



CITY OF BEVERLY HILLS STAFF REPORT

Meeting Date: August 16, 2011
To: Honorable Mayor & City Council
From: Cheryl Friedling, Deputy City Manager for Public Affairs
Aaron Kunz, Deputy Director of Transportation
Subject: Discussion by City Council on the Westside Subway Extension
Alignment
Attachments: 1. Previous Correspondence
2. Chronology of Meetings

INTRODUCTION

At its recent Legislative Committee meeting (Vice Mayor Brien and Councilmember Mirisch), discussion centered around the City's position regarding the Westside Subway Extension. In particular, the Legislative Committee reaffirmed support for the Subway and the 'America Fast Forward Plan' (formerly referred to as '30/10' accelerated financing plan). The Legislative Committee reiterated its opposition to Subway construction tunneling under Beverly Hills High School.

DISCUSSION

Information received from Metro (Metropolitan Transit Agency) indicate that geotechnical and related surveys are still ongoing as of early August, 2011. Metro's current plans are to release the Final Environmental Impact Statement/Report (EIS/EIR) in "Fall 2011" and for Metro Board to act on the FEIS/FEIR, including selection of the alignment between Beverly Hills and Century City in "Winter 2012." A more detailed schedule is anticipated within the next few weeks.

At a previous City Council meeting on June 21, 2011, staff was directed to reach out to the Beverly Hills Unified School District to schedule several joint meetings (staff-to-staff) in an effort to exchange information and collaboratively enhance efforts regarding the Subway. A letter was sent to the BHUSD in June, however, the School District responded (via e-mail, attached) indicating that the City's request for joint information sharing meetings was forwarded to the District's legal counsel for response. The School District expressed concern over sharing

information with the City and how that may affect the legal process being considered. As such, City staff has not met with BHUSD counterparts to pursue this effort.

Since the release of the Draft EIS/EIR in September 2010, Metro has not released new technical data, only responses to inquiries seeking clarification of technical information in the Draft EIS/EIR. Metro's formal response to the City's comments and questions regarding the Draft EIS/EIR will be included with the release of the Final EIS/EIR. That was confirmed by the response Metro provided to the City as a result of a Public Records Act request the City submitted on July 15, 2011 (attached).

Staff will continue to identify appropriate firms and service providers to promote the City's position and/or conduct peer review studies of Metro's findings regarding tunneling under Beverly Hills High School. Currently the City contracts with Shannon & Wilson, Inc. for geo-technical services. Staff will forward an amendment to Shannon & Wilson's agreement in September to extend the term and increase the budget in anticipation of Metro's release of new geotechnical data and the Final EIS/EIR. Staff is also preparing to retain experts to assist in the City's review of Metro data including expertise in ridership forecasting, seismic assessment, and structural failure analysis on an as-needed basis.

Additional correspondence to Metro, key elected officials and other BHUSD correspondence is attached, as well as a chronology of meetings.

Staff is in discussion with the Legislative Committee to prepare a new letter to Metro articulating the City's position, and as of the time of printing, final edits were in progress. This letter will be provided to the City Council prior to the August 16th Study Session.

FISCAL IMPACT

Staff has currently identified \$110,000 in additional Transient Occupancy Tax revenues to be allocated for ongoing advocacy, technical, public relations and legal consulting services. Additional fiscal resources are expected to be available through the process of final year-end balance reconciliation.

RECOMMENDATION

That Staff identify and set aside funding up to \$350,000 for ongoing advocacy, technical, public relations and legal consulting services.

El. for
CF
Cheryl Friedling
Approved By

Attachment 1



Jeffrey Kolin, City Manager

August 9, 2011

Art Leahy, Executive Officer
Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

Dear Mr. Mieger:

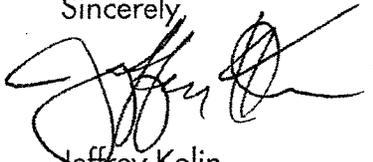
The City of Beverly Hills is preparing for the release of the Westside Subway Extension Final Environmental Impact Statement/Report (FEIS/FEIR) and pertinent geotechnical studies over the next few months. In preparation to review these reports when they become available, we would appreciate your response to the following questions:

- What are the limitations to constructing buildings over subway tunnels? Are there specific limitations related to constructing schools over subway tunnels?
- Does Metro have authority to approve/disapprove or limit the construction of buildings over subway tunnels?
- If construction or significant remodeling occurred over subway tunnels, how would Metro coordinate efforts with the property owner?
- What measures, if any, can be incorporated into the design, engineering and construction of subway tunnels to allow greater flexibility in constructing buildings above them? Is it possible to dig tunnels deeper than currently planned or reinforce them?
- How does tunneling technology mitigate risk of an explosion of methane or other gas?
- What is the estimated cost of portal construction? Specifically, what is the estimated cost of constructing a second half or full portal at a station (excluding real estate costs)?

- Can you provide maps of the Santa Monica Boulevard Fault Line and/or West Beverly Hills Lineament at this time?
- What engineering solutions are available to construct a Subway tunnel and/or station along an earthquake fault line? What are the costs and implications of doing so?
- What are the estimated costs and construction implications of an alignment that tunnels north of the High School property and continues under 1800 Century Park East to reach Constellation Boulevard?

