



AGENDA REPORT

Meeting Date: July 29, 2014

Item Number: F-2

To: Honorable Mayor & City Council

From: Mark Cuneo, City Engineer *MC*
Laurence Wiener, City Attorney

Subject: MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF BEVERLY HILLS AND METRO FOR THE UTILITY RELOCATION PHASE OF THE WESTSIDE SUBWAY EXTENSION

Attachments:

1. Memorandum of Agreement
2. Summary of Key Issues
3. Information on the Hollywood Red Line Enhanced Construction Program
4. Notice of City Council Meeting
5. Correspondence from the Community

RECOMMENDATION

Staff recommends that the City Council review the terms and conditions of the draft Memorandum of Agreement between Metro and the City and provide direction to staff to finalize the agreement and return to City Council for approval.

INTRODUCTION

At the direction of City Council, staff developed a draft agreement between the City and Metro pertaining to the Advanced Utility Relocation Phase of the Purple Line Extension Project – Segment 1. The agreement is intended to establish a procedure, process and conditions for the utility relocations that will be necessary before construction of the subway station at La Cienega and Wilshire Boulevards. Please note that this agreement only addresses utility relocation and does not address station construction. The City Council reviewed and commented on a draft of this agreement during its July 1, 2014 study session. Since that time, Metro and City staff have exchanged comments and further drafts in order to address the comments of the City Council members and to address other concerns of the City.

DISCUSSION

Construction of the La Cienega Subway Station under Wilshire Boulevard between La Cienega Boulevard and San Vicente Boulevard requires the relocation and rearrangement of underground utilities and facilities. Metro has a pending permit application to relocate the City's water, sewer and storm drain systems and Southern California Edison's electrical system in the La Cienega station area. Metro has indicated that this work is scheduled to begin in late August and permits for other utilities, including gas and communications facilities, will be submitted in the near future. The utility relocation phase is estimated to take approximately 30 months to complete.

The purpose of the proposed agreement is to establish the conditions and procedures which Metro and the City will follow in identifying, planning, designing and effecting rearrangements and relocation of facilities in the public right-of-way, the manner in which the City will be reimbursed for costs associated with such activities, and the conditions to be imposed on construction operations that will minimize impacts to the surrounding community. Staff recognizes that the highest priority of the City is to minimize the impacts that this construction will have on the community.

Staff identified and addressed with Metro several areas of concern expressed by Council members at the July 1, 2014, City Council Study Session. As a result, the current draft agreement differs significantly from the draft reviewed by the City Council on July 1. The revised draft Memorandum of Agreement is included as Attachment 1. In order to aid the City Council with its review of the agreement, Attachment 2 is a summary of the key issues identified on July 1 and the manner in which those issues have been addressed in the agreement. As noted in Attachment 2, there are a number of significant changes to the agreement in response to the issues raised by Council members. Staff believes that a few issues merit further discussion between the City and Metro. Additionally, please note that certain exhibits to the agreement have not yet been finalized. The final version of those exhibits will be dependent on the outcome of the City Council's discussion regarding permit conditions and preferred work hours under a separate agenda item.

Therefore, at this time staff is seeking specific direction from the City Council regarding the terms of the draft agreement and whether any further changes are required other than as recommended in Attachment 2. Depending on the results of the Council's discussion, staff intends to return to the City Council on August 5th with a complete agreement, including exhibits, for City Council consideration.

At Council's request, staff has obtained additional information regarding the "Enhance Construction Program" for the Metro Red Line Hollywood Segment. This information is provided as Attachment 3.

Community Outreach

A community meeting was held on the evening of June 18, 2014, at La Cienega Park Community Center to discuss the utility relocation work and receive input on conditions to be included in the Memorandum of Agreement and associated permits. Notices of the meeting were mailed to properties along Wilshire Boulevard between La Cienega and San Vicente and to the entire block north and south of Wilshire on the adjacent streets of Hamilton, Gale and Tower. Twenty-three members of the community, including businesses and residents, attended the meeting. City staff presented information about the scope of utility relocation work, potential construction impacts and mitigation

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measures. Community members were concerned with traffic, access impacts, potential loss of residential parking, and noise impacts associated with night-time construction.

Notices of the July 29, 2014, City Council meeting indicating that the City Council would consider issuing permits to Metro for the utility relocation work associated with the La Cienega subway station were mailed to the community as described above on July 18, 2014. A copy of the notice and email correspondence received are included as Attachment 4 and Attachment 5, respectively.

FISCAL IMPACT

None at this time.

