACMTA Project Costs without LACMTA’s written approval. With regard to the Expo Fund Amount and the Bikeway Funds, Recipient may transfer funds between the Projects budget line items within a fiscal year or make changes across fiscal years which are cost neutral without LACMTA approval. With regard to the LACMTA Project Costs, LACMTA may transfer funds between the Projects budget line items within a fiscal year or make changes across fiscal years which are cost neutral without Recipient approval.

5.2 The “Expenditure Plan - Cost & Cash Flow Budget” (**Attachment E**) shall be reviewed annually by the parties and such review shall commence no later than February 1 of each year (the “Annual Review”). This Annual Review is important for the Parties to timely and properly plan for the Funds anticipated to be needed by both LACMTA and Recipient for their respective Projects’ and Bikeway Project’s costs in the upcoming fiscal year. During the Annual Review, the parties shall identify any changes, if necessary, to the Expenditure Plan. At all times during the term of this Agreement LACMTA shall comply with Ordinance #08-01.

6. Scope of Work

6.1 Recipient shall complete the Expo Project Phase 2 as generally described in the “Scope of Work” and in accordance with the MCA, as defined below. The Scope of Work for the Expo Project Phase 2 is attached to this Agreement as **Attachment B**. The Scope of Work includes a description of the Expo Project Phase 2, Expo Project Phase 2 milestones, and an Expo Project Phase 2 schedule with an anticipated substantial completion date. Substantial Completion is defined as set forth in the MCA.

6.2 Recipient shall complete the Bikeway Project as generally described in the “Bikeway Scope of Work” and in accordance with the MCA. The Bikeway Scope of Work for the Bikeway Project is attached to this Agreement as **Attachment C**. The Bikeway Scope of Work includes a description of the Bikeway Project, milestones, and schedule with an anticipated substantial completion date.

6.3 Work shall be delivered in accordance with that Expo Project Phase 2 schedule and Bikeway Project schedule unless otherwise agreed to by the Parties in writing. Concurrently with this Agreement, LACMTA and Recipient are entering into that certain Master Cooperative

Agreement (“MCA”), which describes the guidelines and mechanism by which LACMTA will participate in the Expo Project Phase 2 and Bikeway Project. The MCA sets forth a description of the Expo Project Phase 2 and Bikeway Project, and a process for LACMTA review of the design and construction of the Expo Project Phase 2 and Bikeway Project. In the event of any conflict between the Scope of Work attached to this Agreement as **Attachment B** and the description of the Expo Project Phase 2 and Bikeway Project in the MCA, as the Expo Project Phase 2 and Bikeway Project now exists or evolves pursuant to the processes set forth in the MCA, the description of the Expo Project Phase 2 and Bikeway Project in the MCA shall control. Any changes to the Expo Project Phase 2, the Bikeway Project or the Scope of Work resulting from the process and procedures set forth in the MCA do not require an amendment of this Agreement and the Scope of Work attached hereto shall be deemed automatically amended in accordance with those changes.

7. Compliance with Funding Requirements

7.1 The Funds for the Projects will come from multiple sources of funding as determined by LACMTA. The Bikeway Funds will be a mix of City of Los Angeles and City of Santa Monica funds and federal funds. As such, LACMTA will be subject to various obligations concerning the use and handling of such Funds and Bikeway Funds imposed by those funding sources. Recipient shall fulfill all obligations imposed upon LACMTA in accordance with a funding agreement between LACMTA and its funding sources for the Projects and the Bikeway Project and to take no action that might interfere with the nature and source of the Funds or Bikeway Funds or any tax-related benefits that are directly tied to the Funds. Recipient agrees to comply with all federal (if applicable), state, and local or LACMTA rules, regulations, funding agreements, policies and directives affecting the funding, including but not limited to Master Agreements, Certifications and Assurances, GAAP, FAR, OMB A-133,A-87, records retention policy, and LACMTA Final Unified Cost Management Process and Policy. Recipient agrees to provide LACMTA with progress reports, expenditure documentation, and any other documentation as reasonably requested by LACMTA and necessary for LACMTA to fulfill its responsibilities as the grantee or administrator or bond issuer of the Funds and the Bikeway Funds. The Recipient shall provide LACMTA with supporting documentation on the Expo Project Phase 2 and the Bikeway as required by Federal grants and State grants, including, without limitation, annual cashflow plan detailing the expenditure forecast by year and by phases, e.g. final design, ROW and construction. To the extent LACMTA uses bond funds to pay for Project costs, the Recipient shall take all reasonable actions as may be requested of it, especially as directed by LACMTA’s bond counsel, to assist LACMTA in demonstrating and maintaining over time, compliance with the relevant sections of the Federal Tax Code to maintain such bonds tax status.

7.2 LACMTA anticipates it may need to avail itself of lower cost bonds or other debt, the interest on which is tax exempt for federal tax purposes and/or Build America Bonds as defined in the American Reinvestment and Recovery Act of 2009 or similar types of bonds (collectively, the ‘Bonds’) to provide at least a portion of its funding commitments under this Agreement to Recipient. Recipient shall ensure that the expenditure of the Funds disbursed to Recipient does not jeopardize the tax-exemption of the interest, the Federal subsidy payment or

the tax credit, as applicable, as specified in the Bond Requirements attached as **Attachment F** to this Agreement. Recipient shall provide LACMTA with progress reports, expenditure documentation, and any other documentation as reasonably requested by LACMTA and necessary for LACMTA to fulfill its responsibilities as the grantee or administrator or bond issuer of the Funds.

8. Intentionally Omitted

9. As the Recipient has purchased at least 50% of the real property needed to construct the operation and maintenance facility (“O&M Facility”), the parties have agreed the “escape clause” condition has already been met and therefore no escape clause is needed. CTC funding approvals have already been obtained for the Expo Project Phase 2. However, prior to awarding the construction of the Bikeway Project, the Recipient must obtain a notice to proceed from the LACMTA in writing.

10. The O&M Facility is part of the Expo Project Phase 2. The Recipient shall be responsible for the land acquisition, relocation, site preparation, design, and construction of the O&M Facility, and for the acquisition of the parcels of land needed to construct and operate the O&M Facility. The facility shall be transferred free of contaminant and hazardous materials unless the contaminant or hazardous materials is specifically approved by LACMTA prior to the acquisition of the facility. A general description of the O&M Facility is part of the Scope of Work set forth in **Attachment B** attached hereto.

11. Title to any parcel acquired by the Recipient for the Expo Project Phase 2, including the O&M Facility, shall be acquired by the Recipient for the purpose of conveying to LACMTA as provided herein. Acquisitions include fee title to full takes and part-take, permanent easements, long term leases, and rights of entries. The LACMTA Real Estate Department staff (“Real Estate Staff”) shall serve as the real estate staff for the Recipient. In this capacity, the Real Estate Staff shall implement the Expo Project Phase 2 real estate program including obtaining appraisals, conducting environmental investigations, recommending just compensation, making offers, negotiating with owners, overseeing the relocation of occupants, escrow closings, property management and any other responsibilities associated with acquiring property required for construction and operation of the Expo Project Phase 2. The Recipient shall be responsible for approval of all acquisitions including the approval of just compensation, authorization to institute eminent domain proceedings and administrative settlements pursuant to its internal approval process (unless approval authority is delegated to LACMTA). All property interests shall be acquired in the name of the Recipient and all permanent property interests shall be duly recorded with the Los Angeles County Recorder’s office. Transfer to LACMTA of all real property interest acquired by Recipient for the Expo Project Phase 2 shall proceed as provided in Section 7.5.3 of the MCA.

12. LACMTA shall provide Recipient with access to and full use of all real property and rights-of-way as necessary for the construction of the Expo Project Phase 2 pursuant to that certain right of entry signed in connection with the Amended and Restated MOU.

FTIP#: LAOF021
PPNO: N/A

Measure R ID# MR400.01
AGREEMENT.MOU MR400.01

13. All approvals and determination of either party required hereunder shall not be unreasonably withheld.

14. The "FTIP PROJECT SHEET (PDF)" is attached as **Attachment G** and is required to ensure that the Projects and the Bikeway Project are programmed correctly in the most up-to-date FTIP document. The FTIP PROJECT SHEET (PDF) can be found in ProgramMetro FTIP database under the reports section at <http://program.metro.net>. All projects that receive Measure R funding must be programmed into the FTIP, which includes locally funded regionally significant projects for information and air quality modeling purposes. LACMTA shall review the Expo Project Phase 2 in ProgramMetro each year and update or correct the applicable project, as necessary during a scheduled FTIP amendment or adoption. Recipient shall be notified of amendments and adoptions to the FTIP via e-mail. LACMTA will make changes to the FTIP through ProgramMetro should be made as soon as possible after LACMTA is aware of any changes to the applicable projects. Recipient shall provide support and information to LACMTA as needed so that LACMTA can meet the obligations set forth in this section.

15. Recipient shall complete and submit to LACMTA the quarterly progress and commitment report for State reporting in the form is attached to this Agreement as **Attachment H-1**.

16. No changes to the (i) allocated amount, (ii) Project Funding (except as set forth in **Part I, Section 4**), (iii) Expenditure Plan (except as set forth in **Part I, Section 5**), (iv) the Scope of Work (except as set forth in **Part I, Section 6**), (v) (vi) Bikeway Funds or (vii) Bikeway Scope of Work (except as set forth in **Part I, Section 6**) shall be allowed without a written amendment to this Agreement, approved and signed by the LACMTA Chief Executive Officer or his/her designee and Recipient. Modifications that do not materially affect the terms of this Agreement do not require LACMTA approval. Non-material changes are those changes that do not affect the allocated amount, the amount of the Funds, the Scope of Work or Bikeway Scope of Work, including schedule (except as set forth in **Part I, Section 6**), or the Bikeway Funds.

17. Parties' Addresses

A. LACMTA's Address:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012
Attention: Rick Meade
Deputy Executive Officer, Project Management
Meader@metro.net

B. Recipient's Address:

Exposition Metro Line Construction Authority
707 Wilshire Boulevard, Suite 3400
Los Angeles, California 90017
Attn: Mr. Richard Thorpe

Chief Executive Officer
rthorpe@exporail.net

18. Recipient shall cause its Project Management Information System (PMIS) to be compatible with LACMTA's PMIS, in order to provide reasonable visibility into the cost, schedule and change status of the Expo Project Phase 2 and Bikeway Project. Recipient shall allow the LACMTA PMIS Designee (upon designation by LACMTA and approval by Recipient's CEO or his designee) reasonable access to Recipient's PMIS, as needed. LACMTA shall formally designate a member of its Project Administration staff as the person authorized to access Recipient's PMIS on behalf of LACMTA pursuant to this Agreement (the "LACMTA PMIS Designee"), and inform Recipient's CEO upon making the designation. Recipient's CEO shall not unreasonably withhold approval of the LACMTA PMIS Designee. LACMTA shall not change the LACMTA PMIS Designee more frequently than annually, without prior written approval from Recipient's CEO. Nothing in this Section 18 shall be interpreted to (a) grant LACMTA any audit rights or rights to information not authorized by other provisions of this Agreement; (b) require Recipient to include in its PMIS any information that Recipient would not otherwise include.

19. The memorandum dated March 17, 2011 and with the subject line "Final Unified Cost Management Process and Policy" (hereinafter, the "Cost Management Policy") is hereby attached to this Agreement as **Attachment J**.

20.. In order to harmonize the Cost Management Policy with the existing rights and remedies of the parties set forth in this Agreement, Recipient hereby agrees to comply with the Cost Management Policy subject to the following qualifications:

A. Any future changes to the Cost Management Policy shall be incorporated into this Agreement only if such changes are specifically agreed to by Recipient and amended into this Agreement.

B. In the event of a conflict between this Agreement and the Cost Management Policy, the provisions of this Agreement shall control. The parties have identified three clauses in this Agreement that potentially conflict with the Cost Management Policy. These include **Part I, Section 8**, and **Part II, Sections 5.2C and 5.3C**. The parties agree that, as to those three sections, there is no conflict and this Agreement and the Cost Management Policy should be read together such that both this Agreement and the Cost Management Policy apply.

C. With regard to Cost Management Policy Section 4, which provides for going back to the LACMTA Board at certain milestones, the parties stipulate and agree that the milestones of selecting a conceptual design alternative to be studied in the environmental stage, selecting a locally preferred alternative/entering the preliminary engineering stage, approving a final EIR/entering final design and establishing a life-of-project budget (LOP) budget prior to construction, as described in Sections 4(a)-(d) of the Cost Management Policy, are not applicable as those milestones have passed and there is no need to go back to the LACMTA Board for

FTIP#: LAOF021
PPNO: N/A

Measure R ID# MR400.01
AGREEMENT.MOU MR400.01

approval. Therefore at this time, only the milestone specified in Section 4(e) pertaining to amendment of the LOP budget shall apply.

D. The Cost Management Policy is intended to apply to any costs that exceed the approved LOP budget. It is not intended to apply to third party funded Betterments.

E. In incorporating the Cost Management Policy, LACMTA does not expect Recipient to amend its existing design build contracts.

21. Recipient shall comply with the LACMTA Departmental Procedure #PRCL12 – Project Control which is hereby attached to this Agreement as **Attachment K**.

PART II

GENERAL TERMS OF THE AGREEMENT

1. TERM: The term of this Agreement shall commence on the date this Agreement is fully executed and, shall terminate upon the occurrence of all of the following, unless terminated earlier as provided herein: (i) the agreed upon Scope of Work and Bikeway Scope of Work has been completed; (ii) all LACMTA audit and reporting requirements have been satisfied; and (iii) the final disbursement of the Funds has been made.

2. INVOICE BY RECIPIENT: Recipient shall submit the monthly invoice summary to LACMTA as set forth in **Part 1, Section 3.1**.