We look forward to receiving your timely response to these questions to help us prepare for the release of the FEIS/FEIR and other pertinent data. If you have any questions, please do not hesitate to contact me at (310) 285-1012 or Aaron Kunz, Deputy Director of Transportation, at (310) 285-2563.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jeffrey Kolin', written over a white background.

Jeffrey Kolin
City Manager

CC: Beverly Hills City Council

David Gustavson, Director of Public Works & Transportation

Aaron Kunz, Deputy Director of Transportation

David Mieger, Deputy Executive Officer, Metro

Jody Litvak, Community Relations Manager, Metro



Metro[™]

August 5, 2011

Roxanne M. Diaz
Chief Assistant City Attorney
City of Beverly Hills
345 Foothill Rd.
Beverly Hills, CA 90210

Dear Ms. Diaz,

I am in receipt of your letter dated July 29, 2011 regarding LACMTA's response to your client's public records request. I extended the time within which LACMTA must respond to the public records request, however, I inadvertently neglected to provide a reason for the necessity of the extension.

Please be advised that LACMTA is entitled to an additional 14 days under California Government Code Section 6253 (c)(2). Your client's request required LACMTA and its counsel to search for, collect, and appropriately examine a voluminous amount of documents. LACMTA will make the documents available for inspection or copy on or before August 11, 2011.

You may contact me at lord@metro.net or (213) 922-4880 if you have any questions concerning this request. Please reference PRA-0003836.

Sincerely,

David Lor
Records & Information Coordinator

cc: RMC
Chron
David Gustavson, City of Beverly Hills



Laurence S. Wiener
City Attorney

July 29 2011

By Electronic Mail

David Lor
Records & Information Coordinator
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012-2952

Re: City of Beverly Hills Public Records Act Request to MTA --Response to MTA's Extension Letter

Dear Mr. Lor:

Thank you for your letter dated July 28, 2011 sent to David Gustavson regarding the Public Records Act request submitted by the City of Beverly Hills ("City") to the Los Angeles County Metropolitan Transportation Authority ("MTA") on July 15, 2011. This letter is in response to your letter. As you know, the City requested:

1. All documents, including correspondence, emails and any other writings, sent by, on behalf of, or from the Beverly Hills Unified School District (defined to include District Board Members, District staff and District consultants, contractors and attorneys, such as Tim Buresh from Prime Consulting, Hill Farrer & Burrill and Alston & Bird) to any MTA Board member, staff member, consultant, contractor and/or legal counsel, related to the Westside Subway Extension.
2. All documents, including correspondence, emails and any other writings, sent by, on behalf of, or from any MTA Board members, staff member, consultant, contractor or legal counsel, to the Beverly Hills Unified School District (defined to include District Board Members, District staff and District consultants, contractors and attorneys such as Tim Buresh from Prime Consulting, Hill Farrer & Burrill and Alston & Bird) related to the Westside Subway Extension.
3. All documents provided to the Beverly Hills Unified School District from the MTA in response to the public records act request made by the Beverly Hills Unified School District for documents related to the Westside Subway Extension.

As you are no doubt aware, Government Code section 6253(c) of the Public Records Act requires that a public agency shall, within 10 days of receipt of a request, determine whether that request

David Lor
Los Angeles County Metropolitan Transportation Authority
July 29, 2011
Page 2

seeks copies of disclosable public records and notify the requestor of the determination and reasons therefore. Your response letter has not provided such a determination and reasons. This 10-day time limit can be extended by 14 days only if "unusual circumstances," as described in that subsection of the statute, are found to exist. However, section 6253(c) requires that the extension letter set forth the reasons for the extension, which your response letter failed to do. Section 6253(c) also requires that the extension letter provide "the date on which a determination is expected to be dispatched," which your response letter also failed to do.

The category of records we are seeking are quite clear and contrary to your letter we have not asked any "follow up questions" that permit the MTA to seek additional time to respond to our request. More importantly, none of the four statutorily defined "unusual circumstances" apply in this context.

Our first two requests seek all documents exchanged between the MTA and the Beverly Hills Unified School District ("District"). We understand that there have been numerous exchanges between the parties by letter, email and facsimile. These documents should be readily available and do not require you to: (i) "search and collect the requested records from field facilities or other establishments;" or (ii) consult with another agency having substantial interest in the determination; or (iii) compile data or write programming language or a computer program to extract data. This request also does not require you to search for, collect and examine a voluminous amount of separate and distinct records. There is no question that the documents requested by the City between MTA and the District are (i) public records; (ii) exist and are readily maintained in the ordinary course of business by MTA; and (iii) not exempt from disclosure. In fact some of these documents are available on the internet (www.centurycitysubway.org).

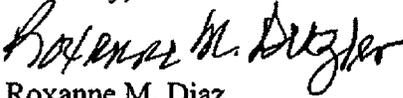
As for our third request seeking all documents provided to the District from MTA in response to numerous public records act requests made by the District, again there are no "unusual circumstances" that necessitate the MTA to determine whether the City's request seeks an identifiable public record. The request simply seeks public records that have already been provided to the District. For example, in a letter dated April 14, 2011 from Kevin Brogan to Ronald Stamm, Counsel to the MTA, Mr. Brogan lists all the categories of records for which MTA provided responsive documents (see, pages 4 and 5). In another letter dated May 4 from Joe Parise of the MTA to the District's Counsel, the letter states: "You may view or purchase the available report mentioned in this letter. If you wish to purchase the documents, please remit payment in the amount of \$69.75 (588 pp at \$.10 per page; \$10.95 postage) to" These letters demonstrate that the records the City is seeking have already been collected and reviewed and are records that you have determined are "public records" subject to disclosure and therefore such records should be immediately provided to the City. For your convenience, enclosed are copies of these letters.

