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**PLANNING AND PROGRAMMING COMMITTEE
JUNE 18, 2008**

**SUBJECT: CITY OF LOS ANGELES FINANCIAL CONTRIBUTION AGREEMENT
FOR EXPOSITION LIGHT RAIL TRANSIT PROJECT - PHASE I PROJECT**

ACTION: AUTHORIZE CEO TO EXECUTE AGREEMENT

RECOMMENDATION

Authorize the Chief Executive Officer to execute a Financial Contribution Agreement between the City of Los Angeles (the City) and the Los Angeles County Metropolitan Transportation Authority (LACMTA) for the Exposition Light Rail Transit Project – Phase I project (Expo Phase I), where the City will provide \$35 million in non-federal funds towards the project, as shown in Attachment A.

ISSUE

The Los Angeles City Council recently approved a Financial Contribution Agreement that would provide \$35 million as the City's share towards Expo Phase I.

POLICY IMPLICATIONS

The Financial Contribution Agreement with the City for \$35 million will help to satisfy a local contribution requirement that the Board of Directors has established for the Expo Phase I Funding Plan.

OPTIONS

The Board of Directors could choose not to approve our recommendation. However, we do not recommend that option, as approval would allow for the City to provide a local contribution towards Expo Phase I, as presently established in the Board-approved Expo Phase I Funding Plan. Without the City's contribution, we would need to seek \$35 million from other financial resources to complete the Funding Plan.

FINANCIAL IMPACT

The financial impact from our recommendation is that we would be able to receive City funds that can be used for Expo Phase I project expenditures. Under the Financial Contribution Agreement for Expo Phase I, the City will be expected to provide its \$35 million

share over four fiscal years through Fiscal Year 2010-11, subject to terms and conditions detailed in the Agreement. As Expo Phase I is a multi-year project, we will assist the Expo Construction Authority in securing the City's annual contributions as indicated in the Agreement. Currently, the Proposed FY09 LACMTA Budget includes funding of \$8 million in project #890001 – Expo Phase I.

BACKGROUND

Through a series of actions beginning in April 2005, the Board of Directors has adopted an \$862.3 million Funding Plan for Expo Phase I that includes a City contribution of \$35 million. To secure the City's contribution reflected in the Board-approved Funding Plan, we have met with City staff to negotiate terms and conditions for a Financial Contribution Agreement. After negotiations were concluded, the Agreement was forwarded to the Los Angeles City Council for consideration and approval. The City Council has approved the Agreement (see Attachment A), and now we are recommending that the Board authorize the Chief Executive Officer to execute the Agreement.

NEXT STEPS

With Board approval, the Chief Executive Officer will execute the Expo Phase I Financial Contribution Agreement with the City, and then we will forward it to the City so that they may execute it as well.

ATTACHMENT

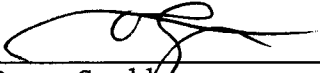
- A. Financial Contribution Agreement Between City of Los Angeles and Los Angeles County Metropolitan Transportation Authority for Phase I of Metro Exposition Light Rail Transit Project

Prepared by: Gladys Lowe, Director
Regional Program Management

Frank Flores, Executive Officer
Programming and Policy Analysis



Carol Inge
Chief Planning Officer



Roger Snoble
Chief Executive Officer

FINANCIAL CONTRIBUTION AGREEMENT BETWEEN
CITY OF LOS ANGELES AND
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION
AUTHORITY
FOR PHASE I OF METRO EXPOSITION LIGHT RAIL TRANSIT PROJECT

CITY OF LOS ANGELES)
AND)
)
LOS ANGELES COUNTY)
METROPOLITAN)
TRANSPORTATION)
AUTHORITY)

CONTRACT NO:

This Agreement is made and entered into by and between the CITY OF LOS ANGELES (“City”), a municipal corporation, acting by and through the Office of the Mayor (“Mayor”) and the LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY (“LACMTA”) on this ___ day of _____, 2008.

