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**REGULAR BOARD MEETING
APRIL 24, 2008**

SUBJECT: LOS ANGELES COUNTY CONGESTION REDUCTION DEMONSTRATION INITIATIVE

ACTION: AUTHORIZE THE EXECUTION OF A CONGESTION REDUCTION DEMONSTRATION AGREEMENT WITH THE UNITED STATES DEPARTMENT OF TRANSPORTATION

RECOMMENDATION

Authorize the Chair and the Chief Executive Officer (CEO) of the Los Angeles County Metropolitan Transportation Authority (LACMTA) to execute a Memorandum of Understanding (MOU) with the United State Department of Transportation (USDOT) (Attachment A) to convert high occupancy vehicle (HOV) lanes on Interstate 10 and Interstate 210 to high occupancy toll (HOT) lanes and implement transit improvements. The conversion of HOT lanes on the Interstate 110 would be subject to availability of financing. To help fund this program, the USDOT agrees to allocate \$213.6 million in federal funds to Los Angeles County.

ISSUE

The USDOT has proposed terms by which it may award \$213.6 million in federal transit assistance for the implementation of projects consistent with the Los Angeles Region Congestion Reduction Demonstration Initiative application that was submitted by the LACMTA on December 31, 2007. The federal funds would come from the Bus and Bus Facilities program. Although, the federal funds included in the MOU cannot be used directly for the implementation of the HOT lanes, USDOT provides flexibility to swap regional funds that could be used for the conversion. The execution of this MOU is just one step of the process towards signing any grant agreements to access the funds. Having many other regions and cities in the country competing for the same funding source, the execution of the MOU would provide some assurances of our commitment to continue discussions with the USDOT regarding the other steps of the approval process.

As a condition of receiving any federal funds we must ensure that the conversion and the transit projects will comply with all applicable federal, state and local laws, including the inclusion of the projects in the planning and programming documents as federally required.

POLICY IMPLICATIONS

Our recommendation is consistent with the Board directive of June 2007 to develop congestion pricing alternatives that could be implemented in Los Angeles County by the year 2010 and is consistent with the Board approved application for the USDOT grant funds. This recommendation also allows us to continue discussions with the USDOT to secure the \$213.6 million in federal financial assistance.

OPTIONS

The Board could choose not to approve the recommendation. We are not recommending this option because without this action, our region will be excluded from further consideration by the USDOT to receive a grant award in the amount of \$213.6 million. Also, not approving our recommendation could delay meeting the Board directive of June 2007 regarding the implementation of congestion pricing alternatives in Los Angeles County by the year 2010. This would limit our ability to continue improving the regional transportation system and mobility in Los Angeles County and to benefit from future funding opportunities that could become available for implementing congestion relief strategies that include pricing.

FINANCIAL IMPACT

The recommended actions have no impact on our FY 08 Budget. The execution of the MOU with the USDOT would increase the likelihood of Los Angeles County receiving federal funds.

DISCUSSION

The execution of MOU would allow the Chair and the CEO to negotiate with the USDOT specific grant agreements required to access \$213.6 million in grants that USDOT may approve from the Bus and Bus Facilities Program for a variety of projects, including bus purchases and park and ride lots, among other transit facilities. These projects are listed in Appendix A of the MOU, however, USDOT would provide flexibility as to which of these projects get implemented. In return, we would convert existing HOV lanes to HOT lanes along specific sections of Interstate 10 and Interstate 210. Among the conditions specified in the MOU, we would convert existing HOV lanes to HOT lanes along Interstate 110 subject to financing availability. Grants would be subject to the LACMTA receiving the necessary legal authority by October 15, 2008 to implement the HOT lanes.

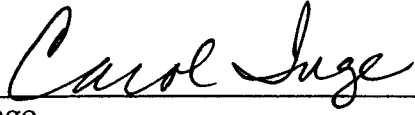
NEXT STEPS

Upon approval of the recommendation, the Chair and CEO of the LACMTA will execute the MOU with the USDOT and continue discussions to secure the \$213.6 million in federal funds for Los Angeles County. We will come back to the Board to secure programming and project approval actions for the implementation of the conversion and transit projects as appropriate.

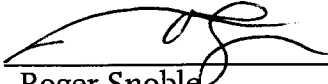
ATTACHMENTS

A. Congestion Reduction Demonstration Agreement

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Regional Program Management



Carol Inge
Chief Planning Officer



Roger Snoble
Chief Executive Officer

Congestion Reduction Demonstration Agreement

by and between the
U.S. Department of Transportation
and its Los Angeles-area Congestion Reduction Partners

Executive Summary

This Congestion Reduction Demonstration Agreement sets forth an agreement in principle between the U.S. Department of Transportation (the "Department") and the Department's Los Angeles-area Congestion Reduction Partners, comprised of the California Department of Transportation and the Los Angeles County Metropolitan Transportation Authority (collectively, the "Partner Agencies"). Under this agreement, the Partner Agencies agree to convert the high-occupancy vehicle ("HOV") lanes on I-10 and I-210 to dynamically-priced high-occupancy toll ("HOT") lanes. In addition, the Partner Agencies agree to convert the HOV lanes on I-110 to dynamically-priced HOT lanes, subject to the availability of financing for the costs thereof. In connection with their agreement to convert the HOV lanes to HOT lanes on I-10 and I-210, the Department will allocate to the Partner Agencies approximately \$213.6 million in Federal transit assistance.