3. USE OF FUNDS:

3.1. Recipient shall utilize the Funds to complete the Expo Project Phase 2 as described in the Scope of Work and the Bikeway Funds to complete the Bikeway Project as described in the Bikeway Scope of Work, and all in accordance with the specifications for use for the transportation purposes described in the Ordinance. Recipient shall make good faith efforts to cause the total expenditure of Funds to not exceed the amount set forth in **Part I, Section 2.1** and the total expenditure of Bikeway Funds to not exceed the amount set forth in **Part I, Section 2.2**.

3.2. Except as specifically provided in **Part I, Section 8.2**, the Funds and the Bikeway Funds allocated under this Agreement may only be used towards the Projects' and the Bikeway Project's costs consistent with the Modified OMB (defined in Part II, Section 6.1). Except as specifically provided in **Part I, Section 8.2**, any activity or expense charged above and beyond the Scope of Work and the Bikeway Scope of Work is considered ineligible and will be disallowed in an audit unless prior written authorization has been provided by the LACMTA Chief Executive Officer or his designee.

3.3. Recipient shall not use the Funds or Bikeway Funds to substitute for any other funds or projects not specified in this Agreement. Further, Recipient shall not use the Funds or Bikeway Funds for lobbying to obtain State or Federal funds [or, to the extent LACMTA provides Recipient with bond or commercial paper proceeds (as set forth in **Part I, Section 7.1C**), Funds may not be used for any costs that jeopardize the tax-exempt nature of such financings as reasonably determined by LACMTA and its bond counsel, or any expenses or activities above and beyond the approved Scope of Work (**Attachment B**) without an amendment to this Agreement approved and signed by the LACMTA Chief Executive Officer or his designee.

3.4. If Recipient intends to use a consultant or contractor to implement all or part of the Projects and/or the Bikeway Project, such activities shall be procured in accordance with Recipient's contracting procedures and consistent with applicable federal and State law. Recipient staff or consultant with project oversight roles may not award work to companies in which they have a financial or personal interest. Recipient shall not award a contract to a consultant or contractor who has an organizational conflict of interest. For purposes of the

preceding sentence, "organizational conflict of interest" shall have the meaning ascribed in the rules and regulations of the FTA.

3.5. Recipient shall not use a facility, equipment (such as computer hardware or software), vehicle or property purchased or leased using the Funds or the Bikeway Funds, for a purpose other than as permitted by Recipient's enabling legislation..

3.6 Recipient's employee, officers, councilmembers, board member, agents, or consultants (a "Recipient Party") are prohibited from participating in the selection, award, or administration of a third-party contract or sub-agreement supported by the Funds if doing so would violate applicable state laws, including but not limited to the Political Reform Act (Government Code Section 81000 *et seq*), Government Code Section 1090 *et seq*, and the common law doctrine against conflicts of interest.

4. DISBURSEMENT OF FUNDS: Disbursements shall be made in accordance with Part I, Section 3.

5. REPORTING REQUIREMENTS:

5.1 Recipient shall complete and submit within thirty (30) days after the close of each quarter, a quarterly progress and commitment report for State reporting on the Projects and the Bikeway Project, as applicable, in the form attached hereto as Attachment H-1.

5.2 Monthly Reports.

A. Recipient shall provide to the LACMTA Board monthly Project progress reports informing the LACMTA Board of the Expo Project Phase 2 and Bikeway Project progress, use of funds during the previous month, the milestone progress vs. costs, expenditures to date, funds committed and forecast at completion, updated Expo Project Phase 2 and Bikeway Project schedule, third party Betterments paid for in full by third parties and identifying any major problems (such as cost impacts of \$10 million or more on the Phase 2 Project, a schedule impact of 90 days or more, a quality issue which materially deviates from the Metro Design Criteria and Standards, Bikeway Design Criteria and Standards or a previously LACMTA approved submittal, any safety issue which deviates from the Metro Design Criteria and Standards, Bikeway Design Criteria and Standards or a previously LACMTA approved submittal, as such terms are defined in the MCA), and proposed solutions. A copy of the monthly Project progress report will be sent to the LACMTA project manager by the 25th day of the following month, i.e., as an illustrative example only, the June 2013 monthly report will be sent to the LACMTA project manager by July 25, 2013.

B. Such monthly report shall describe any and all areas of concern, including problems causing delays, proposed solutions and next steps including actions requiring approval of Recipient and LACMTA Boards.

C. If a potential cost overrun is identified, the monthly report shall include a recovery proposal, which may include, without limitation, a re-scope of the Projects or the Bikeway Project, as applicable.

5.3 Quarterly Reports.

A. Recipient shall also provide quarterly reports in person to the LACMTA Board on the state of the Expo Project Phase 2 and the Bikeway Project consistent with the information contained in the Monthly Reports along with additional information describing schedule and cost variances from the last quarter, including impacts of the performance towards key milestones or increases to their respective Life-Of-Project (LOP) Budgets.

B. Such quarterly report shall also describe any and all major problems, as described above, areas of concern, proposed solutions and next steps including actions requiring approval of the Boards of Directors of Recipient and of LACMTA.

C. If a potential cost overrun is identified, the quarterly report shall include a recovery proposal, which may include, without limitation, a re-scope of the Projects or the Bikeway Project, as applicable.

5.4 LACMTA shall be responsible for submitting a request for an increase in the LACMTA Project Costs beyond the estimate set forth in Part II, Section 7.4 in accordance with that Section, and shall not require a request from Recipient for any such increase.

6. AUDIT REQUIREMENTS:

6.1 LACMTA, and/or its designee, shall have the right to conduct annual audits and a final audit of Recipient as it concerns the Expo Project Phase 2 and the Bikeway Project. In addition to the foregoing, LACMTA, and/or its designee, shall have the right to conduct an audit of Recipient in the event of a change (or requested change) in the amount of the Funds or the Bikeway Funds, or if the LACMTA Board of Directors determines that an expenditure of funds in violation of this Agreement is likely to have occurred and directs LACMTA to conduct such audit. LACMTA shall commence a final audit within nine months of receipt of an acceptable final invoice, provided the Expo Project Phase 2 or Bikeway Project is ready for final audit (meaning all costs and charges have been paid by Recipient and invoiced to LACMTA, and such costs, charges and invoices are properly documented and summarized in the accounting records to enable an audit without further explanation or summarization including actual indirect rates for the period covered by the Agreement period under review). Recipient agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). Recipient shall reimburse LACMTA for any expenditure made in violation of this Agreement; such reimbursement shall be made by LACMTA deducting the amount of the disallowed expenditure from the remaining balance of the Funds. The allowability of costs for Recipient's own expenditures submitted to LACMTA for the Expo Project Phase 2 or Bikeway Project shall be in compliance with Office of Management and Budget ("OMB") Circular A-87 except that the costs described in OMB Circular A-87 and listed on **Attachment I** (the "Extra Allowable Cost List") shall also be allowable costs. Costs that are not specifically identified as an unallowable cost in OMB Circular A-87 plus those costs on the Extra Allowable Cost List shall be permissible expenditures under this Agreement if such costs are not otherwise prohibited by this Agreement. OMB Circular A-87, as modified by allowing costs set forth in the Extra Allowable Cost List shall be hereinafter referred to as "Modified OMB A-87". The allowability of costs for

Recipient's contractors, consultants and suppliers expenditures submitted to LACMTA through Recipient's Monthly Progress Reports/Expenditures shall be in compliance with Modified OMB A-87 or Federal Acquisition Regulations Subpart 31 (whichever is applicable). Any use of the Funds which is expressly prohibited under this Agreement shall be an ineligible use of the Funds and may be disallowed by LACMTA audit. Notwithstanding the foregoing, when business travel associated with the Expo Project Phase 2 or the Bikeway Project requires use of a vehicle, the mileage incurred shall be reimbursed at the mileage rates set by the Internal Revenue Service, as indicated in the United States General Services Administration Federal Travel Regulation, Privately Owned Vehicle Reimbursement Rates.

6.2 Recipient's records, including without limitation, accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files (including documentation covering negotiated settlements), invoices, and any other supporting evidence reasonably necessary for LACMTA to substantiate charges related to the Expo Project Phase 2 and the Bikeway Project (all collectively referred to as "records") shall be open to inspection and subject to audit and reproduction by LACMTA auditors or authorized representatives to the extent necessary for LACMTA to adequately permit evaluation of expended costs. Such records subject to audit shall also include, without limitation, those records necessary for LACMTA to evaluate and verify, direct and indirect costs (including overhead allocations) as they may apply to costs associated with the Expo Project Phase 2 and the Bikeway Project. These records must be retained by Recipient for three years following final payment under this Agreement. Recipient shall include language in its contracts with contractors, consultants, and suppliers requiring them to comply and cooperate with the requirements of this **Section 6.2**.

6.3 LACMTA and its duly authorized representatives, upon reasonable written notice shall be afforded reasonable access to all of the records of Recipient regarding all activities in completing the Scope of Work, the Bikeway Scope of Work and all costs incurred therefor, to the extent reasonably practicable. Recipient shall include language in its contracts with contractors, consultants, and suppliers requiring them to allow LACMTA reasonable access to all of the records of the contractor, consultant, or supplier regarding all activities in completing the Scope of Work, the Bikeway Scope of Work and all costs incurred therefor to the extent reasonably practicable.

6.4 In connection with the exercise of its audit rights in accordance with this **Section 6**, LACMTA and its duly authorized representatives, upon reasonable written notice, shall have access to the offices of Recipient, and its contractors, consultants, and suppliers shall have access to all reasonably necessary records, including reproduction (at no charge to LACMTA), and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the terms and conditions of this Agreement.

6.5 LACMTA or their representative shall, upon completion of the audit, present the preliminary audit findings and recommendations to Recipient. A draft audit report shall be provided to Recipient for review and comments. Recipient shall provide LACMTA written

comments as to acceptance or rejection of audit findings within 45 days after Recipient's receipt of the draft audit report.

6.6 All LACMTA audit findings are subject to dispute resolution in accordance with **Part II, Section 12.2**. When LACMTA final audit findings require Recipient to return any Funds or Bikeway Funds to LACMTA, and to the extent Recipient does not dispute such findings, LACMTA shall withhold the amount equivalent to the disallowed expenditures from the amount available for disbursement to Recipient in the next fiscal year after the final audit findings are sent to Recipient. To the extent Recipient disputes such final audit findings, and such dispute is resolved in LACMTA's favor, LACMTA shall withhold the amount equivalent to the disallowed expenditures from the amount available for disbursement to Recipient in the next fiscal year after such resolution.

6.7 Recipient and /or its designee shall be responsible for performing cost audits of contractors, consultants, and suppliers regarding activities in completing the Scope of Work with contracts exceeding \$650,000, or the Federal audit threshold, whichever is greater. Such audits will be conducted by a CPA firm and done in compliance with Government Auditing Standards. The audits will audit the costs to verify compliance to Modified OMB A-87 or FAR Subpart 31 (whichever is applicable) and this Agreement. To avoid duplication of efforts, LACMTA shall have access to Recipient's auditors' work.

6.8 Notwithstanding anything in this Agreement to the contrary, the provisions of this **Part II, Section 6** shall not apply to any contractor, consultant, or supplier performing work pursuant to (i) a fixed-rate or time and materials contract (except for any cost reimbursement portion of the contract) or (ii) a fixed price contract that has been procured competitively or (iii) third party Betterments which are paid in full by a third party; provided, however, that **Part II, Section 6** shall apply to the costs and records of any contractor, consultant, and supplier to the extent that such costs and records directly relate to a change order, claim, or formal dispute which exceeds the Federal audit threshold.

6.9 In addition to LACMTA's other remedies as provided in this Agreement, LACMTA shall withhold the Funds or Bikeway Funds from future disbursement if the LACMTA audit has determined that Recipient failed to comply with the Scope of Work or Bikeway Scope of Work (such as misusing Funds or Bikeway Funds or failure to return Funds or Bikeway Funds owed to LACMTA in accordance with LACMTA audit findings) and/or is severely out of compliance with other terms and conditions of this Agreement, including the access to Recipient records provisions of **Part II, Section 6**. LACMTA may withhold the funds only if the decision of the LACMTA is upheld upon completion of the dispute resolution process set forth in **Part II, Section 12.2**.

6.10 Recipient shall review all contractor and subcontractor costs monthly and shall certify monthly to LACMTA that the contractor's and subcontractor's expenses are in compliance with their respective terms and conditions and the terms and conditions of this Agreement. For consultants, or cities and other agencies, who are hired using cost reimbursable or labor rate agreements, Recipient shall review the consultants, cities or other agencies invoices and certify that all expenditures are allocable, allowable and reasonable and in accordance with their

contract terms and conditions and Modified OMB A-87 or FAR Subpart 31 (whichever is applicable) and the terms and conditions of this agreement.

6.11 Recipient shall also certify monthly to LACMTA that Recipient's costs of the Expo Project Phase 2 and the Bikeway Project are in compliance with Modified OMB A-87 or FAR Subpart 31 (whichever is applicable) and the terms and conditions of this Agreement.

6.12 Whenever possible, in exercising its audit rights under this Agreement, LACMTA shall rely on Recipient's own records and audit work, and minimize direct audit of contractors, consultants, and suppliers.

7. LACMTA PROJECT COSTS:

7.1 LACMTA shall incur costs and expenses for the Projects as set forth below in Part II, Section 7.3 (the "LACMTA Project Costs"). LACMTA time spent on the Bikeway Project shall be paid from the Annual Expo Budget as authorized by Recipient in the annual budget process.

7.2 To the extent LACMTA incurs LACMTA Project Costs during the year, as approved by the LACMTA project manager for Expo Project Phase 2, such amounts shall be drawn down against the Annual LACMTA Project Cost Budget. Under no circumstances, however, shall LACMTA withhold an aggregate amount more than the \$252,185,835 (plus any increases in that amount that may be authorized pursuant to Section 7.4A) without prior approval by Recipient's Board and the LACMTA Board.

