



**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
JANUARY 20, 2005**

**SUBJECT: LOS ANGELES TO PASADENA METRO BLUE LINE
CONSTRUCTION AUTHORITY**

**ACTION: AUTHORIZATION TO ENTER INTO AGREEMENT(S) WITH
CONSTRUCTION AUTHORITY**

RECOMMENDATION

Authorize the Chief Executive Officer to enter into agreement(s) with the Los Angeles to Pasadena Metro Blue Line Construction Authority (Construction Authority) that would affect the following:

- A. Consider transfer of the Del Mar Gold Line Station Parking Structure to Los Angeles County Metropolitan Transportation Authority (LACMTA) ownership and management, subject to Construction Authority and City of Pasadena approvals;
- B. Exchange of \$2,951,036 in Fiscal Year (FY) 2003 Federal Bus Capital earmarked funding with the Construction Authority for an equivalent amount of local sales tax funds, so that the funds may be used for making final payments to Phase I contractors and closing out Phase I construction contracts, subject to the Construction Authority seeking the appropriate federal approvals that would allow for the exchange of funds contemplated;
- C. Advance of \$10 million of previously identified funding from the LACMTA Short Range Transportation Plan for Los Angeles County (SRTP) from FY 08 to FY 06, programmed but not dispersed, so that it may be used towards an initial property purchase for a rail maintenance facility upon notification from the Construction Authority that they are ready for escrow; and
- D. Enter into Memorandum of Understanding (MOU) to review the planning, design and construction of the Phase II extension as required by the Construction Authority's enabling legislation SB 1847 and draft an MOU no later than June 2005.

ISSUE

The LACMTA and the Construction Authority have continued to negotiate a number of outstanding issues regarding the Metro Gold Line Phase I project, so that requirements dictated by the Construction Authority's enabling state legislation could be met. In particular, the parties need to complete agreement(s) to resolve the outstanding issues before completing the transfer of the Phase I project from the Construction Authority to the LACMTA and address any elements of the Phase II extension.

POLICY IMPLICATIONS

SB 1847 (1998), the enabling state legislation that created the Los Angeles to Pasadena Blue Line Construction Authority, does not describe in detail the process for transferring the project, what is now known as the Metro Gold Line Phase I (to Pasadena), nor its assets. The enabling statute merely indicates that the LACMTA will assume responsibility for operating the light rail line.

The recommendation provides closer resolve to a number of outstanding issues with the Construction Authority. Board approval of the recommendation will help initiate final transfer of the Phase I project and establish relationship clarity with the Construction Authority over LACMTA's role in the Phase II extension process.

OPTIONS

The Board may choose not to approve all or part of the recommendation. Staff recommends that all of the actions be approved to ensure that LACMTA's interests are protected before final transfer of the Phase I project.

FINANCIAL IMPACT

Transferring the Del Mar Gold Line Station Parking Structure to LACMTA ownership and management will require that the LACMTA include the operating and maintenance costs for the facility in its budget. Staff expects that such costs will be included in the LACMTA Budget soon after a transfer agreement is executed between the LACMTA, the Construction Authority and the City of Pasadena.

Exchanging \$2,951,036 in FY 2003 Federal Bus Capital earmark funds with the Construction Authority for an equivalent amount of local sales tax funds will need to be reflected in the LACMTA Budget, as soon as the federal funds are made available. The exchange is subject to the Construction Authority seeking the appropriate federal approvals that would allow the federal funds to be exchanged.

The SRTP originally had set aside \$10 million in federal funds for preliminary engineering work on the SB 1847 extension in FY 08. However, now the Construction Authority has requested that the \$10 million be advanced and used towards an initial property purchase for a rail maintenance facility that eventually would benefit Phase I, its extension, and other

LACMTA rail operations. The \$10 million would be advanced from local sales tax funds instead of federal funds, so that available property could be purchased sooner.

LACMTA's ability to review the planning, design and construction of the SB 1847 extension will require an MOU to be executed. The MOU between the Construction Authority and the LACMTA then will be used to administer the responsibilities and requirements of both parties. Costs associated with this MOU will be reflected in our Budget once the parties execute the MOU.

BACKGROUND

The LACMTA began operating the 13.7-mile, light rail line in July 2003. The staff recommendation addresses outstanding issues that developed during the course of completing the Phase I project and transferring the project to the LACMTA. The discussion that follows provides additional details regarding each of the recommended actions.