As you may be aware, the Public Records Act prohibits a public entity from using the Act to delay or obstruct the inspection or copying of public records. Moreover, the Act mandates that a public entity make the records "promptly available." For the reasons stated above, there is no legal basis

David Lor
Los Angeles County Metropolitan Transportation Authority
July 29, 2011
Page 3

for the MTA to unilaterally take an unlimited amount of time to review the City's request and determine whether or not it seeks public records in the possession of the MTA or to delay the release of public records. Accordingly the City requests that the records be made available to it no later than August 3, 2011. The City will pay for all copying costs and will send a messenger to retrieve the documents. Please feel free to contact me with any questions.

Sincerely,



Roxanne M. Diaz
Chief Assistant City Attorney

B0785/0001/13780846.1

cc: David Gustavson, Director of Public Works & Transportation



Barry Brucker, Mayor

July 29, 2011

Howard, "Chip" Smith,
Acting State Architect
California Department of General Services
Division of the State Architect (DSA)
1102 Q Street, Suite 5100,
Sacramento, CA 95814

Dear Mr Smith:

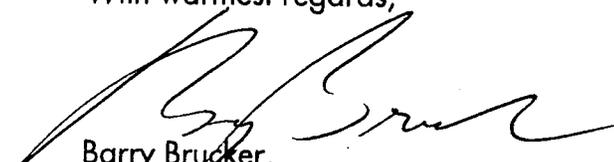
Thank you for taking the time to meet with our City Manager Jeff Kolin and with me earlier this week. We appreciate the time that you took to describe the DSA process for reviewing and approving construction activity near school facilities. Our meeting with you shed light on what we in Beverly Hills can expect regarding a construction alternative that LA Metro is considering that would involve tunneling under an existing school facility on the campus of Beverly Hills High School.

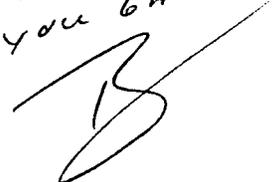
We are not aware of any other examples of subway tunnels beneath instructional buildings for a public school. We are heartened to hear that DSA would play a significant role in reviewing soil conditions, seismic, geotechnical and a geohazard impacts of any planned construction activity underneath the historic school buildings at Beverly Hills High School.

We now have a more detailed understanding of your role in the process and the criteria that your office will use to evaluate any proposed construction activity near this historic school.

The City of Beverly Hills has enjoyed a productive relationship with DSA in the past by carrying out our Building Inspection role on bond-funded school construction projects in our community. In that capacity, we have provided DSA certified inspectors for School construction projects. We look forward to working productively with you again in the very near future on this very important project.

With warmest regards,


Barry Brucker,
Mayor, City of Beverly Hills

*WE WERE GRATEFUL
TO YOU FOR THE
TIME YOU GAVE US!*




Barry Brucker, Mayor

July 29, 2011

Mr Esteban Almanza,
Chief Deputy Director
California Department of General Services
1001 I Street, 18th Floor
Sacramento, CA 95814

Dear Mr. Almanza:

Thank you for taking the time to meet with our City Manager Jeff Kolin and with me earlier this week. We appreciate the time that you took to describe the DSA process for reviewing and approving construction activity near school facilities. Our meeting with you shed light on what we in Beverly Hills can expect regarding an alternative that LA Metro is considering that would involve tunneling under an existing school facility on the campus of Beverly Hills High School.

We are not aware of any other examples of subway tunnels beneath instructional buildings for a public school. We are heartened to hear that DSA would play a significant role in reviewing soil conditions, seismic, geotechnical and a geohazard impacts of any planned construction activity underneath the historic school buildings at Beverly Hills High School.

We now have a more detailed understanding of your role in the process and the criteria that your office will use to evaluate any proposed construction activity near this historic school.

The City of Beverly Hills has enjoyed a productive relationship with DSA in the past by carrying out our Building Inspection role on bond-funded school construction projects in our community. In that capacity, we have provided DSA certified inspectors for School construction projects. We look forward to working productively with you again in the very near future on this very important project.

With warmest regards,



Barry Brucker,
Mayor, City of Beverly Hills



One California Plaza
37th Floor
300 South Grand Avenue
Los Angeles, California
90071-3147

July 28, 2011

PHONE: (213) 620-0460
FAX: (213) 624-4840
DIRECT: (213) 621-0809
E-MAIL: ddennis@hillfarrer.com
WEBSITE: www.hillfarrer.com

Via Facsimile (310) 275-8159 and U.S. Mail

Jeff Kolin
City Manager
City of Beverly Hills
455 N. Rexford Drive
Beverly Hills, CA 90210

Re: Metro's Proposed Westside Subway Extension

Dear Mr. Kolin:

The Board of the Beverly Hills Unified School District has received your letter of July 21, 2011, addressed to Superintendent Woods, requesting a meeting for the district to share information developed by the experts hired by the school board to study the proposed Metro line under Beverly Hills High School. This follows on your earlier letter of June 24, 2011 also requesting a meeting to share information.