7.3 Funds allocated to pay for the LACMTA Project Costs, including all interest thereon, are to be used by LACMTA for the following LACMTA Project Costs:

A. Except as set forth in Part II, Section 7.5, LACMTA staff time, consultant costs and other direct and indirect costs involved in design review, construction review, construction support, training in rail operations and rail activation, construction project management oversight, safety outreach program, communications (Art Program, Signage design review, Media/Events), audit, corporate safety, legal (County Counsel time only), rail operations, pre-revenue testing, rail activation and start up activities associated with Phase 2, vertical transportation, radio and TPSS (all to the degree not already provided by Recipient through mutual agreement with LACMTA). Recipient and LACMTA commit to an efficient use of staff resources, with a designated point of contact for each category of activities and minimizing redundant review and comments, and each party shall ensure the timely delivery of comments to the other party. Recipient shall provide LACMTA the annual City of LA work plan to coordinate staffing needs.

B. Cost and expense for LACMTA to design and construct a new body repair and painting facility at a location to be determined by LACMTA. Since the O & M Facility to be provided as part of Expo Project Phase 2 will not include a body and paint shop, the costs for the new body and paint facility are included as part of the LACMTA Project Costs.

C. To ensure uniformity of major equipment and to ensure compatibility with the existing rail system, LACMTA shall hold back funds to purchase equipment needed for system operation, including:

1. Ticket Vending Machines/Stand Alone Validators/Fare Gates;
2. Base Stations and Portable Radios;
3. Traction Power substations; and
4. Other equipment as determined during the course of design and construction as mutually agreed to by the parties.
5. Non-Revenue Equipment/Vehicles to support LACMTA operations and maintenance department expansion resulting from the new rail line and O&M Facility.

D. Recipient's share of the cost to expand LACMTA's Rail Operations Center (ROC) which shall be an amount based on the proportionate share of the ROC devoted to operation of Expo Project Phase 2, and in any event shall not exceed \$2 million.

E. LACMTA's procurement of 47 light rail vehicles for LACMTA's light rail system, including a portion of LACMTA oversight and consultant costs, spare parts, tools & special equipment, and carbuilder non-recurring costs;

7.4 A. The initial amount of LACMTA Project Costs (for the period from FY2011 through FY2016) is estimated to be \$252,185,835 (composed of \$50,085,835 for the Expo Project Phase 2 and \$202,100,000 for the LRV Project). This estimated LACMTA Project Costs along with the annual LACMTA Project Cost Budget shall be reviewed annually during the Annual Review. If LACMTA Project Costs exceed \$252,185,835, the LACMTA, subject to Recipient approval, which approval shall not be unreasonably withheld, shall request authority for additional funds (in excess of the amount set forth in Part I, Section 2 of this Agreement) from the LACMTA Board. If increases to the LACMTA Project Costs are approved by Recipient and the LACMTA Board, and LACMTA Project Costs exceed such approved increased LACMTA Project Costs amount, then LACMTA, subject to Recipient's approval, which approval shall not be unreasonably withheld, shall request authority for additional funds from the LACMTA Board. LACMTA shall make good faith efforts to cause actual LACMTA Project Costs to be less than the estimated amount. If upon the completion of the Projects, LACMTA Project Costs are less than \$252,185,835 plus any increases that may be authorized pursuant to this Agreement, the amount of any LACMTA Project Costs savings shall be made available to Recipient, for any permissible expenses that remain unpaid.

B. If LACMTA intends to use a consultant or contractor to implement all or part of its obligations pursuant to this Agreement, LACMTA shall procure such activities in accordance with LACMTA's contracting procedures and consistent with applicable State law.

C. When business travel is charged as an LACMTA Project Cost and requires use of a vehicle, the mileage incurred shall be reimbursed at the mileage rates set by the Internal Revenue Service, as indicated in the United States General Services Administration Federal Travel Regulation, Privately Owned Vehicle Reimbursement Rates.

7.5 Other than as set forth in Part II, Section 7.3A above, LACMTA Project Costs shall not include any other LACMTA functional labor groups which may provide services as requested by Recipient in connection with Expo Project Phase 2. Such groups not included in the LACMTA Project Costs include, without limitation, real estate, building services, contract administration, customer relations, insurance/risk management, construction safety, project management support in the procurement, design and construction of the O&M Facility, ITS, or outside counsel legal costs. To the extent Recipient needs services from these other functional labor groups in any fiscal year, LACMTA and Recipient shall negotiate for such services on an annual basis. The LACMTA labor costs described in this section shall be paid from the Annual Expo Budget.

7.6. A. In addition to the Expo 2 LACMTA Project Cost value stated above, the Recipient shall reserve \$4,500,000 in its current budget as "Allocated LACMTA Contingency". The Allocated LACMTA Contingency is a supplement to LACMTA Project costs in the areas of Rail Operations, Rail Activation and Opening Events. The Allocated LACMTA Contingency shall be reserved solely for LACMTA's use if necessary and Recipient shall not spend the Allocated LACMTA Contingency unless otherwise agreed to in writing by both parties.

B. LACMTA shall provide information to Recipient on a yearly basis regarding its use of holdback funds and shall make every effort to keep its costs for Rail Operations and Rail Activation within the holdback amounts. To access the Allocated LACMTA Contingency, LACMTA shall provide Recipient with written notice of its need for the Allocated LACMTA Contingency along with documents which support the necessity to expend more than the allotted value(s) stipulated in the holdback of LACMTA Project Costs in these areas. If the Recipient disputes all or any portion of LACMTA's need for the Allocated LACMTA Contingency, the Recipient shall initiate the dispute resolution procedure set forth in Part II, Section 12.2 for such disputed portion. Within 30 days of receipt of such notice, Recipient shall transfer the requested undisputed amounts to LACMTA and to the extent the dispute resolution process resolves in LACMTA's favor, Recipient shall transfer the requested disputed amounts to LACMTA within 30 days of the resolution. Any Allocated LACMTA Contingency received by LACMTA shall become LACMTA Project Costs.

C. LACMTA shall provide written notice if and when it no longer requires the Allocated LACMTA Contingency and if there are still funds remaining, such LACMTA written notice shall authorize Recipient to release such remaining funds to Unallocated Contingency.

7.7 The allowability of costs for LACMTA's own expenditures as LACMTA Project Costs shall be in compliance with Modified OMB A-87. The allowability of costs for LACMTA's contractors, consultants and suppliers shall be in compliance with Modified OMB A-87 or Federal Acquisition Regulations Subpart 31, whichever is applicable.

7.8 Recipient, and/or its designee, shall have the right to conduct annual and a final audit of the LACMTA Project Costs. Alternatively, Recipient may rely on the annual and final Measure R audit completed by LACMTA. Recipient will commence a final audit (if any) within six months of receipt of LACMTA's written notice that the LACMTA Project Costs are ready for final audit (meaning all costs and charges have been paid by LACMTA, and such costs, charges and invoices are properly documented and summarized in the accounting records to enable an audit without further explanation or summarization including actual indirect rates for the period covered by the Agreement period under review). LACMTA agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). LACMTA shall not use the Funds for any expenditure not in compliance with **Part II, Section 7.3** and/or not in compliance with other terms and conditions of this Agreement. Any use of the Funds which is expressly prohibited under this Agreement shall be an ineligible use of the Funds and may be disallowed by Recipient's audit.

7.9 LACMTA's records shall include, without limitation, LIMS reports, accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files (including documentation covering negotiated settlements), invoices, and any other supporting evidence reasonably necessary for Recipient to substantiate charges related to the LACMTA Project Costs (all collectively referred to as "records") shall be open to inspection and subject to audit and reproduction by Recipient auditors or authorized representatives to the extent necessary for Recipient to adequately permit evaluation of expended costs. Such records subject to audit shall also include, without limitation, those records necessary for Recipient to evaluate and verify, direct and indirect costs, (including overhead allocations) as they may apply to costs associated with the LACMTA Project Costs. These records must be retained by LACMTA for three years following final payment for LACMTA Project Costs. LACMTA shall include language in its contracts with contractors, consultants, and suppliers requiring them to comply and cooperate with the requirements of this **Section 7.9**.

7.10 Recipient and its duly authorized representatives, upon reasonable written notice shall be afforded reasonable access to all of the records of LACMTA related to the LACMTA Project Costs to the extent reasonably practicable. LACMTA shall include language in its contracts with contractors, consultants, and suppliers requiring them to allow Recipient reasonable access to all of the records of the contractor, consultant, or supplier related to the LACMTA Project Costs to the extent reasonably practicable.

7.11 Recipient and its duly authorized representatives, upon reasonable written notice, shall have access to the offices of LACMTA, shall have access to all necessary records, including reproduction (at no charge to Recipient), and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the terms and conditions of this Agreement as they relate to audits of LACMTA Project Costs.

7.12 Recipient or their representative shall, upon completion of the audit, present the preliminary audit findings and recommendations to the LACMTA. A draft audit report shall be provided to LACMTA for review and comments. LACMTA shall provide Recipient written comments as to acceptance or rejection of audit findings within 90 days after LACMTA's receipt of draft audit report.

7.13 All Recipient audit findings are subject to dispute resolution in accordance with the dispute resolution process set forth in **Part II, Section 12.2**. When Recipient's final audit findings require LACMTA to return any Funds to Recipient, and to the extent LACMTA does not dispute such findings, LACMTA shall return the undisputed monies within thirty (30) days after that final audit is sent to LACMTA. To the extent LACMTA disputes such final audit findings, and such dispute is resolved in Recipient's favor, LACMTA shall return such disputed Funds to Recipient within thirty (30) days after such resolution. For purposes of this section, LACMTA return of the disputed Funds does not entail actually providing the disputed Funds to Recipient. LACMTA return of the disputed Funds shall mean the disputed funds are not eligible as LACMTA Project Costs and therefore LACMTA shall not reimburse such disputed expenses with the Funds.

7.14 LACMTA and /or its designee shall be responsible for performing costs audits of contractors, consultants, and suppliers regarding expenditures charged as LACMTA Project Costs with contracts exceeding \$650,000, or the Federal audit threshold, whichever is greater. Such audits shall be conducted by a CPA firm or LACMTA audit department and done in compliance with Government Auditing Standards. The audits will audit the costs to verify compliance to Modified OMB A-87 or FAR Subpart 31 (whichever is applicable) and this Agreement. To avoid duplication of efforts, Recipient shall have access to LACMTA's auditors' work.

7.15 Notwithstanding anything in this Agreement to the contrary, the provisions of this **Part II, Section 7** shall not apply to any contractor, consultant, or supplier performing work pursuant to (i) a fixed-rate or time and materials contract (except for any cost reimbursement portion of the contract) or (ii) a fixed price contract that has been procured competitively; provided, however, that **Part II, Section 7** shall apply to the costs and records of any contractor, consultant, and supplier to the extent that such costs and records directly relate to a change order, claim, or formal dispute.

7.16 LACMTA shall certify monthly invoices by reviewing all contractor and subcontractor costs and maintaining internal control to ensure that all expenditures are allocable, allowable and reasonable and in accordance with Modified OMB A-87 or FAR Subpart 31 (whichever is applicable) and the terms and conditions of the Agreement.

7.17 LACMTA shall also certify final costs of the LACMTA Project Costs to ensure all costs are in compliance with Modified OMB A-87 or FAR Subpart 31 (whichever is applicable) and the terms and conditions of the Agreement.

7.18 Whenever possible, in exercising its audit rights under this Agreement, Recipient shall rely on LACMTA's own records and audit work, and minimize direct audit of contractors, consultants, and suppliers.

8. SOURCES AND DISPOSITION OF FUNDS:

8.1 LACMTA and Recipient shall work cooperatively to fund and secure commitments for the 3% local contribution, as identified in the Project Funding, towards the cost of the Projects, provided, however such cooperation shall not obligate LAMCTA to provide all

or any portion of the 3% local contribution. Once the 3% local contribution of \$45,334,740 has been secured, LACMTA will acknowledge that the 3% local contribution obligation contemplated in the Measure R Ordinance's expenditure plan has been met. If all or any portion of the 3% contribution is not secured, both the Recipient's portion of the Expo Project Phase 2 budget and the LACMTA Project Costs shall each be reduced by the percentage ratio equal to the amount of the local contribution that has not been secured to the \$1,511,158,000. For purposes of this Agreement, "local funds" shall mean cash or in-kind contributions from any of the jurisdictions adjacent to the ROW. Where in-kind contributions include land donations, the appraised value of land will be used to calculate the value of such in-kind contribution; provided, however, land provided by LACMTA does not count toward the local funds.

8.2 If the Funds identified in Project Funding (**Attachment D**) are insufficient to complete the Projects, Recipient shall comply with the Cost Management Policy. LACMTA shall be responsible for all costs relating to Betterments requested by LACMTA and as defined in the MCA, from sources other than the Funds.

8.3 Recipient shall be eligible for the Expo Fund Amount as specified in **Part I, Section 2** of this Agreement.

8.4 If Recipient receives outside funding for the Projects in addition to the Funds identified in the Project Funding as of the date of this Agreement, **Attachment D** of this Agreement shall be revised to show such additional funding. Recipient may not make any change to the Project Funding that would require an increase in the amount of the Funds without LACMTA's written approval; Recipient may make changes to the Grantee/Sponsor Match without LACMTA approval.

8.5 Any cost under runs to the Programmed Budget shall be apportioned between LACMTA and the jurisdiction that contributed toward the 3% local contribution.

8.6 This is a onetime only allocation, subject to the terms and conditions agreed to herein.

8.7. With regard to the Bikeway Project, LACMTA has entered into separate agreements with the City of Los Angeles to provide \$11,885,000 and the City of Santa Monica to provide \$2,690,000 for their respective funding for the Bikeway Project. In addition, LACMTA shall be providing \$1,527,170 in LTF funds toward the Bikeway Project. Payments for Betterments or other improvements requested by the applicable City shall be handled directly between the applicable City and Recipient. (Any cost overruns associated with the Bikeway Project shall be provided by the City of Los Angeles or the City of Santa Monica, as set forth in their respective funding agreements for the Bikeway Project.) Recipient shall not expend more than \$16,102,170 without LACMTA, the City of Los Angeles and/or the City of Santa Monica's prior written approval, as applicable.