The Del Mar Gold Line Station Parking Structure

The Del Mar Gold Line Parking Structure provides 600 parking spaces for transit patrons at the Del Mar Gold Line Station in Pasadena. Presently, the parking structure is owned and operated under the terms of a Joint Exercise of Powers Agreement known as the Multimodal Operation and Development Entity (MODE), which include the City of Pasadena and the Construction Authority. The MODE sets policy for the purpose of using, repairing, maintaining, and improving the parking structure, as well as establishing fees for the parking structure. The MODE presently charges all patrons fees for usage of the parking structure. Retaining ownership and management of the Del Mar parking structure would benefit the LACMTA by ensuring that the parking structure is operated and maintained in an appropriate and uniform manner that is consistent with LACMTA parking policies. The LACMTA presently offers a monthly paid parking program for transit users to guarantee a reserved parking space. However, users who do participate in the program are not charged fees for using unreserved spaces provided at rail stations. Staff will need to perform due diligence in determining the impact of operating the Del Mar Parking Structure. Staff will identify and bring back costs and present recommendation for final action.

The Construction Authority's FY 2003 Federal Bus Capital Earmark

In February 2003, Congress approved an FY 2003 earmark of \$2,951,036 in Federal Transit Administration (FTA) Section 5309 Bus Capital funds for the "Los Angeles to Pasadena Construction Authority Bus Program." The Construction Authority is currently not able to apply for and receive these federal funds.

It is impractical for the Construction Authority to utilize these federal funds for the SB1847 extension. The Construction Authority has proposed to the LACMTA an exchange of transportation funds, whereby the Construction Authority would exchange the \$2.9 million of its FY 03 FTA Section 5309 Congressional earmark to an equal amount of LACMTA local sales tax funds. In order for the exchange occur, however, it is necessary for Congress to include a technical correction in the FY 03 Transportation Appropriations bill that would

allow for the exchange of funds between both entities. For the exchange to occur, however, the Construction Authority would need to seek appropriate federal approvals, as soon as possible. The earmark lapses in September 2005. In such case, should the federal earmark lapse, the agreement to exchange funds will be invalidated. The LACMTA will have no responsibility to exchange local sales tax funds with the Construction Authority.

Should the necessary Congressional approvals occur, however, the Construction Authority would use the exchanged funds for making final payments to Phase I contractors and closing out Phase I construction contracts. Once exchanged, the LACMTA could use the federal funds for eligible bus capital uses, including such uses as new CNG buses and/or bus facility improvements.

Initial Property Acquisition for Rail Maintenance Facility

The LACMTA has extensive future needs for a new rail maintenance facility, as identified in the SRTP and recent capital planning efforts. This new regional facility would serve the Metro Gold Line and any future growth or phases that may occur. While the actual site for such a new facility has not been specifically determined, several candidate sites along the easterly extension of the existing Metro Gold Line are being considered. A recent analysis shows that a new facility would be needed to handle nearly 44 miles of additional light rail along the entire Gold Line alignment, which includes the Eastside, Phase I project and the SB1847 extension. Ultimately, light repairs and heavy overhauling would be performed at this facility. The same analysis estimates that 60% of the facility usage would be for functions other than just the Metro Gold Line, which would allow the LACMTA to provide for future maintenance activities as the overall fleet ages and other capital replacement work is required in the future.

The LACMTA, working with the Construction Authority, can now proceed with an initial effort to acquire property for the future facility and ensure that the future capital and operational needs identified in the SRTP are met. The SRTP provided \$10 million for preliminary engineering of the SB 1847 extension through FY 2009. Further, the Action Plan in the SRTP directed seeking additional funding to construct the extension on a schedule to be determined based upon funding availability after 2009.

LACMTA Review of Planning, Design and Construction of SB 1847 Extension

The Construction Authority has begun its planning activities for the SB 1847 extension by developing environmental documents. As the eventual operator of that extension, the LACMTA needs to be involved in its planning, design and construction. As shown in attachment A, SB 1847 accommodates this involvement under Section 132435, which allows the LACMTA to review "... any change of mode or technology, or any other substantive change that affects the connectivity and operation of the project as part of the overall transit system operated by the LACMTA, or any combination of those things." As part of the recommendation, staff believes that certain understandings need to be pursued regarding the LACMTA's ability to review the planning, design and construction of the SB 1847 extension. More detailed provisions regarding the review ability will need to be negotiated between the Construction Authority and the LACMTA and included in an MOU, which also

will be used to administer the responsibilities and requirements of both parties. Staff will work with the Construction Authority to reach an agreement to the terms of the MOU and prepare a draft no later than June 2005.