Memorandum of Understanding

THIS MEMORANDUM OF UNDERSTANDING (this "MOU"), dated as of April 25, 2008, is made by and among the Secretary of Transportation (the "Secretary"), the Federal Transit Administration ("FTA") (the FTA and the Secretary, collectively, the "Department"), and the undersigned State, county and/or municipal governmental entities, as the case may be (collectively, the "Partner Agencies").

1. Agreement in Principle. This MOU sets forth an agreement in principle among the undersigned concerning the terms and conditions of Federal assistance to be provided by the Department for the transportation projects described herein. This MOU represents solely the intent of the parties (including, without limitation, the intent of the Department to allocate funds as set forth in Section 4(a) of this MOU), and no party shall be legally bound hereby. Any agreement between the Department and the Partner Agencies concerning funding of the transportation projects described herein shall be set forth in a grant agreement (or a series of grant agreements) (the "Grant Agreements") to be negotiated and executed by the parties to this MOU. The Department reserves the right in its sole discretion not to fund any of the projects (or any part thereof) described in this MOU or otherwise set forth in the application (the "Application") filed by the Partner Agencies to the Congestion Reduction Demonstration Program (the "CRD Program").

2. Background. Transportation system congestion is one of the greatest threats to our Nation's economic prosperity and way of life. Whether it takes the form of trucks stalled in traffic, cargo stuck at overwhelmed seaports, or airplanes stuck on the tarmac, congestion costs the Nation an estimated \$200 billion each year. The problem of traffic congestion in our major metropolitan areas in particular is severe and worsening. In 2005, traffic jams in the Nation's cities cost Americans 4.2 billion hours and 2.9 billion gallons of fuel. Congestion is also affecting the quality of life in America by robbing us of time that could be spent with families and friends and in participation in civic life.

The signatories to this MOU do not believe that gridlock is our inevitable fate. In November 2007, the Department solicited by notice published in the Federal Register (at 72 FR 63951 (2007)) (the "Federal Register Notice") certain metropolitan-area proposals to implement congestion pricing together with complementary transportation solutions, including transit service and innovative technology. In accordance with the process described in the Federal Register Notice, the Department has selected the Partner Agencies as recipients of Federal assistance in order to support the congestion reduction strategy for the Los Angeles metropolitan area described in the Application.

3. Designation of Partner Agencies. In accordance with the Federal Register Notice and for purposes of this MOU, the Department designates each of the following entities a "Partner Agency" (which shall be a "qualified jurisdiction" for purposes of the procedures described in the Federal Register Notice):

- (a) California Department of Transportation, as lead agency; and
- (b) Los Angeles County Metropolitan Transportation Authority.

4. **Grant Agreements.** The Department and the Partner Agencies agree to negotiate a grant agreement (or a series of grant agreements) that would reflect the following terms and conditions:

(a) **Projects and Sources of Funding.**

- (i) The Department shall make available from funds appropriated in Fiscal Year 2007 under the Department's 5309 Bus and Bus Facilities Program (the "Bus Program") the amount of \$213.6 million to support any project on the Adopted 2006 Regional Transportation Improvement Program ("RTIP") (including, without limitation, any project set forth on Appendix A) eligible to receive Federal assistance under the Bus Program (collectively, the "Transit Projects"); provided that (i) a Partner Agency duly applies for such funds and expends such funds on the Transit Projects and (ii) the Partner Agencies together shall reserve and make available an amount sufficient to pay for the conversion of the High-Occupancy Vehicle ("HOV") lanes set forth on Appendix B to High-Occupancy/Toll lanes (the "Appendix B HOT Lanes").
- (ii) The Partner Agencies shall convert the HOV lanes on I-110 to HOT lanes, as further described on Appendix C (the "Appendix C HOT Lanes" and, collectively with the Appendix B HOT Lanes, the "HOT Lanes"), subject to the availability of financing for the costs thereof, the California Environmental Quality Act, as amended, and the National Environmental Policy Act of 1967, as amended. ***As of the date of this MOU, the Department estimates that the borrowing capacity of a HOT lane "network" created by the conversion of I-10, I-110 and I-210, as described in the Application, is at least \$780 million.***¹
- (iii) The Partner Agencies agree that (i) none of the HOT Lanes shall be accessible by vehicles carrying two persons for a fee that is less than the fee payable for access by vehicles carrying one person (or for no fee) and (ii) the fee payable for access to the HOT Lanes shall vary by demand or time of day.

(b) **Completion of Projects.** The HOT Lanes shall be in revenue operation by not later than December 31, 2010, unless otherwise agreed by the Department and the Partner Agencies. In the event of a delay in implementation of any HOT Lane due to circumstances beyond the control of the Partner Agencies, the Department may negotiate an extended completion date or exercise any of its remedies under the Grant Agreements.

