

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

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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.

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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

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By: _____
Arthur T. Leahy
Chief Executive Officer

By: _____
Richard Thorpe
Chief Executive Officer

Date: _____

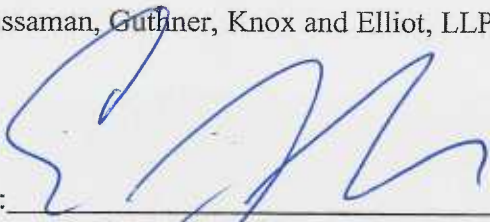
Date: _____

APPROVED AS TO FORM:

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JOHN F. KRATTLI
County Counsel

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By: _____

E. George Joseph
General Counsel

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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.

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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

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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.

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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

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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

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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.

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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

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- 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

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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.

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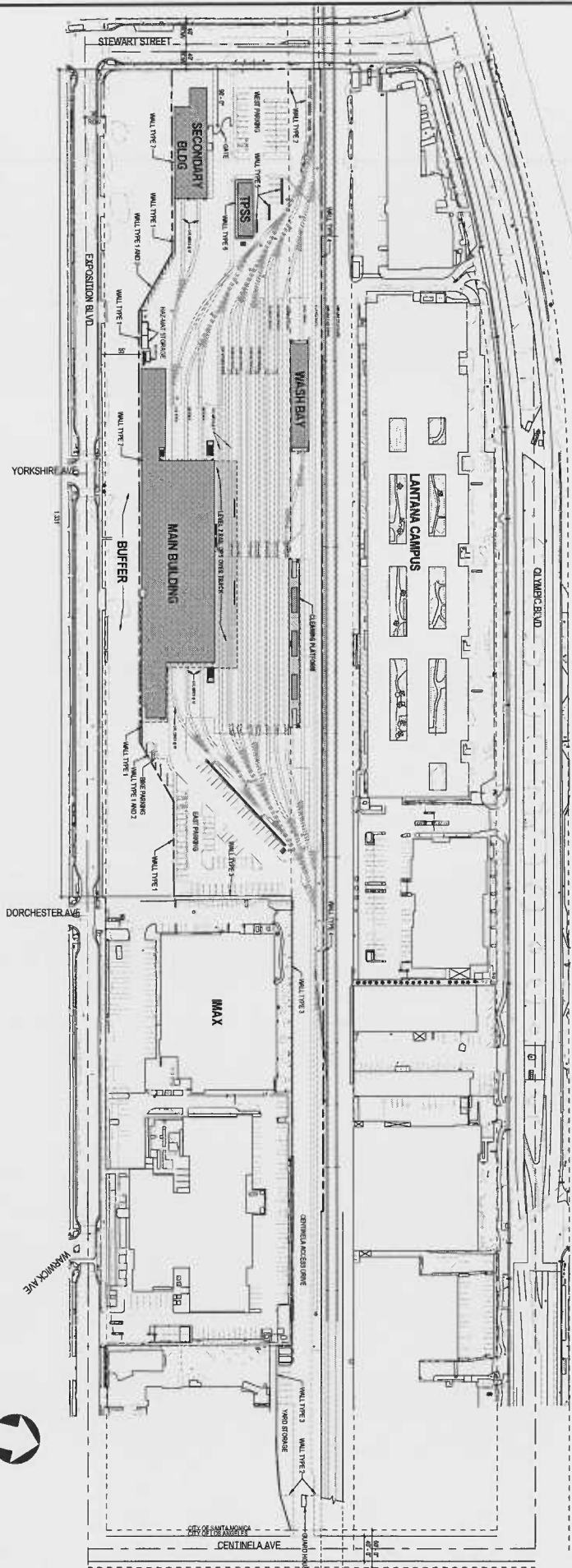
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EXPO PROJECT PHASE 2

MILESTONES/SCHEDULE

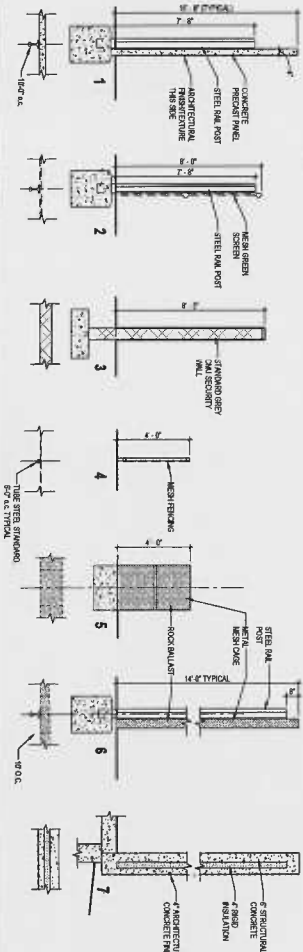
Following are the agreed upon Project milestones, and a schedule for achieving those milestones.