9. **DEFAULT:** Recipient's material failure to comply with the terms and conditions contained herein and/or in the Ordinance shall constitute a Default.

10. REMEDIES:

10.1 In the event of a Default by Recipient, LACMTA shall provide written notice of such Default to Recipient with a 60-day period to cure the Default. In the event Recipient or its designee fails to cure the Default within the 60-day period, or if the nature of the Default is such that more than 60-days are reasonably required for its cure, Recipient or its designee has not commenced a cure within the 60-day period and thereafter diligently prosecuted such cure to completion, LACMTA shall have the following remedies: (i) LACMTA may terminate this Agreement with LACMTA Board approval; (ii) LACMTA may make no further disbursements of Funds to Recipient; and/or (iii) LACMTA may recover from Recipient any Funds disbursed to Recipient and used in material breach of this Agreement, as allowed by law or in equity. Any disputes over the existence of a Default or the cure of the Default shall be resolved pursuant to the dispute resolution process set forth in **Part II, Section 12.2**.

10.2 Effective upon receipt of written notice of termination from LACMTA, Recipient shall not undertake any new work or obligation with respect to this Agreement unless so directed by LACMTA in writing. Any Funds or Bikeway Funds expended after termination shall be the sole responsibility of Recipient.

11. RECOGNITION OF MEASURE R FUNDING:

11.1 Recipient shall ensure that Communication Materials contain recognition of LACMTA's contribution to the Expo Project Phase 2 and the Bikeway Project. For purposes of this Agreement, "Communications Materials" shall mean websites, signage on Expo Project Phase 2 and Bikeway Project construction sites, and major public information materials regarding the Expo Project Phase 2.

11.2 Recipient shall ensure that at a minimum, Communications Materials shall include (i) the phrase "A Measure R project funded by Metro"; and (ii) the Metro logo. Further guidance on acknowledging LACMTA contribution is provided in the Communications Materials guidelines available from the LACMTA Communications Division.

11.3 The Metro logo is a trademarked item that shall be reproduced and displayed in accordance with specific graphic guidelines available from the LACMTA Communications Division.

11.4 Recipient shall ensure that any subcontractor, including, without limitation, public relations, public affairs, and/or marketing firms hired to produce Expo Project Phase 2 and/or Bikeway Project Communications Materials shall comply with the requirements contained in this **Section 11**.

12. OTHER TERMS AND CONDITIONS:

12.1 This Agreement, along with its Attachments, and the MCA, constitute the entire understanding between the parties with respect to the subject matter herein. The Agreement

shall not be amended, nor any provisions or breach hereof waived, except in writing signed by the Chief Executive Officers of the parties, or their designees.

12.2 All disputes under this Agreement shall be resolved by the Chief Executive Officers of LACMTA and Recipient. If the Chief Executive Officers are unable to resolve the matter, either Party may institute legal action to recover damages for any default, or to obtain specific performance or to pursue any other rights or remedy available to it at law or in equity. Such legal actions must be instituted in the Superior Court of the County of Los Angeles, State of California.

12.3 Intentionally Omitted

12.4 In the event that there is any court proceeding between the parties to enforce or interpret this Agreement, or to protect or establish any rights or remedies hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorney's fees.

12.5 Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, acts of a public enemy, lawsuit seeking to restrain, enjoin, challenge or delay construction of the Projects and government acts if such cause is beyond the reasonable control and without fault or negligence of the affected party. Each party hereto shall give notice promptly to the other of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this Agreement. Notwithstanding anything to the contrary in this Agreement, in the event of a delay due to a Force Majeure case, an extension of time for any such cause shall be for the period of time reasonable in light of the enforced delay.

12.6 The schedule included in **Attachment B** hereto shall be extended by the period of time commensurate with any extension of time under the Contract(s) (as that term is defined in the MCA) resulting from Force Majeure (as that term is defined in the applicable Contract(s)).

12.7 Recipient shall comply with and insure that work performed under this Agreement is done and accounted for in compliance with Generally Accepted Accounting Principles (GAAP), and all applicable provisions of federal, state, and local laws, statutes, ordinances, rules, regulations, and Modified OMB A-87 or Federal Acquisition Regulations Subpart 31 (whichever is applicable), and the applicable requirements in the MCA. Recipient acknowledges responsibility for obtaining copies of and complying with the terms of the most recent federal, state, or local laws and regulations.

12.8 The Parties acknowledge that the insurance and indemnification obligations of Recipient relating to the Expo Project Phase 2 and the Bikeway Project are set forth in the MCA.

12.9 Recipient agrees that the applicable requirements of this Agreement shall be included in every contract entered into by Recipient or its contractors relating to work performed under this Agreement. For purposes of this **Part II, Section 12.9**, the applicable requirements are **Part II, Sections 3.3, 3.6, Section 6** (to the extent applicable), **Section 11**, and **Section 12.7** (exclusive of the reference to Modified OMB A-87).

12.10 Recipient shall not assign this Agreement, or any part thereof, without prior approval of the LACMTA Chief Executive Officer or his designee, and any assignment without that consent shall be void and unenforceable.

12.11 This Agreement shall be governed by California law.

12.12 If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

12.13 The covenants and agreements of this Agreement shall inure to the benefit of, and shall be binding upon, each of the parties and their respective successors and assigns.

12.14 If any software is developed with the Funds and if Recipient ceases to use the software/ for public purposes or Recipient sells, conveys, licenses or otherwise transfers the software, LACMTA shall be entitled to a refund or credit, at LACMTA's sole option, equivalent to the amount of the Funds spent developing the software. Such refund or credit shall not be required if Recipient reinvests the proceeds of such sale, conveyance, license or transfer into the Projects.

12.15 Parking facilities are part of the Expo Project Phase 2 and shall be designed and/or constructed using the Funds. Recipient shall coordinate with LACMTA parking program staff (see METRO.net for staff listing) in the planning, design and management of the facility and shall ensure that its implementation is consistent with the LACMTA adopted parking policy. For the parking policy, see www.metro.net/projects_studies/call_projects/other_resources.htm.

12.16 Notice shall be given to the parties at the address specified in **Part I, Section 18** unless otherwise notified in writing of change of address.

12.17 Recipient in the performance of the work described in this Agreement is not a contractor nor an agent or employee of LACMTA. Recipient attests to no organizational or personal conflicts of interest and agrees to notify LACMTA immediately in the event that a conflict, or the appearance thereof, arises. Recipient shall not represent itself as an agent or employee of LACMTA and shall have no powers to bind LACMTA in contract or otherwise.

12.18 Time is of the essence in connection with each and every provision of this Agreement. Both parties agree to diligently and expeditiously: (i) process all requests from the other party made pursuant to the provisions of this Agreement, and (ii) take all actions required by this Agreement.

12.19 This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Photocopies of this Agreement may be used as originals.

12.20 Facsimile copies of signatures on this Agreement shall be deemed valid and original.

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENT.MOU.MR400.01

ATTACHMENT A

Description of Expo Project Phase 1

Expo Project Phase 1 is approximately 8.6 miles long, extending from Downtown Los Angeles to Culver City. It has 12 stations consisting of two existing stations (7th/Metro Center and Pico) and ten new stations (23rd Street, Jefferson/USC, Expo Park/USC, Vermont, Western, Crenshaw, Farmdale, La Brea, La Cienega and Culver City). Three of the new stations (La Brea, La Cienega and Venice/Robertson) are aerial. The stations are high-level center and side platform stations.

Expo Project Phase 1 operates in a dual track configuration in Flower Street and Exposition Right-of-Way corridor. Electric power to operate comes from overhead power lines within the street or Exposition Right-of-Way.

Expo Project Phase 1 includes a bicycle facility consisting of a combination of an off-street bike path and reserved on-street bike lanes from Vermont to Wesley Street in Culver City

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENT.MOU.MR400.01

ATTACHMENT B

EXPO PROJECT PHASE 2

Scope of Work

The Expo Project Phase 2 will provide a light rail transit service linking the cities of Los Angeles, Culver City and Santa Monica. The Expo Project Phase 2 includes approximately 6.6 miles of double light rail main track; new bridges and/or improvements to existing bridges; retaining walls and sound walls; embankment improvements; track drainage and storm water improvements, seven passenger stations; parking structures and surface parking lots, traction power substations and catenary system; train control equipment; grade crossings and adjacent roadway improvements; station equipment; wayside equipment; communications equipment; landscaping; a maintenance facility; and all related appurtenances, accessories, subsystems, documentation, procedures, spare parts, manuals and special tools.

A general overview of the Expo Project Phase 2 alignment is provided below:

Venice Blvd Bridge

This section of the alignment begins at the existing Culver City Station and is approximately 0.1 miles. This portion of the alignment runs over a bridge structure across Venice Blvd.

This segment of the Expo Project Phase 2 has no passenger stations.

Venice Blvd Bridge to the West of Motor Avenue

This section of the alignment is approximately 1.2 miles and runs mainly above grade on existing embankment, with structures at National Boulevard, and Motor Avenue. This section of the alignment will provide a 3-car siding.

The alignment in this section includes a gated, at-grade crossing at Bagley Avenue.

There is one station in this segment of the Project: National/Palms, which is more particularly described as follows:

National/Palms Station:

The National/Palms station is located on an embankment above the adjacent Exposition Blvd, with a center platform and is accessed via elevators and stairs. The station is located immediately west of the National Boulevard grade-separated crossing. There will be no provision for parking.

West of Motor Avenue to East of Overland Avenue

This section of the alignment is approximately 0.7 miles and runs mainly within an existing trench, with the exception of an existing box structure under the I-10 Freeway. The alignment in

FTIP#: LAOF021

Measure R ID#MR400.01

PPNO: N/A

AGREEMENT.MOU.MR400.01

this section is considered as having restricted access for Emergency Responders.

There are no stations in this segment of the Expo Project Phase 2.

East of Overland Avenue to the East of 17th Street

This section of the alignment is approximately 3.5 miles with structures at Sepulveda, Sawtelle Blvd/Pico Blvd, Bundy Drive/Centinela Ave, and Cloverfield Blvd/Olympic Blvd.

The alignment in this section includes gated, at-grade crossings at Overland Avenue, Westwood Blvd, Military Avenue, Barrington Avenue, Stewart Street, 26th Street, 20th Street, and 19th Street.

There are four stations in this segment of the Expo Project Phase 2: Westwood, Sepulveda, Bundy, and 26th/Olympic, which are more particularly described as follows:

Westwood Station:

The Westwood station is an at-grade station, with a center platform and an ADA-compliant ramp. The station is located immediately east of the Westwood Blvd at-grade crossing. No Metro parking lot is provided but a Kiss N Ride facility is provided off of Westwood Blvd as well as a neighborhood parking lot.

Sepulveda Station:

The Sepulveda station is an aerial center-platform station and is accessed via elevators and stairs. There will be a parking structure with approximately 260 spaces.

Bundy Station:

The Bundy station is an aerial station above Bundy Drive, with a center platform and is accessed via elevators and stairs. There will be a surface parking lot with approximately 250 spaces.

26th/Olympic Station:

The 26th/Olympic station is an at-grade station, with side platforms and ADA-compliant ramps. The station is located immediately east of the 26th Street at-grade crossing. There will be no provision for parking.

East of 17th Street to the 4th Street Terminus

This section of the alignment is approximately 1.1 miles and runs mainly at-grade in the median of Colorado Blvd.

FTIP#: LAOF021

Measure R ID#MR400.01

PPNO: N/A

AGREEMENT.MOU.MR400.01

The alignment in this section is street-running and includes ungated, at-grade crossings at Colorado and each of the following intersections: 17th Street, 14th Street, 11th Street, Lincoln Blvd, 7th Street, 6th Street and 5th Street.

There are two stations in this segment of the Expo Project Phase 2: Colorado/17th Street, and Colorado/4th Street, which are more particularly described as follows:

Colorado/17th Street Station:

The Colorado/17th Street station is an at-grade station, with a center platform and ADA-compliant ramps and 2nd entrance. The station is located immediately west of the 17th Street at-grade crossing. There are provisions for parking.

Colorado/4th Street Station:

The Colorado/4th Street station is an at-grade station, with two center platforms and ADA-compliant ramps. The station is located between 4th Street and 5th Street. There will be no provision for parking.

Operations & Maintenance Facility

The Expo Project Phase 2 includes the design and construction of an Operations & Maintenance (O&M) Facility. The O&M Facility is to be designed and built to meet the maintenance needs of the light rail vehicles (LRV) required to operate the Expo Project. The O&M Facility shall conform to the following description:

The O&M Facility will accommodate daily servicing and cleaning, inspection and repairs and storage of the LRVs.

Maintenance Shop for:

- LRV repair areas with maintenance pits, vehicle hoists, overhead lifting equipment and high-bay maintenance platforms
- Component repair shops
- Machine shop
- Parts cleaning facility
- Welding shop
- Vehicle Blow Down
- Wheel Truing

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENT.MOU.MR400.01

- Battery shop
- Pantograph shop
- Wheel and axle shop
- Parts and equipment storage area
- Offices, training room, locker rooms, and administration areas
- Operations control center

Maintenance Yard for:

- LRV storage
- Enclosed car wash with blowers
- Cleaning platform
- Maintenance of Way vehicle storage
- Traction Power Substation (TPSS)
- Employee parking
- Automatic sanding facility

Maintenance Shop:

The Primary Maintenance and Administration building (i.e. Maintenance Shop) will be two stories in height, with a building footprint of approximately 51,000 square feet and a total area of approximately 78,000 square feet. The building will be built of pre-cast concrete block or metal panels and glass. The building will house three service tracks each of which could hold a 3-car train set. The remainder of the building would have two usable floors for parts storage, offices, and other activities as required.