David Lightner
Approved By



Attachment 1

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**MEMORANDUM OF AGREEMENT
FOR THE ADVANCE UTILITIES RELOCATION PHASE
OF THE PURPLE LINE EXTENSION PROJECT – SEGMENT 1
BETWEEN
THE CITY OF BEVERLY HILLS
AND
THE LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY**

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Exhibits

- A -- Form 60
- B -- City of Beverly Hills Conditions for Approval of Utility Relocation Permits
- C -- Metro 5-Step Noise Control Plan for Advanced Utility Work in Beverly Hills
- D -- Traffic Control and Work Hours Plan

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**MEMORANDUM OF AGREEMENT
FOR THE ADVANCE UTILITIES RELOCATION PHASE
OF THE PURPLE LINE EXTENSION PROJECT – SEGMENT 1
BETWEEN
THE CITY OF BEVERLY HILLS
AND
THE LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY**

THIS MEMORANDUM OF AGREEMENT (“Agreement”), dated, _____, 2014 (“Effective Date”) is made by and between the Los Angeles County Metropolitan Transportation Authority (the “LACMTA”), and the City of Beverly Hills (the “City”) collectively referred to herein as “the Parties.”

**ARTICLE I
Recitals**

The City and the LACMTA desire to enter into this Agreement to accommodate the Advanced Utilities Relocation Phase (“AUR”) of Segment 1 of the Purple Line Extension Project (the “Project”). This Agreement solely covers the AUR work required for the Project. The City and the LACMTA may enter into additional separate agreements to cover the additional work required for the completion of the Project.

The Project is defined as a Heavy Rail Project extending from the existing Wilshire/Western Station and traversing through the City of Los Angeles and the City of Beverly Hills and ending at the proposed La Cienega Station. The LACMTA has informed the City that the AUR work is necessary to relocate and rearrange existing utilities that interfere with the construction of the permanent transit facilities anticipated to be constructed during the construction of the Project.

The scope of the AUR work covered by this Agreement is defined as all work associated with the design, cut over, construction, re-construction and backfill of utility relocations in the City by and for the construction of the Project. This includes (but is not limited to) pre-construction investigation work (survey, potholing and other investigation work) and permanent relocation work and encompasses the following utilities: water, sewer, storm drain, and power ductbanks to be constructed under LACMTA Contract C1056. The AUR work also includes (but is not limited to) gas line relocations to be constructed by the Southern California Gas Company (or its contractor), communications line relocations to be constructed by AT&T (or its contractor), power line relocations to be constructed by Southern California Edison (or its contractor), telecoms and fiber optic ductbank and cabling relocations and any other utility relocations performed by third parties that are required for the Project.

The LACMTA proposes to utilize various methods of project delivery to design and construct the relocation and rearrangement of existing City utilities and various existing public/private utilities. Portions of these utilities will pass in, on, under, over or along public rights-of-way of the City.

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The Parties desire to cooperate so that, among other things: (1) when relocations and rearrangements are required, both Parties mutually agree on the scope of relocations and rearrangements; (2) the City has assurances that it will receive reimbursements for its costs; (3) the City has assurances that the environmental and public safety impacts of the Project are mitigated to reasonable levels; (4) the City has assurances that, unless the Parties agree otherwise, the LACMTA complies with the requirements and standards of the Beverly Hills Municipal Code; and (5) the LACMTA has assurances that the City will issue permit(s) and review submittals in a timely fashion and perform all appropriate inspections.

By this Agreement neither party is conceding any legal position that it may assert regarding its rights to use, regulate, or construct in the public right of way in the City of Beverly Hills.

This Memorandum of Agreement for the AUR phase of the Project addresses the following:

- (a) designation of the City Representative and LACMTA Representative and the development of an emergency contact list;
- (b) procedures which LACMTA and City will follow in identifying, planning, designing and effecting relocations and rearrangements of City utilities and various public and private utilities, including plan review and permitting process;
- (c) manner in which City will be reimbursed for its costs for activities associated with the Project;
- (d) Construction staging and traffic control requirements;
- (e) Allowable work hours and workdays, including the process for requesting work outside of the allowable work hours/days;
- (f) Noise limits, noise and light spill mitigation measures;
- (g) Tree removal and replacement procedures;
- (h) Advanced notification process for all construction activities, including any planned service interruptions, and establishment of a public phone line;
- (i) Inspection during construction and enforcement and remedies for violations of mitigation conditions;
- (j) Operation and maintenance of City utilities;
- (k) Indemnity, Warranties and Insurance requirements;
- (l) Federal and Other Requirements; and
- (m) Penalties for deadlines and delays.