WITNESSETH

WHEREAS, City is a municipal corporation incorporated under the laws of the State of California; and

WHEREAS, LACMTA is a public entity, existing pursuant to Public Utilities Code Section 130050.2, et seq.; and

WHEREAS, the LACMTA Board of Directors has adopted a Funding Plan for Phase I of the Exposition Light Rail Transit Project (“the Project”) that includes funding from federal, state and local sources; and

WHEREAS, LACMTA has been issued a Record of Decision from the Federal Transit Administration (“FTA”) for completing an Environmental Impact Statement (“EIS”) for the construction of the Project described herein in and through the corporate boundaries of City; and

WHEREAS, at their November 30, 2005 meeting, the City Council approved a contribution of \$40 million towards the completion of the Project, inclusive of \$5 million in mitigation work for Grand Avenue in front of the Los Angeles Trade Tech College

(LATTTC);

WHEREAS, the \$5 million in mitigation work for Grand Avenue in front of LATTTC will be funded and implemented under a separate agreement between the City and LATTTC.

WHEREAS, Phase I of the Project will be funded and continually constructed with the intent it will be fully operational by July 1, 2010; and

WHEREAS, Section 132600 of the California Public Utilities Code establishes that Phase I of the Project shall be designed and constructed by the Exposition Metro Line Construction Authority ("Authority"), with all funding sources to be identified and secured by LACMTA; and

WHEREAS, LACMTA will be obtaining all real estate necessary for the Project and procuring the rail cars to be used in connection with the Project.

NOW THEREFORE, in consideration of the mutual covenants and promises as herein provided City and LACMTA do hereby agree as follows:

1.0 DEFINITIONS

1.1 "Annual Work Plan" or "AWP" - The City's Annual Work Plan that describes the work to be performed by the City for Phase I of the Project for the Authority for the upcoming fiscal year. The AWP and the process to develop the AWP are specified in Section 12.2 of the Master Cooperative Agreement.

1.2 "Construction" - Significant and sustained action that includes, but is not limited to, such activities as track work, catenary work, and station building.

1.3 "Final Design" - The stage that advances design documents, drawings and specification from 85 percent design completion to 100 percent design completion, providing for completed contract documents and proof of completion of design including incorporation of pre-final review documents.

1.4 "Fiscal Year" or "FY" - July 1 of one calendar year to June 30 of the following calendar year.

1.5 "FTA Record of Decision" - The written public record, prepared by the FTA after completion of an EIS, explaining why the agency has taken a particular course of action.

1.6 "Funding Plan for Phase I of the Project" - The total capital cost for Phase I of the Project is enumerated as \$862.3 million in escalated dollars as shown in Attachment A, herewith attached to this Agreement.

1.7 “Master Cooperative Agreement” – That certain Master Cooperative Agreement for the Exposition Metro Line by and amongst the City of Los Angeles, The Exposition Metro Line Construction Authority and the Los Angeles County Metropolitan Transportation Authority dated June 23, 2006.

1.8 “Milestones” – The products enumerated in Section 5.1 of this Agreement that triggers payment by the City.

1.9 “Phase I” - Those activities necessary to construct and place in revenue operations the first installment of the Project from Downtown Los Angeles to Culver City, as identified herein. This first installment is approximately 8.6 miles in length and will include eleven (11) stations, park-and-ride lots, and an operations and maintenance facility.

1.10 “Phase II” – Those activities necessary to construct and place in revenue operations the second installment of the Project from Culver City to Santa Monica.

1.11 “Project” - Those activities that are necessary to meet the objective of constructing and placing in revenue operation a light rail transit line known as the Metro Exposition Light Rail Transit Line.

1.12 “Project Scope” – Design and construction of an 8.6-mile light rail transit system extending from Downtown Los Angeles to Culver City, consisting of 7.3 miles of new light rail track and 1.3 miles of existing shared track with the Metro Blue Line. There will be nine (9) new stations, upgrades to two (2) existing Metro Blue Line stations, park-and-ride lots at three (3) stations and an operations and maintenance facility.

1.13 “Start Revenue Operations” - Begin operation of rail transit vehicles over the entire segment, requiring all passengers to pay a fare or present some other acceptable fare media to board the vehicles.

1.14 “Work Orders” - The document(s) that the Authority issues to the City identifying (i) the specific work under the AWP that the Authority requires the City to perform; (ii) the amount of money the City and the Authority agree will be paid to the City for such work; and (iii) the schedule City shall meet in performing the work. Work Orders are more specifically described in Sections 12.3 and 12.4 of the Master Cooperative Agreement.

2.0 PURPOSE OF AGREEMENT

The purpose of this Agreement is to set forth the mutual understandings between the parties of the terms and conditions relating to the schedule and extent of City’s financial

commitment to Phase I of the Project.