(c) **Other Terms and Conditions.** Each of the Grant Agreements shall additionally provide that:

- (i) No funds obligated by the Grant Agreements shall be drawn down by the recipient unless and until:
 - a. all legal authority necessary to implement the Conversion (as defined below), including, without limitation, legal authority to implement

¹ See Memorandum from Scully Capital Services, Inc. to Mark Sullivan, Director, TIFIA Joint Program Office, dated as of April 4, 2008, based on guidance from the Los Angeles County Metropolitan Transportation Authority.

congestion pricing, has been duly adopted, which authority shall be duly adopted not later than October 15, 2008; and

- b. the chief executive officer or the director, as the case may be, of each of the Partner Agencies executes and delivers to the Secretary a certificate, in form and substance acceptable to the Department, to the effect that the Partner Agencies have made available an amount sufficient to pay for the Conversion, which certificate shall be delivered to the Secretary not later than September 30, 2008.
- (ii) No funds obligated by the Grant Agreements shall be drawn down by the recipient unless each Partner Agency agrees to exempt privately operated over-the-road buses from tolls to the same extent it exempts (or propose to exempt) public transportation from tolls charged on the HOT lanes on I-10 and I-210 (and on I-110, in the event HOT lanes are instituted thereon).
 - (iii) The Department reserves the right to de-obligate funds obligated under any of the Grant Agreements (or to require the return of such funds) in the event a Partner Agency breaches or otherwise fails to perform under any of the Grant Agreements;
 - (iv) Each Partner Agency makes customary representations to the Department that the Conversion and the Transit Projects comply (or will comply) with all applicable Federal, State and local laws;
 - (v) Each Partner Agency agrees to provide to the Department (and its designees) access to all data collected by the Partner Agencies with respect to the Conversion and the Transit Projects for purposes of the Department's oversight responsibilities; and
 - (vi) To the extent requested by the Department, each Partner Agency agrees to designate an independent third party to perform all program evaluations required by law or as reasonably directed by the Department in order to assist in the evaluation of the Conversion and the Transit Projects.
- (d) **Actions Prior to Execution of Grant Agreements.** Prior to the execution of the Grant Agreements, the Department shall have received the following, in addition to usual and customary deliverables:
- (i) New or amended applications to the Bus Program, as and to the extent required by the Department; and
 - (ii) An opinion of counsel from each Partner Agency, satisfactory in form and substance to the Department, concerning the Conversion and the Transit Projects.

5. **Certain Definitions.** For purposes of this MOU:

"Conversion" means the conversion of the HOV lanes identified on Appendix B and Appendix C to HOT lanes variably priced by demand or time of day.

[Signatures appear on the following page.]

United States Department of Transportation

_____ **Date** _____
Authorized Person
U.S. Department of Transportation

_____ **Date** _____
James S. Simpson
Administrator
Federal Transit Administration

Partner Agencies

_____ **Date** _____
The Honorable Arnold Schwarzenegger
Governor
State of California

_____ **Date** _____
Will Kempton
Director
California Department of Transportation

_____ **Date** _____
Pam O'Connor
Chair
Board of Directors
Los Angeles County Metropolitan Transportation Authority

_____ **Date** _____
Roger Snoble
Chief Executive Officer
Los Angeles County Metropolitan Transportation Authority

Appendix A

Bus and rail car purchases
10 additional silver streak buses - 60' articulated 15 additional high capacity commuter buses for the 690 line 5 additional high capacity commuter buses 33 additional buses for the I-10 El Monte Busway Vanpool program 15 rail cars for San Bernardino and Riverside lines
Bus division upgrade
upgrade of Union Division
Transit station improvements
Platforms and parking at the Metrolink Pomona Station freeway stop for Silver Streak and commuter lines Improved local bus access (new bus stops) Ticket vending machines
Busway and track improvements
Double track, white to San Dimas Ave. on San Bernardino line Foothill extension of Gold Line - ROW acquisition for yard & maintenance facility Transportation systems mgmt. improvements – harbor transitway extension Flower and 5th (BRT - bus only lanes)
San Gabriel valley corridor park and ride improvements
improve West Covina park & ride Expand park & ride facilities at the el Monte transit center

Appendix B

Phase 1 HOV Lane to HOT Lane Conversions (dollars in millions)	Gross Cost
I-10 – from Alameda Street/Union Station to I-605 (28 lane miles)	\$59.9
I-210 from I-210/SR 134/I-710 to I-605 (24 lane miles)	<u>51.4</u>
Total	<u>\$110.3²</u>

² Source: *Congestion Reduction Demonstration Initiatives Application for Los Angeles County Region*, dated as of December 31, 2007, p. 22.

Appendix C

Phase 1 HOV Lane to HOT Lane Conversions (dollars in millions)	Gross Cost
I-110 from 182nd Street/Arteria Transit Center to Adams Blvd (33 miles)	\$71.0 ³

³ Source: *Congestion Reduction Demonstration Initiatives Application for Los Angeles County Region*, dated as of December 31, 2007, p. 22.