On July 5, 2011, my law partner Kevin Brogan responded to you indicating that while the district would be pleased to share information developed by its experts, the legal realities of the situation the district faces, including possible future legal action by Metro against the district to acquire its property for the subway, would require a mutually acceptable and enforceable joint defense agreement to protect the attorney-client and attorney-work product privileges. I do not believe that the City ever formally responded to that request, although I understand there was at least one conversation between Mr. Brogan and the City Attorney discussing the matter generally. We have heard nothing further from the City until your second meeting request.

Obviously, Mr. Brogan's response applies with equal force to your July 21 request for a meeting. While we understand that you have been asked by the City Council to report back by August 16, the school board has independent legal obligations and discussions can proceed only after an acceptable joint defense agreement. I would be happy to discuss the matter further with you or the City Attorney to see whether such an agreement is possible.

Very truly yours,

A handwritten signature in cursive script, appearing to read 'Dean E. Dennis'.

DEAN E. DENNIS

OF

HILL, FARRER & BURRILL LLP

cc: Laurence S. Wiener, Esq.



Jeffrey Kolin, City Manager

July 21, 2011

Mr. Gary Woods
Superintendent
Beverly Hills Unified School District
225 South Lasky Drive
Beverly Hills, CA 90212

Dear Dr. Woods:

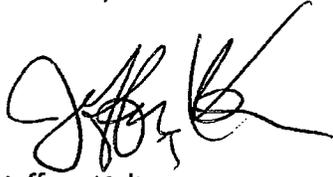
As we have discussed, the Beverly Hills City Council has directed the formation of a team to review technical information related to the Westside Subway Extension with school district personnel and/or consultants. David Gustavson, Director of Public Works & Transportation will lead the City's team.

We respectfully request that school district staff and their consultants participate in a task force meeting to share data and analysis of the Westside Subway Extension. In order for us to meet the City Council's direction to provide a report at the August 16, 2011 Study Session, we request a meeting on Thursday, July 28 at 1:30 pm. Prior to this meeting, we respectfully request data, analysis and research that the school district and/or consultants have completed, including, but not limited to:

- Ridership data developed by the school district for the Century City station options,
- Cost analysis of the Constellation alignment,
- Impacts of the Subway to the Beverly Hills High School modernization and construction plan including additional estimated costs,
- Methane gas issues,
- Risk analysis of tunneling under Beverly Hills High School, and
- Surveys of similar conditions, if any.

Please do not hesitate to contact me at 310-285-1012 or David Gustavson at 310-285-2452 if you have any questions or would like to discuss this matter. Thank you in advance for your participation.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Kolin". The signature is stylized with a large initial "J" and a long, sweeping underline.

Jeffrey Kolin
City Manager



David D. Gustavson, Director of Public Works & Transportation
Public Works & Transportation Department

July 15, 2011

Joe Parise
Manager of Records & Information Management
Los Angeles County Metropolitan Transportation Authority
1 Gateway Plaza
Los Angeles CA 90012

Re: Public Records Act Request

Dear Mr. Parise:

Pursuant to the California Public Records Act ("Act"), the City of Beverly Hills makes the following request for copies of documents related to proposed project commonly known as the "Westside Subway Extension" currently being reviewed by the Los Angeles County Metropolitan Transportation Authority ("MTA"):

1. All documents, including correspondence, e-mails and any other writings, sent by, on behalf of, or from the Beverly Hills Unified School District (defined to include District Board Members, District staff and District consultants, contractors and attorneys, such as Tim Buresh from Prime Consulting, Hill Farrer & Burrill and Alston & Bird) to any MTA Board member, staff member, consultant, contractor and/or legal counsel, related to the Westside Subway Extension.
2. All documents, including any correspondence, e-mails and any other writings, sent by, on behalf of, or from any MTA Board member, staff member, consultant, contractor or legal counsel, to the Beverly Hills Unified School District (defined to include District Board Members, District staff and District consultants, contractors and attorneys such as Tim Buresh from Prime Consulting, Hill Farrer & Burrill and Alston & Bird) related to the Westside Subway Extension.

3. All documents provided to the Beverly Hills Unified School District from the MTA in response to the public records act requests made by the Beverly Hills Unified School District for documents related to the Westside Subway Extension.

Please respond within ten (10) days of receipt of this letter regarding the date and time that the requested records will be available. (Cal. Govt. Code § 6253(c).) Please also indicate the number of pages responsive to the request and the total costs associated with obtaining copies of these records. If any records responsive to this request are withheld, please provide a written justification and the names and titles or positions of each person responsible for the denial. (Cal. Govt. Code §§ 6253(d) & 6255.) We would appreciate any assistance you can provide in identifying records and information responsive to this request.

If you have any questions please do not hesitate to contact me at 310.285.2508 or dgustavson@beverlyhills.org.

Sincerely,



David D. Gustavson

Director of Public Works & Transportation



Barry Brucker, Mayor

July 7, 2011

The Honorable Mayor Antonio Villaraigosa
City of Los Angeles
200 N. Spring St
Los Angeles, CA 90012

Dear Mayor Villaraigosa,

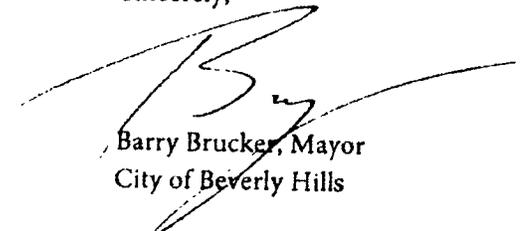
I would like to thank you for an extremely productive meeting on Tuesday with Vice Mayor William Brien MD, City Manager Jeffrey Kolin and me on the Westside Subway Extension project and, in particular, how it impacts Beverly Hills.