Maintenance Yard:

The yard will have six storage tracks, each with sufficient length to store two to three 3-car train sets. Trains can also park in the shop building, on the shop leads (i.e. the tracks leading to the shop building), on the cleaning and wash tracks, and on the run-around track. In addition, the west yard leads (i.e. the tracks leading from the mainline to the yard) has sufficient length for a 3-car train set. In total, the maintenance facility will accommodate 43 to 45 LRVs without

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENT.MOU.MR400.01

compromising efficiency. Entry to the yard will be from two driveways. Surface parking will be provided in the yard. A TPSS will be located in the yard.

A Conceptual Site Plan of the O&M Facility is attached hereto as Exhibit B-1.

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENT.MOU.MR400.01

EXPO PROJECT PHASE 2

MILESTONES/SCHEDULE

Following are the agreed upon Project milestones, and a schedule for achieving those milestones.

MILESTONES	TARGET DATES
Alignment Design/Build Contract	
Award Contract	May 2011
Substantial Completion	December 2015
Test Track Ready	August 2015
CPUC Approval of Safety Certification	May 2016
ROD May 2016	May 2016
Operations & Maintenance Facility Contract	
Award Contract	May 2013
Substantial completion	March 2015
Bikeway Contract	
Award Contract	June 2013
Substantial completion	December 2015
LRV Contract	
Notice to Proceed	August 2012
Delivery of vehicles required for pre-revenue service	February 2016
Delivery of vehicles required to achieve ROD	May 2016

ATTACHMENT C

Description of the Bikeway Project

Description of the Bikeway Project

The Expo Phase 2 Bikeway Project starts at the west bridge abutment at the Venice/Exposition intersection in Los Angeles and ends in Santa Monica at the 17th Street and Colorado Boulevard intersection. The bikeway will parallel the light rail guideway, be compliant with Caltrans criteria and be either an off-street path (Class I), designated on-street lane (Class II), or a sign-designated route (Class III) as generally described below. The Bikeway will be federally funded and therefore a separate project from the locally and state funded Expo Project Phase 2 design build contract.

1. Class I (bike path) on LACMTA Expo ROW from Venice Blvd. (at Exposition Blvd. - Culver City Limit) to Palms Blvd (at National Blvd.), City of Los Angeles
2. Class II (bike lanes) on National Blvd. from Palms Blvd. to Motor Ave., City of Los Angeles. This portion of the bikeway project is separately funded, designed and constructed by the City of Los Angeles
3. Class III (signage) on Northvale to approximately Dunleer Dr., to be provided by the City of Los Angeles
4. Northvale from approximately Dunleer Dr. to Putney Rd. bike class designation to be determined and to be provided by the City of Los Angeles
5. Class I (bike path) on LACMTA Expo ROW from approximately Putney Rd. to Centinela Ave., City of Los Angeles
6. Class I (bike path) on LACMTA Expo ROW from Centinela Ave to 17th Street, City of Santa Monica

At the time this Agreement is entered into, this Attachment C describes the proposed scope of work for the Bikeway Project given the current Bikeway Budget. If the scope of work needs to be modified, then any modifications to the work scope set forth herein and any revised Bikeway Budget must be agreed to by the City of Los Angeles, the City of Santa Monica and the LACMTA. The Bikeway Project shall include the following scope of work:

- A. Scope of work is based on 30% Preliminary Engineering drawings (see EXH-1-1,1-2,1-3,2-1,2-2,2-3, and 3-1).

FTIP#: LAOF021

PPNO: N/A

Measure R ID#MR400.01

AGREEMENT.MOU.MR400.01

- B. All work including but not limited to grading, drainage, lighting, fencing, gates, utility work (including relocations and new service connections for power and water), landscaping and irrigation, environmental, SWPPP, ADA ramps, signage, barriers and retaining curb to support an autonomous project.
- C. There will be signalized intersections and crosswalks at the following cross streets:
 - a. Sawtelle Blvd./Exposition Blvd.
 - b. Centinela Ave./Exposition Blvd.
 - c. Olympic Blvd./LRT crossing
 - d. 19th St./LRT crossing
- D. Loop detection or video detection from back of curb ramp and sidewalk at each intersection with a bikeway crossing. Construction Authority or its Contractor shall coordinate with the agency having jurisdiction in this area regarding this work.

Milestones, Schedule and Completion Deadlines:

- A. Proposed Design Schedule – the following dates are based on Design Kick-off March 2013
 - 60% Design Package submitted May 2013 for City of SM *only*
 - 85% Design Package submitted July 2013 for City of LA, August 2013 for City of SM
 - 100% Design Package submitted November 2013 for City of LA, December 2013 for City of SM
 - Final approval of bikeway design package anticipated by January 13, 2014 for City of LA and February 24, 2014 for City of SM
- B. Substantial Completion Deadline – On or before July 10, 2015.
- C. Punch List Completion Deadline – Within ninety (90) Days after the date of Substantial Completion.
- D. Final Acceptance Deadline – Within ninety (90) Days after the date of Punch List Completion.

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENT.MOU.MR400.01

ATTACHMENT D

PROJECT FUNDING

Exposition Transit Corridor - Phase II Project Funding

(\$ in millions)

ATTACHMENT D

Funding Sources Programmed	FY 10 & Prior	FY 11	FY 12	FY 13	FY 14	FY 15	FY 16	FY 17	Total
1 Prop A 35%									224.027
2 Prop C 25%	2.542	0.002			8.830	143.801	63.846	7.550	5.044
3 Measure R 35% Cash								2.500	286.306
4 Measure R 35% Build America Bonds (BABs)		60.594	76.387	23.438	226.871	35.997			259.125
5 Measure R 35% 2010 Tax Exempt Bonds		68.552	20.529	122.145	27.497	5.317			121.894
6 Measure R 35% Commercial Paper									193.000
7 Measure R Subtotal	-	129.146	96.916	173.079	232.187	228.997	-	-	860.325
8 Prop 1B Bonds - PTMISEA	15.019				33.410				48.429
9 Prop 1B Bonds - SLPP					28.383				28.383
10 Regional Improvement Program (State)				10.462	18.484	18.484			47.430
11 Local Agency Contribution - Santa Monica			16.500		20.000				16.500
12 Local Agency Contribution - City of Los Angeles					20.000				28.834
13 Subtotal Local Agency Contribution	-	-	16.500	-	20.000	-	8.834	-	28.834
14 Subtotal Sources for Expo Authority Costs	17.561	129.148	113.416	183.541	341.294	391.282	72.680	10.050	1,258.972
15 Prop C 25%	0.362	0.258							0.620
16 Measure R 35% Cash			0.188	1.247	10.930	26.528	9.732		48.625
17 Prop 1B Bonds - PTMISEA		0.015	0.456						0.471
18 Regional Improvement Program (State)				0.370					0.370
19 Subtotal Sources for LACMTA Project Costs	0.362	0.273	0.644	1.617	10.930	26.528	9.732	-	50.086
20 Subtotal Sources for Expo Phase 2	17.923	129.421	114.059	185.158	352.224	417.810	82.412	10.050	1,309.058
21 Regional Improvement Program (State)			0.980	26.295	42.900	57.046	66.070	8.809	202.100
22 Subtotal Sources for LRV Project	-	-	0.980	26.295	42.900	57.046	66.070	8.809	202.100
23 Subtotal for the "Projects"	17.923	129.421	115.039	211.453	395.124	474.856	148.482	18.859	1,511.158
24 City of Los Angeles TEA					7.608	1.900			9.508
25 City of Los Angeles local funds			0.624	0.312	1.441	2.019			2.377
26 City of Santa Monica TEA			0.176	0.088	0.408	1.474			2.019
27 City of Santa Monica local funds					0.053				0.672
28 LACMTA local funds									1.527
29 Subtotal Sources for Bikeway Project (890003)	-	-	0.800	0.400	9.510	5.392	-	-	16.102

* Anticipated funding sources as of the date of the funding agreement. LACMTA reserves the right to substitute other non-federal funds as needed.

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENTMOU.MR400.01

ATTACHMENT E

EXPENDITURE PLAN – COST & CASH FLOW BUDGET

**Exposition Transit Corridor - Phase 2
Projects Expenditure Plan - Cost and Cash Flow Budget**
(\$ in millions escalated to the year of expenditure)

ATTACHMENT E

Costs	FY 10 & Prior Actual	FY 11 Actual	FY 12 Actual	FY 13	FY 14	FY 15	FY 16	FY 17	Total
1 Guideways		25,126	42,994	54,045	64,354	16,021			202,540
2 Stations, Stops, Terminals			16,945	25,058	27,100	14,957			84,060
3 Support Facilities: Yards, Shops				0,800	61,430	52,780			115,010
4 Sitemwork, Special Conditions		27,124	22,534	56,941	43,982	33,419			184,000
5 Systems				1,497	51,559	39,963			93,019
6 Right of Way		63,303	14,250	15,665	48,000	125,482			266,700
7 Professional Services	17,561	13,595	16,693	19,421	35,869	47,041		10,050	172,911
8 Contingency				10,114	9,000	61,619		60,000	140,733
9 Subtotal Expo Authority Costs (890002)	17,561	129,148	113,416	183,541	341,294	391,282	72,680	10,050	1,258,972
10 Project Mgt, planning, start-up, etc. (460301/860301)	0.362	0.273	0.494	1,519	0.993	2,778	4,240		10,659
11 Div 22 Body Repair and Painting Facility (861301)			0.150	0.098	3,078	6,422	1,252		11,000
12 Ticket Vending/Validators/Fare Gates (860301)					1,388	3,962			5,350
13 Mobile and Portable Radios (860301)					0.983	2,292			3,275
14 Traction Power Substations (860002)					3,488	9,712	4,240		17,440
15 Non-revenue equipment (860301)						0.362			0.362
16 Rail Operations Center Expansion & Oper (860301)					1,000	1,000			2,000
17 Subtotal LACMTA Project Costs	0.362	0.273	0.644	1,617	10,930	26,528	9,732	0.000	50,086
18 Subtotal Costs for Expo Phase 2 Project	17,923	129,421	114,060	185,158	352,224	417,810	82,413	10,050	1,309,058
19 Light Rail Vehicle Project (206035)			0.980	26,295	42,900	57,046	66,070		202,100
20 Subtotal Costs for the "Projects"	17,923	129,421	115,040	211,453	395,124	474,856	148,483	18,859	1,511,158
21 Bikeway costs (890003)	0.470	0.000	0.000	0.885	6,000	8,747			16,102
22 GRAND TOTAL COSTS	18,393	129,421	115,040	212,338	401,124	483,604	148,483	18,859	1,527,260

FTIP#: LAOF021
PPNO: N/A

Measure R ID#MR400.01
AGREEMENTMOU.MR400.01

ATTACHMENT F

BOND REQUIREMENTS

The provisions of this Attachment E apply only if and to the extent some or all of the Funds are derived from LACMTA issued Bonds or other debt, the interest on which is tax exempt for federal tax purposes and/or Build America Bonds as defined in the American Reinvestment and Recovery Act of 2009 or similar types of bonds (collectively, the "Bonds") as set forth in **Part I, Section 7.1C**.

Recipient acknowledges that some or all of the Funds may be derived from Bonds, the interest on which is tax-exempt for federal tax purposes or with respect to which LACMTA receives a Federal subsidy for a portion of the interest cost or the investor receives a tax credit. Recipient further acknowledges its understanding that the proceeds of the Bonds are subject to certain ongoing limitations relating to the use of the assets financed or provided with such proceeds ("Project Costs" or "Project Components") in the trade or business of any person or entity other than a governmental organization (any such use by a person or entity other than a governmental organization is referred to as "Private Use"). Private Use will include any sale, lease or other arrangement pursuant to which a nongovernmental person or entity receives a legal entitlement of a Project Component and also includes certain agreements pursuant to which a nongovernmental person will operate or manage a Project Component. Each monthly invoice submitted by Recipient to reimburse prior expenditures (or to be received as an advance) shall provide information regarding the specific Project Costs or Project Components to which the Funds which pay that invoice will be allocated and whether there is or might be any Private Use associated with such Project Costs or Project Components. Recipient will, for the entire time over which LACMTA's Bonds or other debt remains outstanding, (1) notify and receive LACMTA's approval prior to entering into any arrangement which will or might result in Private Use and (2) maintain records, including obtaining records from contractors and subcontractors as necessary, of all allocations of Funds to Project Costs or Project Components and any Private Use of such Project Costs or Project Components in sufficient detail to comply and establish compliance with Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"), or similar code provision then in effect and applicable, as determined by the LACMTA in consultation with its bond counsel.

With respect to the investment of any Funds advanced to Recipient pursuant to **Part I, Section 3.2** hereof or otherwise, and any earnings derived from the investment of such Funds, Recipient will record and maintain the following information such that LACMTA can comply and establish compliance with Section 148 of the Code, or similar code provision then in effect and applicable, as determined by LACMTA in consultation with its bond counsel: (i) the purchase date of each investment, (ii) the purchase price, (iii) information establishing that the purchase price is the fair market value as of such date (for example, the published quoted bid by a dealer in such investment on the date of purchase), (iv) any accrued interest paid, (v) the face

Measure R Agreement

FTIP#: LAOF021

Measure R ID#MR400.01

PPNO: N/A

AGREEMENTMOU.MR400.01

amount of, (vi) the coupon rate, (vii) the periodicity of interest payments, (viii) the disposition price, (ix) any accrued interest received upon disposition, and (x) the disposition date. Recipient will make such information available to the LACMTA promptly after request. Recipient will also adhere to any investment instructions or limitations, as directed by LACMTA, which are necessary to comply and establish compliance with Section 148 of the Code or similar code provision then in effect and applicable, as determined by LACMTA in consultation with its bond counsel.

Recipient will designate one or more persons that will be responsible for compliance with the obligations described in this **Attachment F** and notify LACMTA of such designations.