3.0 FUNDING COMMITMENT

3.1 City shall provide a total funding of \$40,000,000 toward the Project of which \$5,000,000 will be paid directly to LATTC pursuant to a separate agreement for the mitigation work for Grand Avenue in front of LATTC. The balance of \$35,000,000 shall be paid directly to LACMTA as provided below and the payment provisions of Section 5 below.

3.2 City shall provide \$35,000,000 of non-federal funds towards the completion of Phase I of the Project. The City shall provide said monies according to the following schedule and according to the payment procedure described under Section 5.0:

<u>Year</u>	<u>Annual Increment</u>	<u>Cumulative</u>
FY 2007-08	\$7,700,000	\$7,700,000
FY 2008-09	\$8,000,000	\$15,700,000
FY 2009-10	\$9,500,000	\$25,200,000
FY 2010-11	\$9,800,000	\$35,000,000
TOTAL	\$35,000,000	\$35,000,000

3.3 City shall make payments to LACMTA pursuant to the provisions of Section 5.0 of this Agreement, so that the cumulative allocation for Phase I of the Project shall not exceed \$35,000,000. Should any cost savings be realized at the completion of Phase I, LACMTA shall reimburse to the City a proportional share of City's payments or reduce City's funding obligation hereunder proportionately.

4.0 MAXIMUM ALLOCATION

4.1. The Funding Commitment set forth in Section 3.0 of this Agreement shall represent the maximum allocation of City to Phase I of the Project. Nothing in this Agreement shall be construed to obligate City to provide more than the maximum allocation of \$35,000,000 to Phase I. City shall incur no additional obligations relative to construction cost overruns that may be experienced by Phase I, and shall bear no legal or fiscal responsibilities for same. The City's contribution shall not be used for cost overruns without specific written authorization by the City. Under no circumstances will funding provided through this Agreement be used for Phase II of the Project.

4.2 LACMTA and the Authority shall not agree to changes in the Project Scope, configuration or design of the facilities for Phase I of the Project without notifying the City and without addressing the environmental requirements of the National Environmental Policy Act of 1969 ("NEPA"), as amended, if any, and the California Environmental Quality Act ("CEQA"), as amended, if any. If the City objects to these actions, then the City may invoke the meet and confer process in Section 13.0 of this Agreement, or if the meet and confer process does not result in agreement, then the City may invoke the Default/Termination of Agreement clause in Section 12.0 of this Agreement.

4.3. Nothing in this Agreement is intended to contradict, amend or modify the Master Cooperative Agreement, including without limitation, Section 1.4 (definition of Betterment), Section 1.4.57 (definition of Significant Change), Section 2.5 (City Review and Approval of Significant Changes within City Rights of Way), Section 2.6 (Betterments), and Article 9 (Reimbursements and Credits to Authority). Any payments due to Authority under the Master Cooperative Agreement shall be in addition to the City's \$35,000,000 contribution provided under this Agreement.

5.0 PAYMENTS

5.1. Prior to LACMTA invoicing the City for its contribution for the applicable fiscal year pursuant to the schedule contained in Section 3.2 above, the two conditions contained in Section 5.1a and 5.1b below must both be met.

a. Milestones have been met by the Authority as follows for Project segments shown in Attachment B:

(i) To receive the FY 2007-08 contribution, the following milestones have been met:

- Segment A 100% Design Submittal
- Segment B 100% Design Submittal
- Segment C 100% Design Submittal

(ii) To receive the FY2008-09 contribution, the following milestones have been met:

- Segment A 50% Construction Completion
- Segment B 50% Construction Completion
- Segment C 50% Construction Completion

(iii) To receive the FY2009-10 contribution, the following milestones have been met:

- Segment A 100% Construction Completion
- Segment B 100% Construction Completion
- Segment C 100% Construction Completion/Project Substantial

Completion

(iv) To receive the FY2010-11 contribution, the following milestone has been met:

- Start Revenue Operations

b. City has been paid for all approved invoices associated with Phase I of the Project as authorized by the Authority for the applicable fiscal year which are outstanding as of the date the final milestone for that fiscal year is met. The City shall ensure that all invoices for Work Orders associated with Phase I of the Project are timely submitted to LACMTA as provided under the Master Cooperative Agreement.

c. This paragraph is provided as an example of how the conditions to payment work. For the FY 2007-08 contribution, if the Authority completes the last design submittal on December 31, 2007, and once the City has been paid for all approved invoices outstanding as of December 31, 2007, then LACMTA can submit an invoice for the City's FY 2007-08 contribution.