I am especially pleased that you are willing to explore our proposal for a third alternate alignment between Avenue of the Stars and Century Park East, and our City's offer to provide a construction staging area that could be converted to a park-and-ride lot serving the entire Westside. I have included additional details of these proposals in the attached document.

The Beverly Hills City Council is committed to working collaboratively with the Metropolitan Transit Authority and I feel confident that we will be able to find productive solutions to the challenging issues we discussed. As you know, the City of Beverly Hills supports the subway extension and the America Fast Forward funding initiative but opposes an alignment that would tunnel underneath Beverly Hills High School.

Thank you for your attentiveness and willingness to work with us to achieve our common goal of a regional transportation system that benefits the Los Angeles region.

Sincerely,



Barry Brucker, Mayor
City of Beverly Hills

cc: Beverly Hills City Council
Jeff Kolin, City Manager



Jeffrey Kolin, City Manager

July 5, 2011

Dr. Gary Woods
Superintendent
Beverly Hills Unified School District

Dear Dr. Woods,

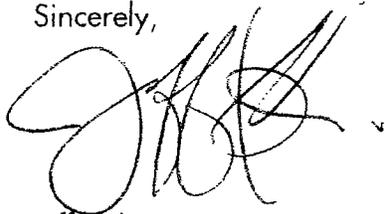
Welcome to Beverly Hills for the start of what I hope will be a long and successful tenure as the Superintendent of the Beverly Hills Unified School District. I am looking forward to having a chance to meet you when the opportunity arises. If there is anything that I can do to help make the transition a smooth one, please do not hesitate to let me know.

I contacted Acting Superintendent Dick Douglas's assistant on Friday June 24, 2011 and requested a copy of a letter from Dick Douglas to Ronald Stamm, Principal Deputy County Council, in the Transportation Division and a copy of the 24-page report that was attached. The letter was referenced in issue 611 of the Beverly Hills Weekly on Page 4 and contains a quote from the report. It would be helpful to have the information provided to the County and the press so that I can share it with David Gustavson, Director of Public Works for the City of Beverly Hills. David has been asked to take the lead on behalf of the City staff on subway alignment, tunneling and safety issues.

I have inquired several times on the availability of the letter and report since my initial request on the 24th and understand that they were having some difficulty locating the

letter and report. Thank you for following up on my request for the information. Please let me know if you see any difficulty with obtaining the copies requested.

Sincerely,

A handwritten signature in black ink, appearing to be 'JK', written in a cursive style.

Jeff Kolin
City Manager

cc: Barry Brucker
Willie Brien
Lisa Korbatov
Brien Goldberg



Jeffrey Kolin, City Manager

June 24, 2011

Richard Douglas, Superintendent
Beverly Hills Unified School District
255 South Lasky Dr.
Beverly Hills, CA 90212

Dear Dr. Douglas,

As directed by the Beverly Hills City Council, I request that City and School District staff, along with our respective consultants, immediately begin regular and frequent meetings to discuss the issues and share data and analysis of Metro's proposed Westside Subway Extension.

As Metro draws closer to a decision regarding the alignment and EIR, it is imperative that the District and the City work together and provide our policymakers with up-to-date information. Director of Public Works and Transportation David Gustavson, P.E., will lead the City's team.

Regards,

A handwritten signature in black ink, appearing to be "JK", written over a horizontal line.

Jeff Kolin, City Manager
City of Beverly Hills

Cc: Beverly Hills City Council
Dave Gustavson



Barry Brucker, Mayor

June 23, 2011

Arthur T. Leahy, Chief Executive Officer
Metropolitan Transit Authority
One Gateway Plaza
Los Angeles, CA 90012

Dear Art:

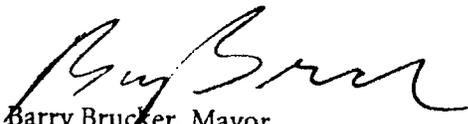
This letter provides you with an update of the Beverly Hills City Council's position regarding the Westside Subway Extension.

At its June 21 meeting, the City Council received significant public comment, urging the Council to oppose the entire Westside Subway Extension if the Metro Transit Authority board selects the Constellation Station alignment -- or *any* alignment that would involve tunneling underneath Beverly Hills High School.

Within the next few weeks, the City Council will be evaluating all options available regarding the entire Westside Subway Project as it is planned within Beverly Hills, as well as the America Fast Forward (formerly 30-10) initiative.

Please review this new information and call me if I can further emphasize the seriousness of the City Council's and the community's resolve.

Regards,


Barry Brucker, Mayor
City of Beverly Hills

cc: Beverly Hills City Council
Jeff Kolin, City Manager



Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-3952

310.922.2000 Tel
metro.net

Metro

May 4, 2011

John M. Rochefort
Alston & Bird, LLP
333 S. Hope St., 16th Floor
Los Angeles, CA 90071
mark.rochefort@alston.com

Mr. Rochefort:

This letter is in regards to your request, received April 12, 2011, for documents related to LACTMA's Westside Subway Extension Project.