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



ARCHITECTURAL SITE PLAN - OVERALL

SITE WALL TYPES



- WALL TYPE 1: PRECAST CONCRETE WALL WITH STEEL RAIL POST SUPPORT STRUCTURE AND ARCHITECTURAL FINISH ON ONE SIDE
- WALL TYPE 2: MESH SCREEN WALL WITH STEEL RAIL POST SUPPORT STRUCTURE
- WALL TYPE 3: STANDING CORRUGATED METAL WALL WITH STEEL RAIL POST SUPPORT STRUCTURE
- WALL TYPE 4: MESH SCREEN WALL WITH STEEL RAIL POST SUPPORT STRUCTURE
- WALL TYPE 5: ROCK BALLAST WALL WITH STEEL RAIL POST SUPPORT STRUCTURE
- WALL TYPE 6: STRUCTURAL CONCRETE WALL WITH STEEL RAIL POST SUPPORT STRUCTURE
- WALL TYPE 7: STRUCTURAL CONCRETE WALL WITH STEEL RAIL POST SUPPORT STRUCTURE

LEED GENERAL NOTES

1. DESIGN FOR ALL ACTIVITIES ACCORDING TO THE PROJECT PROGRAM.
2. VERIFY ALL MATERIALS AND FINISHES WITH THE PROJECT ARCHITECT.
3. VERIFY ALL MATERIALS AND FINISHES WITH THE PROJECT ARCHITECT.
4. VERIFY ALL MATERIALS AND FINISHES WITH THE PROJECT ARCHITECT.
5. VERIFY ALL MATERIALS AND FINISHES WITH THE PROJECT ARCHITECT.
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9. VERIFY ALL MATERIALS AND FINISHES WITH THE PROJECT ARCHITECT.
10. VERIFY ALL MATERIALS AND FINISHES WITH THE PROJECT ARCHITECT.

<p>30% DESIGN SUBMITTAL 12/22/11</p>	
<p>EXPLO RAIL OPERATIONS AND MAINTENANCE FACILITY CENTINELA AVENUE SANTA MONICA, CA 90404</p>	<p>ARCHITECTURAL SITE PLAN - OVERALL</p>
<p>333 SOUTH GRAND AVE SUITE 1400 LOS ANGELES, CA 90071 PH: 213.691.1171</p>	<p>333 SOUTH GRAND AVE SUITE 1400 LOS ANGELES, CA 90071 PH: 213.691.1171</p>
<p>Expo Rail Operations and Maintenance Facility</p>	<p>Expo Rail Operations and Maintenance Facility</p>
<p>Architectural Site Plan - Overall</p>	<p>Architectural Site Plan - Overall</p>
<p>DATE: 12/22/11</p>	<p>DATE: 12/22/11</p>
<p>SCALE: AS SHOWN</p>	<p>SCALE: AS SHOWN</p>
<p>PROJECT NO: A-010</p>	<p>PROJECT NO: A-010</p>
<p>DATE: 12/22/11</p>	<p>DATE: 12/22/11</p>

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).

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- 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.

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ATTACHMENT D

PROJECT FUNDING

Exposition Transit Corridor - Phase II

ATTACHMENT D

Project Funding (\$ in millions)

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	122.145	226.871	35.997			259.125
5 Measure R 35% 2010 Tax Exempt Bonds		68.552	20.529	27.497	5.317				121.894
6 Measure R 35% Commercial Paper						193.000			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			0.456						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									2.019
27 City of Santa Monica local funds			0.176	0.088	0.408	1.474			0.672
28 LACMTA local funds					0.053				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.

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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	8,809	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

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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

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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

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION
Division of Mass Transportation
Public Transportation Modernization, Improvement, and
Service Enhancement Account (PTMISEA)
Semi-Annual Report



Regional Entity	Transit Operator	Project Sponsor	Project Name
LACMTA		LACMTA	MID CITY EXPOSITION LIGHT RAIL TRANSIT PROJECT-PHASE II

GC Section 8879.50(f)(1) requires the project sponsor to report semi-annually on the activities and progress made on the project to the Department to ensure the projects and activities funded from bond proceeds are being executed in a timely fashion, within the scope and cost approved at the time of allocation, and are achieving the intended purposes.

BRIEF PROJECT DESCRIPTION:

1) BRIEFLY SUMMARIZE THE STATUS OF THE PROJECT:

a) Description of what has been completed as described in the scope of the original project allocation request:

b) List any vehicles/equipment received (i.e., ordered 10 buses, have received):

2) STATE WHAT STILL NEEDS TO BE COMPLETED BEFORE PROJECT CLOSEOUT:

3) IDENTIFY ANY CONTRACTS INITIATED THAT WILL EXPEND PTMISEA FUNDS ON THIS PROJECT:

Po Number	Vendor Name	Start Date	End Date	Contract Amount

**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 :		
Total :		
<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 Belden

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.