FTIP#: LAOF021
PPNO: N/A

Measure R ID# MR400.01
AGREEMENTMOU.MR400.01

ATTACHMENT G

FEDERAL TRANSPORTATION IMPROVEMENT PROGRAM (FTIP) SHEET

Los Angeles Metropolitan Transportation Authority 2013 Federal Transportation Improvement Program (\$000)

TIP ID: **LA0F021**

Implementing Agency: **Los Angeles County MTA**

Project Description: **EXPOSITION LIGHT RAIL TRANSIT SYSTEM PHASE II - FROM CULVER CITY TO SANTA MONICA**

SCAG RTP Project #: LA0F021
 Study: N/A Is Model: YES Model #: LA0F021
 PM: James Allen - (213) 922-2556
 Email: Allenj@metro.net
 LS: N LS GROUP#:
 Conformity Category: TCM Committed
 Completion Date 12/31/2017

System :Transit Route : Postmile:

Phase: Environmental Document/Pre-Design Phase (PAED)

Completion Date 12/31/2017

Transit Rt: Culver City to Santa Monica Transit Mode: Light Rail Fare:1.50 Trans Fee:0.00 Prk Ride Loc:none

Air Basin: SCAB Envir Doc: FINAL ENVIRONMENTAL IMPACT STATEMENT

Uza: Los Angeles-Long Beach-Santa Ana Sub-Area: Sub-Region:

Headway Peak: 6 Headway OP: 12 Stop Time :0.30 Parking \$: Stop Dist:

CTIPS ID: 20910002604 EA #: PPNO:

Program Code: LRN92 - LIGHT RAIL EXTENSION Stop Loc: National/Palm

	PHASE	PRIOR	12/13	13/14	14/15	15/16	16/17	17/18	BEYOND	TOTAL
CITY - City Funds	PE			\$0	\$0					\$0
	RW			\$0	\$0					\$0
	CON			\$0	\$0					\$0
	SUBTOTAL			\$0	\$0					\$0
MR35 - Measure R 35% New Rail or Bus Transit Capital	PE	\$54,397	\$0	\$0	\$0	\$0				\$54,397
	RW	\$109,600	\$107,600	\$37,501	\$13,000	\$0				\$267,701
	CON	\$15,923	\$171,380	\$137,149	\$214,050	\$6,900				\$545,402
	SUBTOTAL	\$179,920	\$278,980	\$174,650	\$227,050	\$6,900				\$867,500
PC25 - Los Angeles County Proposition "C25"	PE	\$300	\$0	\$0						\$300
	RW	\$0	\$0	\$0						\$0
	CON	\$2,300	\$10,300	\$102,400						\$115,000
	SUBTOTAL	\$2,600	\$10,300	\$102,400						\$115,300
PROPA - Los Angeles County Proposition "A"	PE					\$0	\$0	\$0		\$0
	RW					\$0	\$0	\$0		\$0
	CON					\$203,790	\$24,110	\$10,100		\$238,000
	SUBTOTAL					\$203,790	\$24,110	\$10,100		\$238,000
PTA-RIP - Public Transit Account-RIP	PE	\$0								\$0
	RW	\$0								\$0
	CON	\$47,800								\$47,800
	SUBTOTAL	\$47,800								\$47,800
PTMISEA - Public Trans Modernization Imp & Serv. Enhancement Acct.	PE	\$15,200				\$0				\$15,200
	RW	\$0				\$0				\$0
	CON	\$0				\$33,700				\$33,700
	SUBTOTAL	\$15,200				\$33,700				\$48,900
TOTAL		\$245,520	\$289,280	\$277,050	\$227,050	\$244,390	\$24,110	\$10,100		\$1,317,500
		TOTAL PE: \$69,897		TOTAL RW: \$267,701		TOTAL CON: \$979,902				

Los Angeles Metropolitan Transportation Authority

2013 Federal Transportation Improvement Program (\$000)

TIP ID **LA0F021**

Implementing Agency **Los Angeles County MTA**

- **General Comment:** The project is being carried over without any changes because it has funding for future years. Moved \$35.3 million of PTA-RIP to FY11/12. Metro received CTC allocation approval for these funds in Oct. 2011 (see attached).

- **Mdeling Comment:** The project is being carried over without any changes because it has funding for future years.

- **TCM Comment:** The project is being carried over without any changes because it has funding for future years.

- **Narrative:** Project cost stays the same

Revise Funds Between Fiscal Years

PTA-RIP:

— Delete funds in 10/11 in CON for \$12,500

+ Increase funds in 11/12 in CON from \$35,300 to \$47,800

PTMISEA:

- Decrease funds in 09/10 in ENG from \$29,863 to \$15,200

— Delete funds in 09/10 in ROW for \$1,000

— Delete funds in 09/10 in CON for \$14,427

— Delete funds in 11/12 in CON for \$3,610

▶ Add funds in 15/16 in CON for \$33,700

CITY:

— Delete funds in 13/14 in CON for \$36,100

— Delete funds in 14/15 in CON for \$8,600

PC25:

- Decrease funds in 09/10 in ENG from \$2,600 to \$300

▶ Add funds in 11/12 in CON for \$2,300

— Delete funds in 12/13 in ROW for \$12,217

- Decrease funds in 12/13 in CON from \$100,483 to \$10,300

▶ Add funds in 13/14 in CON for \$102,400

PROPA:

— Delete funds in 12/13 in CON for \$89,490

— Delete funds in 13/14 in CON for \$135,510

▶ Add funds in 15/16 in CON for \$203,790

▶ Add funds in 16/17 in CON for \$24,110

▶ Add funds in 17/18 in CON for \$10,100

MR35:

— Delete funds in 09/10 in ENG for \$28,934

— Delete funds in 10/11 in ENG for \$8,500

— Delete funds in 10/11 in ROW for \$80,736

— Delete funds in 10/11 in CON for \$73,536

▶ Add funds in 11/12 in ENG for \$54,397

- Decrease funds in 11/12 in ROW from \$135,965 to \$109,600

- Decrease funds in 11/12 in CON from \$153,446 to \$15,923

+ Increase funds in 12/13 in ROW from \$24,783 to \$107,600

▶ Add funds in 12/13 in CON for \$171,380

▶ Add funds in 13/14 in ROW for \$37,501

+ Increase funds in 13/14 in CON from \$42,403 to \$137,149

+ Increase funds in 14/15 in CON from \$200,113 to \$214,050

- Decrease funds in 15/16 in CON from \$74,384 to \$6,900

Total project cost remains the same at \$1,317,500

Last Revised **Adoption 13-00 - APPROVED**

Change reason: Carry Over, MINOR CHANGE

Total Cost **\$1,317,500**

FTIP#: LAOF021

PPNO: N/A

Measure R ID#:MR400.01

AGREEMENT.MOU.MR400.01

ATTACHMENT H-1

STATE QUARTERLY PROGRESS AND COMMITMENT REPORT

**Division of Mass Transportation
 Public Transportation Modernization, Improvement and
 Service Enhancement Account (PTMISEA)
 Semi-Annual Report**

4) INTEREST EARNED TO DATE ON PTMISEA FUNDS, FOR THIS PROJECT:

Amount Awarded:

Interest Rate:

Interest Earned:

5) LIST THE COMPLETION STATUS OF THE MILESTONES THAT PERTAIN TO THIS PROJECT:

Phase:	Percent Complete:
Project Approval & Environmental Document (PA & ED)	0%
Plan Specification & Estimates (PS & E)	0%
Right of Way	0%
Construction *	0%
Vehicle/ Equipment Purchase	0%
Closeout	0%
* Note: any additional Design will report with Construction	

6) COMPLETION STATUS:

Overall Project Percent Complete: _____ %

Date (anticipated completion date): _____

**Division of Mass Transportation
Public Transportation Modernization, Improvement and
Service Enhancement Account (PTMISEA)
Semi-Annual Report**

7) AMENDMENT: Please describe any changes to the project scope, cost, and/or schedule that have occurred.

	Original	Revised
<u>Project Description/ Scope of Work</u>		
<u>Funding</u>		
99313 :		
99314 :		
PTMISEA Interest :		
<u>Other Funds</u>		
Federal :		
State :		
Local :		
<u>Total</u>		
<u>Schedule Date</u>		
Begin PA & ED :		
End PA & ED :		
Begin PS & E :		
End PS & E :		
Begin Right of Way :		
End Right of Way :		
Begin Construction :		
End Construction :		
Begin Vehicle/Equipment Order :		
End Vehicle/Equipment Order :		
Begin Closeout Phase :		
End Closeout Phase :		
Justification for Change :		

PERSON PREPARING THIS REPORT (please type or print)		PHONE:	DATE:
APPROVAL AUTHORITY* (signature)		TYPED NAME AND PHONE NUMBER	
Date:			

*Note: The same authority that signed the Allocation Request must sign here.

ATTACHMENT I

EXTRA ALLOWABLE COST LIST

Costs relating to the following list of items, which are otherwise unallowable under OMB A-87, are considered allowable under this Agreement if the cost is otherwise not prohibited by this Agreement.

1. Advertising and Public Relations (Section 2)
 - a. Section 2.e.(2) (a) - Displays, demonstrations and exhibits.
 - b. Section 2.e.(2) (b) - Meeting rooms for business purposes.
 - c. Section 2.e.(2) (c) - Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations and providing briefings.
 - d. Section 2.e.(3) - Promotional items and memorabilia, including models, gifts and souvenirs.

2. General Government Expenses (Section 23)
 - a. Section 23.a.(2) – Salaries and other expenses for similar local governmental bodies whether incurred for purposes of legislation or executive direction.

3. Idle Facilities and Idle Capacity (Section 24)
 - a. Section 24.b – Idle facilities cost for the three train depots.

4. Insurance (Section 25)
 - a. Section 25.h – Commercial insurance premium for Errors and Omissions insurance that protects against the cost of contractors for correction of the contractor's own defects in material or workmanship.

5. Interest (Section 26)
 - a. Section 26.b - Finance cost related to advancement of money for Design Build financing expenses.

ATTACHMENT J

FINAL UNIFIED COST MANAGEMENT PROCESS AND POLICY



Metro

Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000
metro.net

CON5

REVISED

**CONSTRUCTION COMMITTEE
MARCH 17, 2011**

**MEASURE R PROJECT DELIVERY COMMITTEE
MARCH 17, 2011**

SUBJECT: FINAL UNIFIED COST MANAGEMENT PROCESS AND POLICY

ACTION: RECEIVE AND FILE

RECOMMENDATION

Receive and file the final Unified Cost Management Process and Policy for Measure R Projects (Attachment A).

ISSUE

In January 2011, the Los Angeles County Metropolitan Transportation Authority LACMTA Board of Directors approved the final Unified Cost Management Process and Policy for Measure R Projects as shown in Attachment A. Changes directed by the Board are indicated by ~~strikeout~~, **bold**, and underlined typefaces.

DISCUSSION

Measure R projects will be managed based on the Board adopted policy.

NEXT STEPS

The Executive Director for Countywide Planning and the Executive Director for Transit Project Delivery are implementing the policy. We also are developing a Measure R Contingency funds policy recommendation for the LACMTA Board of Directors to consider in April 2011.

ATTACHMENT(S)

- A. Unified Cost Management Process and Policy for Measure R Projects
- B. Measure R Transit Corridor Map

Prepared by: David Yale, Deputy Executive Officer of Regional Programming
Regional Capital Development

Renée Berlin

per

Martha Welborne, FAIA
Executive Director, Countywide Planning

Krishniah Murthy

Krishniah Murthy P.E.
Executive Director Transit Project Delivery

Arthur T. Leahy

Arthur T. Leahy
Chief Executive Officer

ATTACHMENT A
Unified Cost Management Process and Policy
for Measure R Projects

Introduction

The MTA will follow a unified cost management process and policy for the control and minimization of project costs for the Measure R transit **and highway** projects. At the core of the unified cost control management process and policy is a commitment to follow a new step-by-step evaluation of project costs against possible resources to address project shortfalls. Shortfalls that cannot be addressed at the project level by value engineering or other measures, such as changes in the scope of the project, will be subject to a new stepwise evaluation process.

The new step-by-step cost management process will require the MTA Board to review and consider approval of project cost estimates against funding resources at key milestone points throughout the environmental, design, and construction phases of the Measure R transit **and highway** projects. At each milestone, MTA staff is directed to: (1) submit a project that is consistent with the budget; (2) identify any issues when a project is not consistent with the budget; and (3) propose corrective actions before the project advances further, if it is not consistent with the budget. For Measure R funds, the planned funding resources (including any prior Measure R expenditures) shall not exceed the amount shown in the "New Sales Tax Total" column of the Measure R expenditure plan. At each milestone, the planned funding resources shall not exceed the amounts shown. These key milestones include the following decision points:

- 1) Selection of conceptual design alternatives to be studied in the environmental phase;
- 2) Selection of the Locally Preferred Alternative and entrance into the Preliminary Engineering phase;
- 3) Approval of the final environmental document and entrance into the final design phase;
- 4) Establishment of a life-of-project budget prior to construction; and,
- 5) Any amendment to the life-of-project budget.

If increases in cost estimates occur, the MTA Board must approve a plan of action to address the issue prior to taking any action necessary to permit the project to move to the next milestone. Increases in cost estimates will be measured against the 2009 Long Range Transportation Plan as adjusted by subsequent actions on cost estimates taken by the MTA Board. Shortfalls will first be addressed at the project level prior to evaluation for any additional resources using these methods in this order:

- 1) Value Engineering and or scope reductions;
- 2) New local agency funding resources;
- 3) Shorter segmentation; **and,**
- 4) **Other cost reductions within the same transit or highway corridor;**
- 5) **Other cost reductions within the same sub-region; and finally,**

- 6) Countywide transit cost reductions or other funds will be sought using pre-established priorities.