- Request nos. 1-7, 9, and 13-15: Please refer both to the Geotechnical and Hazardous Materials Technical Report from the DEIS/DEIR, which is posted online at:
http://www.metro.net/projects_studies/westside/images/Draft_DEIS_DEIR/tech-reports/13-Geotechnical&Hazardous-Materials-Technical-Report.pdf

In addition, we have made available the Geotechnical and Environmental Report (Volumes 1-3), which provide a significant amount of information collected through the Draft DEIS/DEIR phase.

- Request no. 8: Please refer pages 3-14 and 3-25 of the above Geotechnical and Hazardous Materials Technical Report.
- Request no. 10: Please refer to pages 3-4 and 3-8 of the above Geotechnical and Environmental Report (Volume 1).
- Requests nos. 11-12: We have made available the MACTEC Addendum Report which is titled Results of Santa Monica Fault Explorations Seismic Exploration and Sonic Core Drilling dated September 28, 2010. Work related to the West Beverly Hills Lincament is ongoing and the schedule depends upon permits and approvals from cities and affected property owners. The results of this analysis, as well as further geotechnical testing will be documented and provided as a part of the release of the Final DEIS/DEIR.

Other documents which may respond to your request are withheld under Government Code Sections 6254(a), (h), (k) and 6255(a).

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You may view or purchase the available reports mentioned in this letter. If you wish to purchase the documents, please remit payment in the amount of \$69.75 (588pp at \$.10 per page, \$10.95 postage) to:

**Metro
MS: 99-PL-5
One Gateway Plaza
Los Angeles, CA 90012**

if you have further questions or comments, please feel free to contact David Lor at (213) 922-4880 or lor@metro.net. Please reference PRA-0003632.

Sincerely,



**Joe Parise
RIM Manager**

**cc: RMC
Chron**

April 14, 2011

PHONE: (213) 620-0460
FAX: (213) 624-4840
DIRECT: (213) 621-0815
E-MAIL: kbrogan@hillfarrer.com
WEBSITE: www.hillfarrer.com

Via Facsimile (213) 922-2531 and U.S. Mail

Ronald W. Stamm
Principal Deputy County Counsel
Transportation Division
County of Los Angeles
One Gateway Plaza
Los Angeles, CA 90012-2951

Re: Westside Subway Extension

Dear Mr. Stamm:

In response to your letter of March 30, 2011, we have received some documents in response to Mr. Buresh's requests, but by no means is the production even close to complete.

Outstanding Document/File Requests. We currently have not received any documents responsive to the following categories (which I will number and quote from Mr. Buresh's list):

1. **Ridership-Ongoing MTA Work:** "Electronic copy of the new micro-level station ridership model(s) being prepared by Metro and due out at the end of March. This model(s) should contain: (1) a GIS database of all adjacent land uses and populations up to ½ mile from all potential station portal locations, including demographic factors (e.g. age, transit dependency, commuter/non-commuters); (2) a series of algorithms/factors for converting the various populations contained in the GIS database into ridership; (3) an interactive calculation of ¼ mile and ½ mile radii based on actual walking paths and impedance factors (e.g. street crossings) from the various station portals, including the ability to have multiple portals at one station; (4) an interactive calculation method for determining projected ridership for all station portal locations, including the ability to have multiple portals. Statements of conclusion and supporting calculations. We would like this information for the Century City options and for the Westwood/UCLA station options."
2. **Ridership-EIS/EIR Reference Material:** "BART-based Demand Ridership Model (DRM) including supporting databases. (Reference Final Smart Growth Evaluation Report, pages 3-1 through 3-9; includes database factors listed on page 3-2)"
3. **Travel Times-EIS/EIR Reference Material:** "Impact of changes in subway travel time on subway line ridership. (This will either be built into the Demand Ridership Model requested above, or calculated in a supporting reference model.)"

4. **Travel Times-Ongoing MTA Work:** "Electronic copy of speed profile model and supporting datasets (not just the run results) used to calculate travel times between Wilshire/Rodeo and Westwood/UCLA stations based on final profile adjustments and used to compare the four different alignment options."
5. **Geometry-Ongoing Metro Work:** "Copies of the four alignments and profiles if any engineering adjustments are made. BHUSD has noted possible errors in the surface profile in the area of the BHHS and the fact that the profiles will differ substantially between the two tunnels. Metro is re-surveying the area and developing profiles for both tunnels. A copy of the new surface profiles for the portion of the tunnels that cross the BHHS property is requested."
6. **Cost-EIS/EIR Reference Material:** "Historical database of station cost, including supporting data and descriptions, plus any parameters used in defining or interpreting the database. (Reference Capital Cost Estimate Report, pages 3-4 and 6-1)"
7. **Cost-EIS/EIR Reference Material:** "Clarify estimate approach used in preparing historical database of station costs, whether based on bid cost or cost at completion, and if bid cost, what completion/contingency factor was used. (Reference Capital Cost Estimate Report, pages 3-4 and 6-1)."
8. **Cost-EIS/EIR Reference Material:** "Clarify traction power substation physical size requirements (e.g. 50 feet wide by 100 feet long by X height). (Reference EIS/EIR Chapter 7 – Evaluation of Alternatives, Section 7.2.6 Environmental Considerations, page 7-9) Confirm overall box dimensions and coverage requirements (distance to surface and distance to buried utilities) for station + crossover + traction power substation with the various alternate placements of the traction power substation (e.g. on mezzanine level, over crossover, at end of station)."
9. **Cost-EIS/EIR Reference Material:** "Provide the right of way estimate prepared by the Metro Right of Way Department. (Reference Capital Cost Estimate Report, page 3-7) Include the database of comparable acquisitions (segregated by type of acquisition such as permanent underground easement) used to prepare the right of way estimate, including how the historical right of costs were escalated to reflect current values. Indicate whether the historical costs include cost of counsel required to execute the various transactions. If not included in the historical costs, please include the actual cost of counsel for the various takes included in the database."
10. **Cost-EIS/EIR Reference Material:** "Provide the estimate Excel files (including the main worksheet, backup worksheets, and supporting data) that were used to create the Main Worksheet for the following alignments/options:
 - Alignment 1B (which is presumed to be a combination of Option I and Option J; if not correct, please explain).