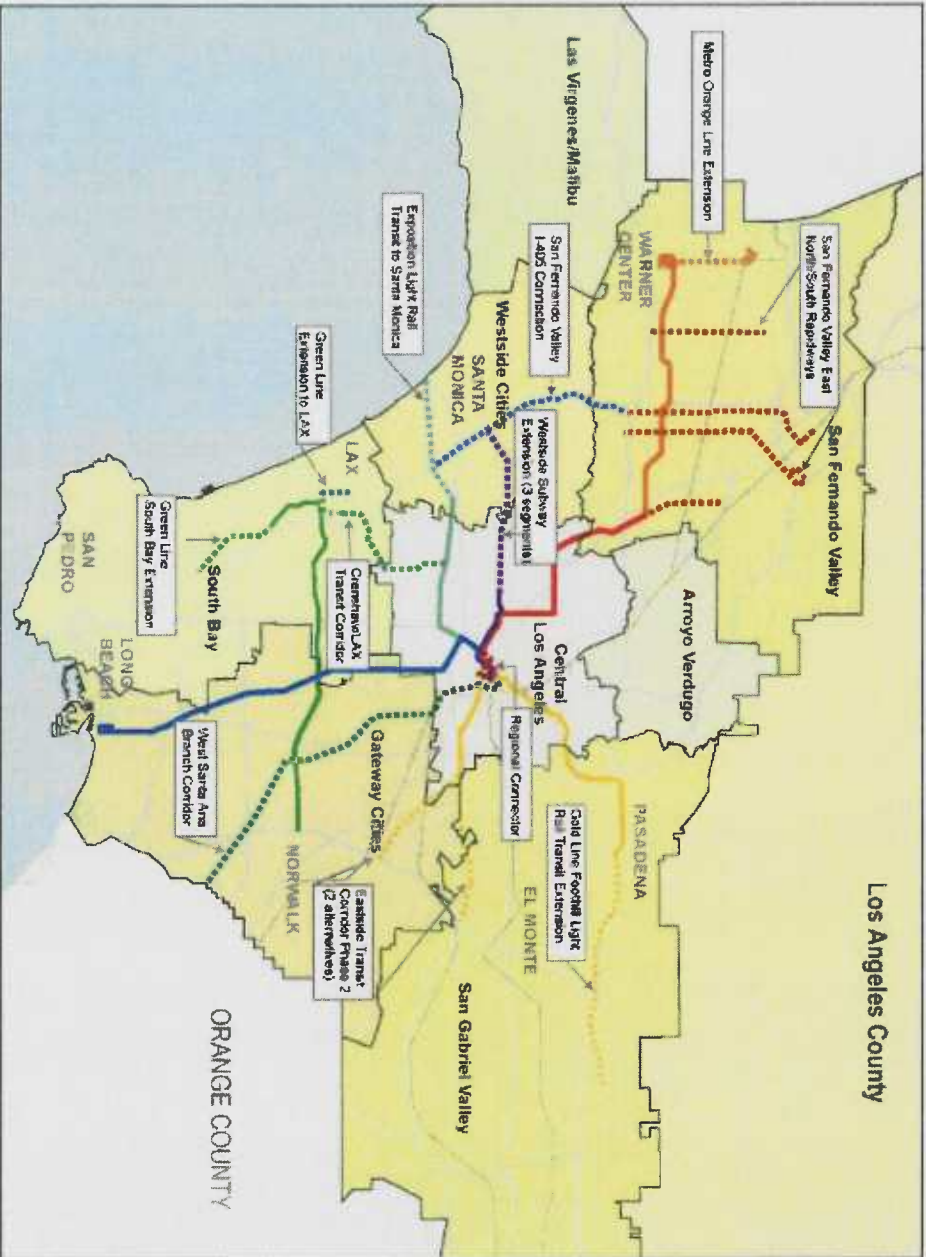
- 6) Prior to inclusion in the annual budget, Measure R transit corridor **and highway** projects shall be presented separately for approval by the Board for a life-of-project budget. Subsequently, capital projects with life-of-project budget changes that cause the project to exceed \$1 million or if 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.



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**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.	



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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



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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			



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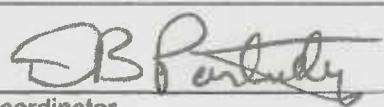

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MASTER COOPERATIVE AGREEMENTS - CONTINGENCY ALLOWANCE FOR UNKNOWNNS	\$ -	\$ 5,000,000	\$ 5,000,000
TOTAL SPECIAL CONDITIONS CONTINGENCY	\$ -	\$ 5,000,000	\$ 5,000,000
RIGHT-OF-WAY			
CONTINGENCY ALLOWANCE	\$ 472,227	\$ 400,000	\$ 872,227
TOTAL RIGHT-OF-WAY 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



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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