The objective of the cost management process and policy is to insure the prompt development and consideration of project cost alternatives that genuinely address the cost controls necessary to successfully deliver all **42** Measure R transit **and highway** corridor projects.

Process and Policy Detail

The unified cost management processes and policies that are proposed controls are as follows:

- 1) A regional long-range transportation plan (covering at least 20 years) for Los Angeles County shall be adopted at least once every five years. For interim years, staff will report on changes affecting the major financial assumptions of the plan and progress toward the implementation of new projects and programs. The plan update report shall also highlight Board approved actions taken during the interim period that affect the plan outcomes or schedules (*from Financial Stability Policy*);
- 2) MTA shall complete projects accelerated through the 30/10 Initiative in the same sequence as the adopted 2009 Long Range Transportation Plan (LRTP) (*from 30/10 Initiative Position Statement*);
- 3) MTA shall only utilize pledged federal assistance from the 30/10 Initiative if the construction and financing costs are less than the available funds (adjusted for inflation) planned in the adopted 2009 LRTP, unless those costs are being adjusted by the minimum necessary to accomplish an operable segment for the corridor (*from 30/10 Initiative Position Statement*);
- 4) Measure R transit corridor **and highway** projects shall be presented separately for approval by the Board in a step-by-step cost control process that will evaluate project cost estimates against funding resources at key milestones points throughout the environmental, design, and construction phases of the 30/10 transit projects. For Measure R funds, the planned funding resources (including any prior Measure R expenditures) shall not exceed the amount shown in the "New Sales Tax Total" column of the Measure R expenditure plan. These key milestones include the following decision points:
 - a. Selection of conceptual design alternatives to be studied in the environmental phase;
 - b. Selection of the Locally Preferred Alternative and entrance into the Preliminary Engineering phase;
 - c. Approval of the final environmental document and entrance into the Final Design phase;
 - d. Establishment of a life-of-project budget prior to construction; and,
 - e. Any amendment to the life-of-project budget.

- 5) At any of the milestones above, the MTA will seek to control and minimize Measure R transit and highway project costs prior to taking any action necessary to permit the project to move to the next milestone. Cost minimization efforts will be measured against the 2009 Long Range Transportation Plan as adjusted by subsequent actions on cost estimates taken by the MTA Board. Shortfalls will first be addressed at the project level prior to evaluation for any additional resources using these methods in this order:
- a. Value engineering and/or scope reductions;
 - b. New local agency funding resources;
 - c. Shorter segmentation; **and,**
 - d. **Other cost reductions within the same transit or highway corridor (see Attachment B);**
 - e. **Other cost reductions within the same sub-region (See Attachment B); and,**
 - f. Countywide transit **and highway** cost reductions and/or other funds will be sought using pre-established priorities, as follows:
 - i. Where applicable, Measure R Transit Capital Subfund Contingency-Escalation Allowance funds (Measure R Expenditure Plan, Page 2 of 4, Line 18); **and,**
 - ii. **Where applicable, Measure R Highway Capital Subfund Contingency-Escalation Allowance funds (Measure R Expenditure Plan, Page 3 of 4, Line 39); and,**
 - iii. Where Line 18 is not applicable, the LRTP Near-Term Strategies and Priority Setting Criteria will be followed (Item 9, as Adopted by the Board of Directors in March 2010).

Each Measure R transit **or highway** project will be considered on a case-by-case basis at each milestone and a rationale developed if resources from the prior step above are insufficient or not recommended for good reason. The MTA Board will be presented with all viable options and will have the sole authority to make any final funding and project delay decisions.

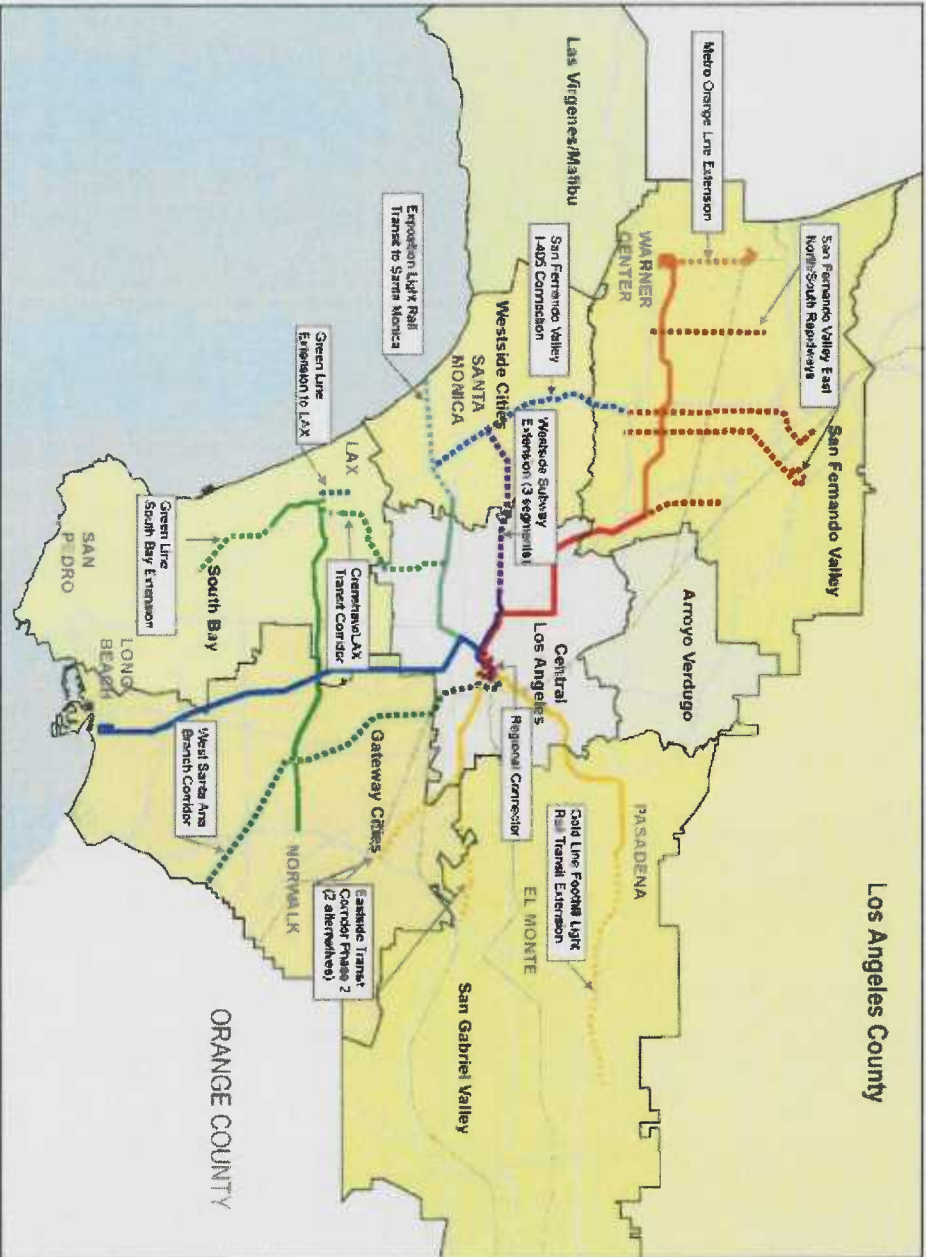
- 6) Prior to inclusion in the annual budget, Measure R transit corridor **and highway** projects shall be presented separately for approval by the Board for a life-of-project budget. Subsequently, capital projects with life-of-project budget changes that cause the project to exceed \$1 million or if the change exceeds \$1 million shall be presented to the Board for approval (*from Financial Stability Policy*);
- a. Prior to life-of-project budget approval, the MTA shall compare the sum of the cost of the Measure R transit **and highway** projects to date and the proposed life of project budget (as de-escalated) to the most up-to-date LRTP funding forecast for Measure R transit **and highway** projects. If the life-of-project budget is less than the anticipated funds available as compared to the up-to-date LRTP funding forecast, then MTA can approve the life of project budget. If the life-of-project budget are more than the available funds, then MTA would not execute a construction contract unless the MTA Board approved cost reductions, project delays or other

funding to make up the difference (*modifies and would supersede language from the body of 30/10 Initiative Position Statement*);

- 7) Prior to approval of a life-of-project budget that exceeds currently committed revenues and prior to approval of a life-of-project budget cost increase, MTA staff will evaluate the possibility of securing the necessary cost savings or revenues for the project. Within the parameters of the MTA Board's policy not to seek transit funds from highway resources, or vice-versa, staff will first seek to identify cost and/or additional funds in a step-by-step manner from:
 - a. Value engineering and/or scope reductions;
 - b. New local agency funding resources;
 - c. Shorter segmentation; **and,**
 - d. **Other cost reductions within the same transit or highway corridor;**
 - e. **Other cost reductions within the same sub-region; and,**
 - f. Countywide transit cost reductions and/or other funds will be sought using pre-established priorities, as follows:
 - i. Where applicable, Measure R Transit Capital Subfund Contingency-Escalation Allowance funds (Measure R Expenditure Plan, Page 2 of 4, Line 18); **and,**
 - ii. **Where applicable, Measure R Highway Capital Subfund Contingency-Escalation Allowance funds (Measure R Expenditure Plan, Page 3 of 4, Line 39); and,**
 - iii. Where Line 18 is not applicable, the LRTP Near-Term Strategies and Priority Setting Criteria will be followed (Item 9, as Adopted by the Board of Directors in March 2010).
- 8) A specific MTA Board action is required to re-program highway capital project funding for use on transit **or highway** capital projects as a result of 30/10, unless such re-programming does not result in a net decrease to the highway capital project funding (*from 30/10 Initiative Position Statement*);
- 9) Likewise, a specific MTA Board action is required to re-program transit capital project funding for use on highway capital projects as result of 30/10, unless such re-programming does not result in a net decrease to the transit capital project funding (*from 30/10 Initiative Position Statement*); and,
- 10) Any capital project savings above \$200,000 must return to the Board for approval prior to the reprogramming or transfer of funds to other projects or programs (from Financial Stability Policy).

ATTACHMENT B

Measure R Transit Corridor Map With Sub-regional Boundaries



ATTACHMENT K

LACMTA PROCEDURE #PRCL12 – PROJECT CONTINGENCY



DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/18/24
PROJECT CONTINGENCY	Page: 1 of 7
Approved: <i>[Signature]</i>	Date: 5/27/11

1.0 GENERAL The application, management and control of project contingency will be implemented throughout the entire life cycle of a project beginning with feasibility studies and continuing through environmental clearance, design, construction and final closeout. Assessing contingency, whether in cost or time, is an integral part of the total estimated budget and schedule of a project. Contingency for each project is determined through a risk assessment process.
Reference: PRCL7 – Risk Management

2.0 DEFINITION OF TERMS Project contingency is an allowance to mitigate risk to a project. The amount of project contingency is dependent on the complexity and uncertainties (risks) at each given phase of the project. Project contingency is measurable in cost and time.

3.0 RESPONSIBILITIES LACMTA Board: approves the total capital life-of-project (LOP) budget which includes the contingency cost element.

The Executive Director, Transit Project Delivery, has delegated to the Project Manager (PM) of each capital project the responsibility of managing the adopted LOP budget, including the project contingency cost element during the design, construction, and final closeout phases. In addition, the PM has responsibility for achieving the adopted revenue operation date and managing the schedule contingency through the life cycle of the project.

Director, Project Control (DPC): responsible for maintaining and monitoring the project budget and project schedule during the design, construction and project closeout and maintains the contingency drawdown log, cost trending program and schedule contingency log.

4.0 PROCEDURES Project contingency, both in cost and time, will be determined during the risk assessment process. Risks to the project will be determined by evaluating the project definition and scope, current cost estimate and schedule, project conditions, and the effectiveness and efficiency in project delivery.

4.1 Establishing Project Contingency The risk assessment process will yield an identification of risks to the project. Risks to the project are best mitigated if identified early within the life of the project, thereby limiting the amount of required contingency.

Risks are characterized in the following categories:



DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/24/11
PROJECT CONTINGENCY	Page: 2 of 7

- **Requirements Risk** is associated with project goals and requirements during project development and is influenced by project stakeholders.
- **Design Risk** is associated with project definition and the performance of design-related activities.
- **Market Risk** is associated with the procurement of construction-related services, such as labor, materials and equipment.
- **Construction Risk** is associated with unusual weather, unforeseen site conditions, uncertainty in contractor planned production rates, equipment mechanical failures, etc.

Each project risk will be presented as high, medium or low, with an estimated cost and time impact, as applicable. The qualitative and quantitative analysis of risks determines the project contingency, both allocated and unallocated. Allocation of cost contingency will be summarized to the following reporting cost elements: construction, right-of-way, vehicles, and professional services, including design services. Unallocated cost contingency will be within the project contingency element.

Prior to the award of each construction contract, allocated cost contingencies will be reexamined and set at the necessary construction line items to cover anticipated contract modifications as may be requested by the contractor and for owner-related changes.

**4.2
Cost Contingency
Targets**

The amount of cost contingency for each project will be determined by the complexity and uncertainties surrounding the project. Target contingencies are to provide a guideline or minimum recommended value for each project phase or project milestone. The following are recommended target ranges to be considered for total project cost contingency, the aggregate of allocated and unallocated:

- Entry into Preliminary Engineering - 25% to 35%
- Entry into Final Design - 15% to 25%
- Project Adoption or Award of an FFGA - 15% to 20%
- At construction contract(s) award - 10% to 15%
- 50% construction has been completed - 5% to 10%
- Construction is substantially completed - 1% to 3%



Metro

DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/24/11
PROJECT CONTINGENCY	Page: 3 of 7

**4.3
Schedule
Contingency Targets**

The project schedule should be designed to withstand any delays that may occur over the life cycle of the project. As a general rule, the project should have sufficient schedule contingency available to absorb schedule delays equal to 20% of the duration from entry into final design through to the commencement of revenue service. This rule is applicable to each project delivery method, whether it is Design-Bid-Build, Design-Build or Construction Management At-Risk.