NEXT STEPS

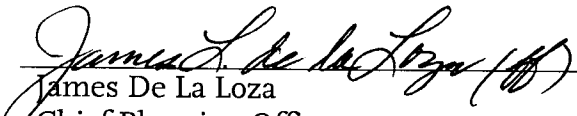
With Board approval of the recommendation, staff will prepare and the Chief Executive Officer will execute the necessary agreement(s) to further the final transfer of the Metro Gold Line Phase I project to the LACMTA and outline our working relationship with the Phase II extension. Staff will keep the Board apprised as to the progress made in executing the agreement(s).

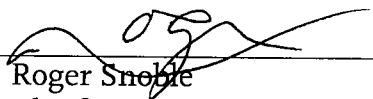
ATTACHMENT(S)

Attachment A – Senate Bill 1847

Prepared by: Geyner J. Paz, Senior Administrative Analyst


for Maria A. Guerra
Chief of Staff


James De La Loza
Chief Planning Officer


Roger Snoble
Chief Executive Officer

Senate Bill No. 1847

CHAPTER 1021

An act to add Chapter 6 (commencing with Section 132400) to Division 12.7 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 30, 1998. Filed
with Secretary of State September 30, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1847, Schiff. Transportation: Los Angeles County Metropolitan Transportation Authority: Pasadena Metro Blue Line Construction Authority.

(1) Existing law establishes the Los Angeles County Metropolitan Transportation Authority (hereafter the LACMTA) as the single successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission. The LACMTA is responsible for most transit guideway projects in Los Angeles County and has specified duties and responsibilities with regard to transportation.

This bill would establish the Pasadena Metro Blue Line Construction Authority for the purpose of awarding and overseeing all design and construction contracts for completion of the Los Angeles-Pasadena Metro Blue Line light rail project from Union Station in the City of Los Angeles to Sierra Madre Villa Boulevard in the City of Pasadena and any mass transit guideway that may be planned east of Sierra Madre Villa Boulevard along the rail right-of-way extending to the City of Claremont.

The bill would require the construction authority to (a) conduct the financial studies and the planning and engineering necessary for completion of the project, (b) adopt an administrative code, including a specified code of conduct, not later than 60 days after establishment of the construction authority, for administration of the construction authority in accordance with laws relating to open meetings of public entities, contracting and procurement, contracting goals for minority and women business participation, and political reform, and (c) complete a detailed management, implementation, safety, and financial plan for the project and submit the plan to the Governor, the Legislature, and the California Transportation Commission not later than 90 days after establishment of the construction authority.

The bill would require that the construction authority be governed by a board consisting of 5 voting members and one nonvoting member, appointed to terms of 4 years. Three members would be appointed by the City Councils of the Cities of Los Angeles,



Pasadena, and South Pasadena, with each city council appointing one member by a majority vote of the membership of that city council. One member would be appointed by the President of the Governing Board of the San Gabriel Valley Council of Governments, subject to confirmation by that board. One member would be appointed by the LACMTA. The nonvoting member would be appointed by the Governor.

The bill would permit the governing board to appoint an executive director to serve at the pleasure of the construction authority. The executive director would be authorized to appoint staff or retain consultants as necessary to carry out the duties of the construction authority. The bill would require that all contracts approved and awarded by the executive director be awarded in accordance with state law relating to procurement. The bill would require that the awards be based on price or competitive negotiation, or on both of those things.

The bill would require the LACMTA to identify and expeditiously enter into an agreement with the construction authority to hold in trust with the construction authority all real and personal property, and any other assets, accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project.

The bill would require the LACMTA to return the unencumbered balance of all local funds currently programmed for completion of the project and that have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, to the construction authority for completion of the project. The bill would authorize the construction authority to receive allocations of state funds for the project, and would require the unencumbered balance of state funds that have been programmed or allocated to the LACMTA for completion of the project and have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, to be allocated to the construction authority for completion of the project. Any transfer of the specified funds would be subject to the terms of a specified memorandum of understanding entered into between the LACMTA and the commission.