- Alignment Options K, H, P and Q.
- Santa Monica station cost and Constellation station cost. At a minimum, include the Estimating Basis and Assumptions document portions relevant to the above elements. (Reference Capital Cost Estimate Report, page 4-2)

11. Cost-EIS/EIR Reference Material: "Clarify estimate assumptions for Constellation and Santa Monica stations regarding water table elevation and gassy/non-gassy conditions."
12. Cost-EIS/EIR Reference Material: "Provide the structure description cost estimate for the track connection structure required to make a future connection from the Westside Extension to West Hollywood. (Reference EIS/EIR Chapter 6 - Cost and Financial Analysis, page 6-8)."
13. Cost-Ongoing MTA Work: "Provide concept description and cost estimates for multi-portal station design concepts."
14. Cost-Ongoing MTA Work: "Provide any adjustments to the Capital Cost Estimate Report or a new estimate if prepared. Include the Estimating Basis and Assumptions document portions relevant to the preceding estimate elements."
15. Evaluation of Alternatives-EIS/EIR Reference Material: "The EIS/EIR lists seven Metro project goals. Identify the relevant weighting given to each of these goals. (Reference EIS/EIR Chapter 7 - Evaluation of Alternates of the EIS/EIR, page 7-1)"
16. Evaluation of Alternatives-EIS/EIR Reference Material: "Identify the "high opportunity areas for redevelopment" associated with the Century City station described in Section 7.2.2. Transit Supportive Land Use Policies and Conditions and in Figure 7-1. Activity Centers and High Opportunity Area within one-half mile of the Alignment. (Reference EIS/EIR Chapter 7 - Evaluation of Alternates of the EIS/EIR, pages 7-1 and 7-2)"
17. Evaluation of Alternatives-EIS/EIR Reference Material: "Table 7-1. Evaluation Results for TSM and Build Alternatives lists the Metro project goals and various supporting measurement criteria in a decision tree analysis. (Reference EIS/EIR Chapter 7 - Evaluation of Alternates of the EIS/EIR, page 7-3) For each of the goals' supporting criteria, explain the scoring system, the ordinal ranking guidelines (e.g. what operating speed range is high, medium or low), and the source of the demographic data."
18. Evaluation of Alternatives-EIS/EIR Reference Material: "Metro has indicated that it will use the same evaluation criteria applied in the selection of the LPA in its selection of the Century City and Westwood/UCLA stations. Confirm the evaluation criteria, scoring and weighting system to be used in the final station location selection."

19. Evaluation of Alternatives-Ongoing MTA Work: "Provide Cost Effectiveness Index calculations and supporting data for the four alternates/options being considered for the alignment."
20. Geological-Ongoing MTA Work: "All geotechnical reports, boring logs and test data related to the Constellation station – Santa Monica station – BHHS campus area as they become available."
21. Geological-Ongoing MTA Work: "Seismic analysis related to the presence or absence of faults near other Westside Extension stations and the alignment."
22. Geological-Ongoing MTA Work: "Provide any ambient noise monitoring data for the residential areas of Beverly Hills or near the BHHS campus."
23. Geological-EIS/EIR Reference Material: "Provide calculations for values presented in Table 4-30. Predicted Ground-borne Vibration and Ground-borne Noise at Vibration Sensitive Receivers, ID #139, 146 and 147. Identify sources for all variables used in calculations. (Reference EIS/EIR Chapter 4 – Environmental Analysis, Consequences, and Mitigation, page 4-123)"

Partial Production. We have received partial production responsive to the following categories:

24. Ridership-EIS/EIR Reference Material: "Supporting data used to generate Table 3-6. Commercial Land Uses and parking Spaces within One-Half Mile of Stations. (Reference EIS/EIR, Chapter 3 – Transportation, page 3-18)." We received information on April 12, 2011, but the parking data was not included and the listing seems quite incomplete, given there are only 37 parcels listed.
25. Travel Times-EIS/EIR Reference Material: "Electronic copy of speed profile model used to calculate travel times between Wilshire/Rodeo and Westwood/UCLA stations. (Reference data presented in EIS/EIR Chapter 7 – Evaluation of Alternatives, Tables 7-3, 7-4 and 7-5, pages 7-12 and 7-13). (The run tables already provided are summary sheets that do not explain the workings of the underlying model.) On April 5, 2011, we received PDF copies of speed profiles for the four alternate segments, but PDF profiles do not include or reveal the supporting formulas and variables that are used to generate the calculations shown. Please provide the supporting electronic file or written details of variables and equations.
26. Cost-EIS/EIR Reference Material: "Detailed work sheets and other backup used to create Table 4-1 Standard Unit Price Table. (Reference Capital Cost Estimate Report, page 4-1." We have requested backup for codes 10.06, 10.07, 10.309, 10.13, 20.03, and 20.07; the entire dataset may be sent instead. While the MTA sent a copy of the Capital Cost

Estimate Report, this document does not contain the supporting data requested which was used to prepare the Capital Cost Estimate Report.