The DPC shall forecast and trend the project schedule contingency and shall identify potential recovery plans if required.

**4.4
Risk Assessments
Workshops**

Formal risk assessment workshops, in conjunction with project contingency reviews, may occur at the following project milestones: Reference: PRCL7 – Risk Management

- Entry into Preliminary Engineering
- Entry into Final Design
- FFGA Award (Federal New Starts Projects)
- 40% of construction contracts have been awarded
- 20% construction has been completed
- 50% construction has been completed
- 80% construction has been completed

Although, project contingency is set at the adoption of the life-of-project budget, it is still necessary to perform periodic project contingency reviews during the life cycle of the project. The project contingency review outcome is to assess if there is sufficient contingency available at the above milestones. In addition, this protects the project from an unnecessary early drawdown of contingency.



Metro

DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/24/11
PROJECT CONTINGENCY	Page: 4 of 7

**4.5
Monitor and Status
Contingency**

Besides the formal workshops that are established to review the status of project contingency, project management staff is responsible to review cost forecast trends each quarter and adjust project contingency line items, allocated and unallocated, as necessary.



The DPC shall maintain and document all changes to cost contingency line items (both allocated and unallocated). This is accomplished through updating of the cost forecast and contingency drawdown log.

The DPC shall also status the schedule contingency which is accomplished through updating the schedule contingency log.

Each quarter the DPC will review with the PM, recommended changes within the contingency line items along with an assessment of risk associated with the project and the adequacy of remaining contingency for the individual cost items. The amounts within the contingency line items may be transferred to a corresponding work package by the PM.

**5.0
FLOWCHART** Not Applicable

**6.0
REFERENCES** PRCL7 Risk Management

**7.0
ATTACHMENTS** Exhibit 1 – Project Contingency Summary By Element (Sample)
Exhibit 2 – Project Contingency By work Package / Line Item (Sample)

**8.0
PROCEDURE HISTORY**

Revision Level	Revision Date	Summary of Revision	Approved
0	05/18/11	Split off of project contingency from risk management procedure into new stand alone procedure.	



DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/24/11
PROJECT CONTINGENCY	Page: 5 of 7

EXHIBIT 1

PROJECT CONTINGENCY SUMMARY BY ELEMENT

DESCRIPTION	CONTINGENCY		TOTAL CONTINGENCY
	ALLOCATED WITHIN CONTRACTS	WITHIN PROJECT CONTINGENCY	
CONSTRUCTION	\$ 35,862,189	\$ 17,849,247	\$ 53,711,436
SPECIAL CONDITIONS	\$ -	\$ 5,000,000	\$ 5,000,000
RIGHT-OF-WAY	\$ 472,227	\$ 400,000	\$ 872,227
PROFESSIONAL SERVICES	\$ 585,885	\$ 5,000,000	\$ 5,585,885
TOTAL PROJECT CONTINGENCY	\$ 36,920,301	\$ 28,249,247	\$ 65,169,548



Metro

DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/24/11
PROJECT CONTINGENCY	Page: 6 of 7

EXHIBIT 2

PROJECT CONTINGENCY BY WORK PACKAGE / LINE ITEM

DESCRIPTION	CONTINGENCY		
	ALLOCATED WITHIN CONTRACTS	WITHIN PROJECT CONTINGENCY	TOTAL CONTINGENCY
CONSTRUCTION			
CONTRACT C0803 - TUNNEL, STATIONS, TRACKWORK, & SYSTEMS			
HOURLY & DAILY STANDBY TIME - BID SCHEDULE A	\$ 1,305,000	\$ -	\$ 1,305,000
BUILDING PROTECTION - BID SCHEDULE A	\$ 2,893,186	\$ -	\$ 2,893,186
OVERHEAD COMPENSATION FOR DELAYS - BID SCHEDULE D	\$ 1,500,000	\$ 4,360,000	\$ 5,860,000
CONTRACT OPTIONS - BID SCHEDULE E	\$ 68,000	\$ 3,587,000	\$ 3,655,000
PROVISIONAL SUMS - WORK SCOPE NOT DEFINED - BID SCHEDULE F	\$ 13,698,880	\$ -	\$ 13,698,880
ALLOWANCE FOR CONTRACT MODIFICATIONS	\$ 8,711,552	\$ -	\$ 8,711,552
STEEL PRICE INDEX	\$ 4,046,882	\$ -	\$ 4,046,882
TOTAL CONTRACT C0803	\$ 32,223,500	\$ 7,947,000	\$ 40,170,500
CONTRACT C0802 - 101 FWY BRIDGE OVERCROSSING			
ALLOWANCE FOR CONTRACT MODIFICATIONS	\$ 350,000	\$ -	\$ 350,000
TOTAL CONTRACT C0802	\$ 350,000	\$ -	\$ 350,000
CONTRACT 0010 - UNIVERSAL FARE SYSTEM			
ALLOWANCE FOR CONTRACT MODIFICATIONS	\$ 113,916	\$ -	\$ 113,916
TOTAL CONTRACT 0010	\$ 113,916	\$ -	\$ 113,916
CONTRACT P2550 - VEHICLE PROCUREMENT			
ALLOWANCE FOR CONTRACT MODIFICATIONS	\$ 3,174,773	\$ -	\$ 3,174,773
TOTAL CONTRACT P2550	\$ 3,174,773	\$ -	\$ 3,174,773
CONSTRUCTION CONTINGENCY FOR UNKNOWNNS			
CONTINGENCY ALLOWANCE FOR UNKNOWNNS	\$ -	\$ 9,902,247	\$ 9,902,247
TOTAL CONSTRUCTION CONTINGENCY FOR UNKNOWNNS	\$ -	\$ 9,902,247	\$ 9,902,247
TOTAL CONSTRUCTION CONTINGENCY	\$ 35,862,189	\$ 17,849,247	\$ 53,711,436
SPECIAL CONDITIONS			



Metro

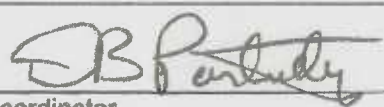

DEPARTMENTAL PROCEDURES	Procedure #: PRCL12
TRANSIT PROJECT DELIVERY DEPARTMENT	Revision: 0
PROJECT CONTROL	Date: 05/24/11
PROJECT CONTINGENCY	Page: 7 of 7

MASTER COOPERATIVE AGREEMENTS - CONTINGENCY ALLOWANCE FOR UNKNOWNNS	\$ -	\$ 5,000,000	\$ 5,000,000
TOTAL SPECIAL CONDITIONS CONTINGENCY	\$ -	\$ 5,000,000	\$ 5,000,000
RIGHT-OF-WAY			
CONTINGENCY ALLOWANCE	\$ 472,227	\$ 400,000	\$ 872,227
TOTAL RIGHT-OF-WAY CONTINGENCY	\$ 472,227	\$ 400,000	\$ 872,227
PROFESSIONAL SERVICES			
AGENCY - MTA ADMINISTRATION	\$ -	\$ 3,000,000	\$ 3,000,000
CONSTRUCTION MANAGEMENT SUPPORT SERVICES	\$ -	\$ -	\$ -
LEGAL SERVICES	\$ -	\$ 2,000,000	\$ 2,000,000
RAIL VEHICLE CONSULTANT - ALLOWANCE FOR CONTRACT MODIFICATIONS	\$ 85,885	\$ -	\$ 85,885
COMMUNITY RELATIONS RESPONSE - ALLOWANCE FOR CONTRACT MODIFICATIONS	\$ 500,000	\$ -	\$ 500,000
TOTAL PROFESSIONAL SERVICES CONTINGENCY	\$ 585,885	\$ 5,000,000	\$ 5,585,885
TOTAL PROJECT CONTINGENCY	\$ 36,920,301	\$ 28,249,247	\$ 65,169,548



Metro

TRANSIT PROJECT DELIVERY DEPARTMENT

PROCEDURE	PRCL12 Revision 0 Review/Final : PROJECT CONTINGENCY
INITIATED BY	Brian Boudreau
SUMMARY OF REVISION	Briefly describe revision: New procedure Rev 0 Biennial Review --
JUSTIFICATION	Briefly describe reason for revision: This procedure was revised for update of Biennial Review and change from CPMD to Transit Project Delivery Department.
RECOMMENDATION	D.Partridge,  <u>5/24/11</u> Procedure Coordinator Date
APPROVALS	B. Boudreau  <u>5/27/11</u> EXECUTIVE DIRECTOR, PROGRAM MANAGEMENT Date

RESOLUTION NO. _____

**A RESOLUTION OF THE BOARD OF DIRECTORS OF
THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
ACCEPTING THE DELEGATION OF PLAN ADMINISTRATION**

WHEREAS, the Exposition Metro Line Construction Authority (the "Authority") maintains the following retirement plans: the Exposition Metro Line Construction Authority PARS Defined Benefit Retirement Plan adopted effective July 1, 2006 and the Defined Benefit Excess Benefit Plan adopted effective July 1, 2011 (the "Plans"), qualifying under the relevant sections of the Internal Revenue Code and the California Government Code; and

WHEREAS, the Authority will close out later this year; and

WHEREAS, the Authority delegated the plan administration duties under the Plans to the Los Angeles County Metropolitan Transportation Authority ("MTA"); and

WHEREAS, the terms of the existing Plans will not change and there will be no impact on existing retirees; and

WHEREAS, the Plans are in compliance with all relevant legislation and regulations; and

WHEREAS, the Authority has fully funded the Plans on a self-funded basis utilizing conservative investment return assumptions in March 2017, and it is projected that the funding will be adequate to cover all benefit obligations and administrative costs associated throughout the life of the Plans.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Board of Directors of MTA hereby accepts the delegation of the plan administration of the Exposition Metro Line Construction Authority PARS Defined Benefit Retirement Plan adopted effective July 1, 2006 and the Defined Benefit Excess Benefit Plan adopted effective July 1, 2011; and
2. The Board of Directors of MTA hereby appoints the Director, Pension & Benefits, or his/her successor or his/her designee as MTA's Plan Administrator for the Plans; and
3. MTA's Plan Administrator is hereby authorized to execute the PARS legal and administrative documents on behalf of the MTA, and to take whatever additional actions are necessary to maintain PARS compliance with any relevant regulation issued or as may be issued; therefore, authorizing him/her to take whatever additional actions are required to administer the PARS plan.

AYES:

NOES:

ABSENT:

ABSTAIN:

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

_____, the Secretary of the Board of Directors of the Los Angeles County Metropolitan Transportation Authority hereby certifies that the above foregoing resolution was duly and regularly adopted by the said Board at a regular meeting thereof held on the _____, and passed by a majority vote of said Board.

IN WITNESS WHEREOF I have hereunto set my hand and seal this ____ day of _____.

Secretary of the Board of Directors of the
Los Angeles County Metropolitan Transportation Authority



Expo

**Exposition Metro Line
Construction Authority**

707 Wilshire Boulevard
34th Floor
Los Angeles, CA 90017

213.243.5500
BuildExpo.org

July 12, 2018

EXPO2-03011
File Code: CA112

Mr. Rick M. Meade, P.E.
Senior Executive Officer – Transit Project Delivery
Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

Subject: Certification of Turnback of Exposition Metro Line

Dear Mr. Meade,

The Expo Construction Authority (Authority) has worked diligently with Metro over the last two years to complete project close out of Expo Phase 2 and the Bikeway as outlined in the Master Cooperative Agreement dated January 28, 2014. Currently, we are on target to complete our last few activities at the Division 14 Operations and Maintenance Facility in July 2018.

Attached is the Certification of Turnback for Phase 2 of the Exposition Metro Line Light Rail Project. This document certifies that the Authority has completed all activities identified in Section 7.5 of the Master Cooperative Agreement dated January 28, 2014.

We request your consideration and acknowledgement from Metro that the Turnback Process is complete.

Sincerely,

William H Reagan
Chief Executive Officer

Attachments:

Certification of Turnback for Phase 2 of Exposition Metro Line Light Rail Project

cc: B. Gandy, Document Control

**CERTIFICATION OF TURNBACK
FOR PHASE 2 OF THE EXPOSITION METRO LINE LIGHT RAIL PROJECT**

This Certification of Turnback ("Certificate") is issued by the Exposition Metro Line Construction Authority (Construction Authority) to the Los Angeles County Transportation Authority ("LACMTA") for the purpose of completing Phase 2 of the Exposition Metro Line Light Rail Project ("Project").

RECITALS:

1. WHEREAS, pursuant to Section 7.5 of the Master Cooperative Agreement for the Exposition Metro Line Construction Authority, executed between the parties on or about January 28, 2014 ("MCA"), Construction Authority has agreed to certify that the Project is completed and ready for Turnback to the LACMTA; and
2. WHEREAS, Construction Authority has determined that the Project has been completed and is ready for Turnback to the LACMTA;

CERTIFICATION OF TURNBACK

NOW, THEREFORE, incorporating, and in consideration of, the foregoing Recitals, Construction Authority hereby issues the following Certification of Turnback to the LACMTA, as follows:

1. **Effective Date of Certification.**

This Certificate shall have an effective date of July 12, 2018.

2. **Construction Authority's Determination of Project Completion**

The Construction Authority hereby certifies to LACMTA that all requirements of Section 7.5 of the MCA have been satisfied, and the Project is ready for Turnback to LACMTA.

IN WITNESS WHEREOF, the Board of Directors of the Construction Authority has caused this Certification to be duly executed and delivered as of the above date.

EXPOSITION METRO LINE CONSTRUCTION AUTHORITY

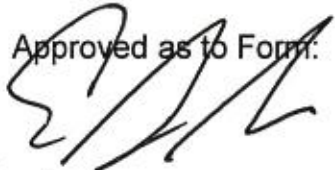
By:



William H Reagan
Chief Executive Officer

Approved as to Form:

By:



E. George Joseph
General Counsel