5.2 Provided the condition contained in Section 5.1b is met or waived, then on or after June 30, 2007, LACMTA shall submit a requisition to the City Department of Transportation for City's Fiscal Year 2007-08 payment of \$7,700,000. Within forty (40) days of receipt of LACMTA's requisition by the City Department of Transportation, City shall pay \$7,700,000 to LACMTA.

5.3 For the payments beginning in Fiscal Year 2007-08 and thereafter, on or after July 1 of each year, and provided the conditions contained in Section 5.1a and 5.1b above are met or waived, LACMTA shall submit its annual requisition to the City Department of Transportation for City funds pursuant to this Agreement. Upon requisition by LACMTA to the City Department of Transportation, City shall pay to LACMTA the applicable annual amount due for its share of Phase I as described in Section 3.2 of this Agreement, within forty (40) days of receipt of LACMTA's requisition.

6.0 AUDIT AND INSPECTION OF RECORDS

6.1 LACMTA's records which shall include, but not be limited to, 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 relied upon to substantiate charges related to Phase I (all foregoing hereinafter referred to as "records") shall be open to inspection and subject to audit and reproduction by City auditors or authorized representatives to permit evaluation of expended cost.

6.2 City or any of its duly authorized representatives, upon written notice, shall be afforded reasonable access to all of the records of LACMTA related to Phase I, and

shall be allowed to interview any employees of LACMTA throughout the term of this Agreement. These records must be retained by LACMTA for three years following final payment under this Agreement.

7.0 TERM OF THE AGREEMENT

This Agreement shall become effective upon the date first referenced above and shall remain in full force and effect until December 31, 2011 or the completion of Phase I, whichever occurs last. For purposes of this Agreement, completion of Phase I shall be defined as the Start of Revenue Operations (Section 1.9).

8.0 CITY'S FUNDING COMMITMENT AND PARTICIPATION OF OTHER FUNDING SOURCES

City's funding commitment pursuant to this Agreement is subject to LACMTA securing funds from its own resources, the Federal Government, and the State of California as shown in the Funding Plan (Attachment A). However, LACMTA in its discretion may from time to time change the amounts to be received from its non-City funding sources.

Any additional funds secured by the City above the Funding Plan shown in Attachment A to enhance Phase I of the Project shall not be prohibited. If such money is secured by the City, it will be at the City's discretion, in consultation with LACMTA and the Authority, to determine how the money will be used.

9.0 CITY INDEMNIFICATION

Except for the active negligence or willful misconduct of City and any of its boards, officers, agents, employees, assigns, and successors in interest, LACMTA undertakes and agrees to defend, indemnify, and hold harmless City and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all suits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees and cost of litigation, damage or liability of any nature whatsoever, for death or injury to any person, including LACMTA's employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of the negligent acts, errors or omissions by LACMTA or its employees and agents in connection with its activities under this Agreement.

10.0 INCORPORATION OF ATTACHMENTS

The following Attachments are hereby incorporated into and made a part of this Agreement wherever referred to as though set forth at length, except where certain

portions of specific Attachments have been deleted or superseded by other Sections of this Agreement.

Attachment A: Funding Plan for Phase I of
Exposition Light Rail Transit Project

Attachment B: Project Segment Map

11.0 ORDER OF DOCUMENT PRECEDENCE

In the event of an inconsistency between any of the provisions of this Agreement and/or the Attachments hereto, the inconsistency shall be resolved by giving precedence in the following order.

Articles of this Agreement
Attachment "A"
Attachment "B"

12.0 DEFAULT/TERMINATION OF AGREEMENT

Upon determination by City or LACMTA that either party has not complied with the terms of the Agreement, both parties reserve the right to notify the other of such noncompliance. In the event the defaulting party does not cure the noncompliance within 120 days, the other party reserves the right to terminate this Agreement. Reasons for such termination may include, but shall not be limited to, termination of the project, or non- or late-payment of annual contributions by City. Termination of this Agreement shall be effected by giving a written notice of termination setting forth the manner in which the other party is in default. Either party shall have the right to enforce any and all rights and remedies herein or which may be now or hereafter available at law or in equity.