The bill would require the construction authority to enter into a memorandum of understanding with the LACMTA that specifically addresses the ability of the LACMTA to review any significant changes in the scope of the design or construction, or both design and construction, of the project, as specified.

The bill would prohibit the construction authority from encumbering any future farebox revenue anticipated from the operation of the project.

The bill would prohibit the construction authority from encumbering the project with any obligation that is transferable to



the LACMTA upon completion of the design and construction of the project, except as specified.

The bill would require the authority to be dissolved upon completion of the project. The LACMTA would assume responsibility for operating the project upon dissolution of the authority.

The bill would create a state-mandated local program by imposing these additional duties upon local governmental entities.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Chapter 6 (commencing with Section 132400) is added to Division 12.7 of the Public Utilities Code, to read:

CHAPTER 6. PASADENA METRO BLUE LINE CONSTRUCTION AUTHORITY

132400. For purposes of this chapter, the following terms have the following meanings:

(a) The "authority" is the Pasadena Metro Blue Line Construction Authority created under this chapter.

(b) The "board" is the governing board of the authority.

(c) The "commission" is the California Transportation Commission.

(d) The "LACMTA" is the Los Angeles County Metropolitan Transportation Authority.

(e) The "project" is the Los Angeles-Pasadena Metro Blue Line light rail project extending from Union Station in the City of Los Angeles to Sierra Madre Villa Boulevard in the City of Pasadena and any mass transit guideway that may be planned east of Sierra Madre Villa Boulevard along the rail right-of-way extending to the City of Claremont.

132405. The authority is hereby created for the purpose of awarding and overseeing all design and construction contracts for completion of the project.



132410. (a) The authority has all of the powers necessary for planning, acquiring, leasing, developing, jointly developing, owning, controlling, using, jointly using, disposing of, designing, procuring, and building the project, including, but not limited to, all of the following:

(1) Acceptance of grants, fees, and allocations from the state, local agencies, and private entities.

(2) Acquiring, through purchase or through eminent domain proceedings, any property necessary for, incidental to, or convenient for, the exercise of the powers of the authority.

(3) Incurring indebtedness, secured by pledges of revenue available for project completion.

(4) Contracting with public and private entities for the planning, design, and construction of the project. These contracts may be assigned separately or may be combined to include any or all tasks necessary for completion of the project.

(5) Entering into cooperative or joint development agreements with local governments or private entities. These agreements may be entered into for the purpose of sharing costs, selling or leasing land, air, or development rights, providing for the transferring of passengers, making pooling arrangements, or for any other purpose that is necessary for, incidental to, or convenient for the full exercise of the powers granted the authority. For purposes of this paragraph, "joint development" includes, but is not limited to, an agreement with any person, firm, corporation, association, or organization for the operation of facilities or development of projects adjacent to, or physically or functionally related to, the project.

(6) Relocation of utilities, as necessary for completion of the project.

(b) The duties of the authority include, but are not limited to, all of the following:

(1) Conducting the financial studies and the planning and engineering necessary for completion of the project.

(2) (A) Adoption of an administrative code, not later than 60 days after establishment of the authority, for administration of the authority in accordance with any applicable laws, including, but not limited to, the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), contracting and procurement laws, laws relating to contracting goals for minority and women business participation, and the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(B) (i) The administrative code adopted under subparagraph (A) shall include a code of conduct for employees and board members that is consistent with Sections 84308 and 87103 of the Government Code and prohibits board members and staff from



accepting gifts valued at ten dollars (\$10) or more from contractors, potential contractors, or their subcontractors.

(ii) The code shall require the disclosure, on the record, of the proceedings by the officer of the agency who receives a contribution within the preceding 24 months in an amount of more than two hundred fifty dollars (\$250) from a party or participant to a proceeding, and the disclosure by the party or participant.

(iii) The code shall provide that no officer of the agency shall make, participate in making, or in any way attempt to use his or her official position to influence the decision in a proceeding, as described in Section 84308 of the Government Code, if the officer has willfully or knowingly received a contribution in the amount of more than two hundred fifty dollars (\$250) within the preceding 24 months from a party or his or her agent, or from any participant or his or her agent if the participant has a financial interest in the decision.

(iv) Any officer deemed ineligible to participate in a proceeding due to the provisions of this code of conduct may be replaced for the purposes of that proceeding by an appointee chosen by the appropriate appointing authority.