27. Evaluation of Alternatives-EIS/EIR Reference Material: "Provide supporting calculations and data used to determine the Cost Effectiveness Index results contained in Figure 7-2. Include methodology for annualizing capital costs, for determining annual operating costs (if not taken directly from the Operating and Maintenance Cost methodology and Model Report), and calculating annual transit system user benefits. (Reference EIS/EIR Chapter 7 – Evaluation of Alternates of the EIS/EIR, page 7-8)" We received information on April 8, 2011 but our review leaves us with additional questions. We do not understand the calculation of annual transit system user benefits and therefore need a copy of the adapted Summit model used to calculate annual user benefits. We do not understand, and cannot infer, the equation used for the conversion of costs/user benefits = cost effectiveness. We need the actual the electronic spreadsheet (which has embedded equations and references to other databases).

Received Documents. To confirm, we have received production of the following categories:

28. Ridership-EIS/EIR Reference Material: "Supporting data used to generate Table 2-1. Base (2006) and Future Year (2035) Station-Area Land Use within ½ Mile Walking Distance. (Reference Final Smart Growth Evaluation Report, page 2-3)." We received this on April 12, 2011
29. Schedule-EIS/EIR Reference Material: "Provide the project schedule used as a basis in the Capital Cost Estimate Report. A summary report is acceptable as long as all major work activities (e.g. utility relocation, property acquisition, construction, startup and testing) are identified." We received this on April 6, 2011.
30. Geological-EIS/EIR Reference Material: "Provide a copy of the Westside Extension Transit Corridor Study: Metro Red Line Vibration Study (Metro 2009). (Reference EIS/EIR Chapter 4 – Environmental Analysis, Consequences, and Mitigation, page 4-111)." We received this study on April 6, 2011.

Additional Documents Needed. Given the upcoming deadlines, we will need the following additional documents:

31. Ridership-EIS/EIR Reference Material: "Provide a contact or individual(s)/consultants that have the parcel level land use data for the Century City station area. I have attached a map of the area of interest which is about 1/2 mile from the station locations. The key data we are requesting is: Parcel level land use including the size of the building (such as 331,000 GSF office, 546 room hotel, 346 dwelling unit apartment, 2300 student school). Number of parking spaces per parcel (and occupancy if available)" This was requested by email on April 4, 2011.

32. **Geometry-Ongoing MTA Work:** "Provide a copy of the standard MTA restrictions related to any development above MTA tunnels. Restrictions would include such items as: loading on tunnels or adjacent soils, structure proximity limitations, approvals or review by Metro, or anything else that may impact property usage or development above, adjacent or underneath the Metro tunnels. If a "standard" set of restrictions does not exist, provide copies of actual restrictions used by Metro on undeveloped commercial property (e.g. property where Metro tunnels were constructed prior to commercial construction) and developed commercial property (e.g. property where Metro tunnels were constructed under or adjacent to existing commercial structures). Please also provide criteria used by MTA for evaluating construction over tunnels."

With respect to your statement that we are not entitled to the MTA consultant's proprietary information, we disagree. If the MTA relies upon information to justify its statements in the DEIS/DEIR, as it has done, it is obligated to produce the information. If there is a special computer program that is necessary to run the data, the MTA should advise us of the program, who owns or maintains or sells it, and produce the particular input or data files used by the MTA or its consultants to generate the information contained in the DEIS/DEIR. It is also possible that our consultants already have the computer programs necessary to run the data files. One thing is certain: the MTA cannot rely upon claimed proprietary information from its consultants in its DEIS/DEIR yet not produce that information to show the basis of its conclusions in its DEIS/DEIR.

Similarly, to the extent spreadsheets are used, we need to understand the formulae used for calculations. This information is not present in PDF formatted printouts. Thus, we need either the spreadsheets or separate sheets showing the formulae used to calculate results. I believe that just providing the spreadsheets in electronic format used by the MTA and its consultants would be easier and faster than listing the separate formulae used for each calculation.

Finally, in response to the last paragraph of your letter, we understand that the MTA desires to build the subway, but the public, and BHUSD, are entitled to the information underlying the analysis presented by the MTA in this long term and significant project impacting the West Side of Los Angeles so that the environmental impacts of the project are fully ventilated. Thank you.

Ronald W. Stamm
April 14, 2011
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Very truly yours,

KEVIN H. BROGAN
OF
HILL, FARRER & BURRILL LLP

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Attachment 2

Key Meeting Dates

June 6, 2011 – Metro CEO Arthur T. Leahy (Mayor Brucker, Vice Mayor Brien, City Manager Kolin)

July 5, 2011 - Los Angeles Mayor Antonio Villaraigosa (Mayor Brucker, Vice Mayor Brien, City Manager Kolin)

July 6, 2011 – Supervisor Don Knabe (Mayor Brucker and City Manager Kolin)

July 27, 2011 – Supervisor Yaroslavsky (Mayor Brucker and City Manager Kolin)

July 27, 2011 – Acting State Architect Howard Smith (Mayor Brucker and City Manager Kolin)