13.0 EVENTS BEYOND THE CONTROL OF EITHER PARTY

In the event that either party to this Agreement, despite its best efforts, cannot for reasons beyond the control of the party, timely satisfy a contingency or condition required by this Agreement, that party shall immediately notify in writing the other party as to the reasons the requirements cannot be met. The parties shall meet and confer in good faith to consider the changed condition and its impact of the Agreement. Both parties will work to resolve the problem and, if this meet and confer process results in a recommended restructured Agreement, representatives of both parties will recommend such changes as necessary to their respective governing bodies.

14.0 AMENDMENT TO AGREEMENT

This Agreement may only be amended in writing upon mutual consent of both parties.

15.0 AUTHORIZED REPRESENTATIVES

The following individuals and their successors are designated by City and LACMTA as the authorized representatives of the two parties for implementation of this Agreement, and all correspondence and notices relative hereto shall be considered delivered when received by these individuals at the following addresses:

For the City: Honorable Antonio Villaraigosa
Mayor, City of Los Angeles
Attn: Rita Robinson
Department of Transportation
100 South Main Street, 10th Floor
Los Angeles, CA 90012

For LACMTA: Roger Snoble
Chief Executive Officer
Los Angeles County
Metropolitan Transportation Authority
One Gateway Plaza, Los Angeles, CA 90012-2932

16.0 OTHER TERMS AND CONDITIONS

16.1 This Agreement constitutes the full and complete understanding between the parties. This Agreement may be modified only through written amendments hereto approved and executed in the same manner as this original Agreement. Each and every attachment to this Agreement is incorporated by reference and made part of this Agreement.

16.2 This Agreement shall be governed by California law and applicable federal law. 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.

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

Made and entered into on the date first above written, this Agreement is hereby executed.

City of Los Angeles

**Los Angeles County
Metropolitan Transportation
Authority**

By: _____
ANTONIO VILLARAIGOSA
Mayor

By: _____
ROGER SNOBLE
Chief Executive Officer

APPROVED AS TO FORM:

APPROVED AS TO FORM:

ROCKARD J. DELGADILLO
City Attorney

RAYMOND G. FORTNER, JR.
County Counsel

By: _____
Legal Counsel

By: _____
Deputy

ATTEST:

By: _____
City Clerk

ATTACHMENT A

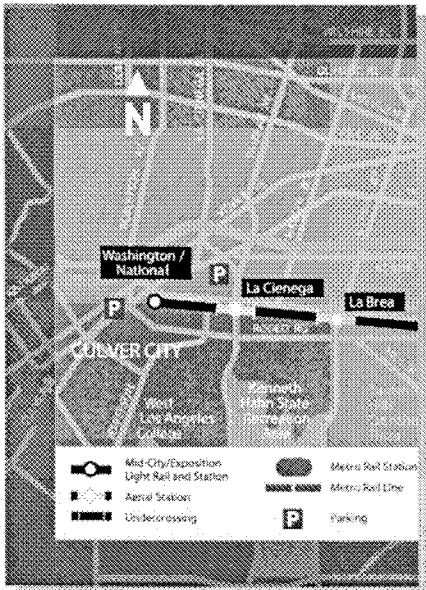
**Funding Plan for
Phase I of Metro Exposition Light Rail Transit Project**

Source	Amount (\$)	%
Federal	15,600,000	1.8
State	782,800,000	90.8
LACMTA	24,900,000	2.9
City	35,000,000	4.1
Other Local	4,000,000	0.4
Total	\$ 862,300,000	100.0

ATTACHMENT B

Expo Line Transit Project

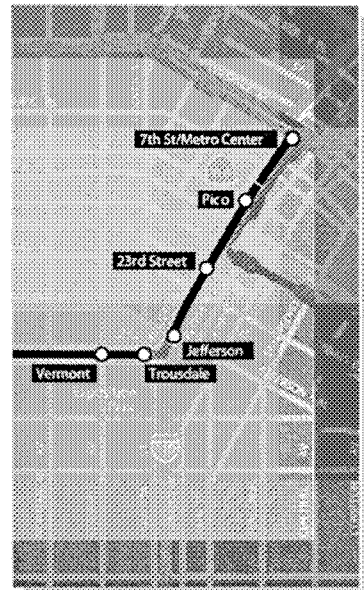
Expo Line A B C Alignment Map



Segment C



Segment B



Segment A