(v) Under the code of conduct, board members shall be deemed to have a financial interest in a decision within the meaning of Section 87100 of the Government Code if the decision involves the donor of, or intermediary or agent for a donor of, a gift or gifts aggregating ten dollars (\$10) or more in value within the 12 months prior to the time the decision was made.

(3) Completion of a detailed management, implementation, safety, and financial plan, including, but not limited to, a full funding program, for the project and submission of the plan to the Governor, the Legislature, and the commission not later than 90 days after establishment of the authority.

(c) The authority shall make reasonable progress, as determined by the commission, in the design and construction of the project within the timetable imposed under the 1998 State Transportation Improvement Program.

132415. (a) The authority shall be governed by a board consisting of five voting members and one nonvoting member who shall be appointed as follows:

(1) Three members shall be appointed by the City Councils of the Cities of Los Angeles, Pasadena, and South Pasadena, with each city council appointing one member by a majority vote of the membership of that city council.

(2) One member shall be appointed by the President of the Governing Board of the San Gabriel Valley Council of Governments, subject to confirmation by that board.

(3) One member shall be appointed by the LACMTA.

(4) The nonvoting member shall be appointed by the Governor.

(b) All members shall serve a term of not more than four years, with no limit on the number of terms that may be served by any person.

(c) If the position of a voting member becomes vacant, an alternate voting member may be appointed by a majority vote of the board to serve until the position is filled as required under subdivision (a).

(d) Members of the board are subject to the Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code).

(e) Three members of the board shall constitute a quorum.

(f) The board shall elect a chairperson and vice chairperson from among the membership of the board.

(g) Each member of the board may be compensated at a rate of not more than one hundred fifty dollars (\$150) per day spent attending to the business of the authority. Compensation, if paid, shall not exceed six hundred dollars (\$600) per month, plus expenses directly related to the performance of duties imposed by the authority, including, but not limited to, travel and personal expenses.

132420. (a) The board may appoint an executive director to serve at the pleasure of the authority.

(b) The executive director is exempt from all civil service provisions and shall be paid a salary established by the board.

(c) The executive director may appoint staff or retain consultants as necessary to carry out the duties of the authority.

(d) All contracts approved and awarded by the executive director shall be awarded in accordance with state law relating to procurement. Awards shall be based on price or competitive negotiation, or on both of those things.

132425. The LACMTA shall identify and expeditiously enter into an agreement with the authority to hold in trust with the authority all real and personal property, and any other assets accumulated in the planning, design, and construction of the project, including, but not limited to, rights-of-way, documents, third-party agreements, contracts, and design documents, as necessary for completion of the project.

132430. (a) The LACMTA shall transfer the unencumbered balance of all local funds programmed for completion of the project and that have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, to the authority for completion of the project.

(b) The authority is eligible to receive allocations of state funds for the project. The unencumbered balance of funds currently programmed or allocated to the LACMTA for completion of the project and that have been identified in the Restructuring Plan adopted by the LACMTA Board of Directors on May 13, 1998, shall be allocated to the authority for completion of the project.



(c) Any transfer of funds by the LACMTA under this section shall be subject to the terms of the memorandum of understanding entered into between the LACMTA and the commission on June 2, 1998.

132435. The authority shall enter into a memorandum of understanding with the LACMTA that shall specifically address the ability of the LACMTA to review any significant changes in the scope of the design or construction, or both design and construction, of the project. For purposes of this section, the term "significant change" means any change of mode or technology, or any other substantive change that affects the connectivity and operation of the project as part of the overall transit system operated by the LACMTA, or any combination of those things. Design and construction of a light rail project that is consistent with the current scope of the project shall not be deemed to be a significant change in the scope of the project and shall not require concurrence by the LACMTA.

132440. The authority shall not encumber any future farebox revenue anticipated from the operation of the project.

132445. The authority shall not encumber the project with any obligation that is transferable to the LACMTA upon completion of the design and construction of the project. The design and construction to be administered by the authority does not include rolling stock, which is a component of the operation of the project and shall be administered by the LACMTA. This section does not apply to any joint development programs, as authorized under paragraph (5) of subdivision (a) of Section 132410, that may be utilized to contribute to the financing of project design and construction.

132450. The authority shall be dissolved upon completion of construction of the light rail project. The LACMTA shall assume responsibility for operating the project upon dissolution of the authority.

SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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