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ARTICLE II Term Of Agreement And Definitions

The term of this Agreement shall commence on the Effective Date and shall terminate when all AUR work is completed, inspected, accepted by the City and a notice of completion is finalized.

For the purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) “Advanced Utilities Relocation Phase” or “AUR” means the Advanced Utilities Relocation Phase of the Purple Line Extension Project – Segment 1, as described in Article I of this Agreement and which is the subject of this Agreement.
- (b) “Approval” except as otherwise provided, means written approval by the City Representative or the LACMTA Representative, as applicable.
- (c) “AUR Schedule” means compliance to the schedule dates in Article I.
- (d) “Betterment” is defined as an upgrade (*i.e.* increasing capacity, capability, durability, efficiency or function) to an existing City Facility, Replacement Facility or component thereof, which is specifically identified by the City as a Betterment and requested by the City to be incorporated into the Project, or which is requested by the City and identified as a Betterment by the LACMTA and which the parties agree is a Betterment before construction of the Betterment (whether constructed by the LACMTA or by the City or by their respective contractors), which will increase or upgrade the service capacity, capability, appearance, efficiency or function of such Replacement Facility over that which was provided by the corresponding Conflicting Facility. Notwithstanding the foregoing, the following shall not be considered Betterments:
 - (i) An upgrade, which the Parties mutually agree, will be of direct and principal benefit to the construction or operation of the Project;
 - (ii) An upgrade resulting from design or construction in accordance with applicable City Standards;
 - (iii) Measures to mitigate construction impacts or environmental impacts identified in the Project’s Final Environmental Impact Report or Statement, any supplemental environmental reports and this Agreement and all attachments or exhibits herein;
 - (iv) Replacement of devices or materials no longer regularly manufactured with an equivalent grade or size, regardless of whether the replacement grade or size exceeds the City Standard. If an equivalent grade or size is not available, the next higher grade or size shall be used unless otherwise approved by the City’s Engineer; and

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- (v) A replacement or rearrangement that is the consequence of changes made by the LACMTA or its designers/contractors after the release of the RFP for the work at issue.
- (vi) Any replacement of a facility that is being relocated that is equivalent to the City Facility being replaced or surrounding City Facilities.
- (e) “City Facility” means a facility under the ownership or the exclusive operation of the City. City Facilities may include, but are not limited to, public streets, curbs and gutters, sidewalks, traffic signals, signing, roadways, bridges, retaining walls, alleys, water lines, storm drains, sanitary sewers, parking lots, parks, public landscaping and trees, traffic control devices/systems, street lighting systems, street furniture, benches, trash cans and public, police and fire alarm systems. City Facility does not include lateral lines that extend from a main line into private property.
- (f) “City Representative” means the person or persons designated by the City Manager pursuant to Article III of this Agreement, to represent the City who shall manage and coordinate interactions between the City and the LACMTA concerning the Project and each component thereof in a timely manner, in accordance with Article III. City Representative may include a Consultant.
- (g) “City Rights-of-Way” means real property owned by the City, whether title is held in fee, easement, right-of-way, or otherwise.
- (h) “City Standard” means the City’s rules, regulations, ordinances, practices and codes of the City, including, but not limited to, standards, plans, specifications, general provisions, and approved materials for public works projects that the City has documented in writing or has previously implemented. City standards may also include published standards of appropriate, recognized professional organizations.
- (i) “Conflicting Facility” means an existing City Facility, which the City and the LACMTA determine is so situated as to require Rearrangement in order to design and construct or operate the Project without adversely impacting the operation and maintenance of that City Facility.
- (j) “Construction” means the work of removal, demolition, replacement, alteration, realignment, building, fabricating, landscaping and all new fixed facilities to be built and systems and equipment to be procured and installed that are necessary to complete the Project in accordance with approved plans and specifications.
- (k) “Construction Staging Plans” means construction phasing/sequencing and traffic management plans developed for the AUR work.
- (l) “Consultant” means the person, persons or entity contracted by the City for the purpose of performing work on behalf of the City, which is necessary to meet the City’s obligations under this Agreement. Consultant does not refer to the

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“Independent Compliance Monitor” for monitoring sound and other mitigation measure requirements that shall be mutually agreed upon by both Parties.

- (m) “Costs” shall mean all Direct and Indirect Costs incurred by the City and the LACMTA.
- (n) “Days” means calendar days including Saturdays, Sundays, and legal holidays. See also definition of Working Days.
- (o) “Design” means engineering, architectural and other design work and the resulting maps, plans, specifications, special provisions, drawings, calculations, computer software, and estimates which are needed to construct the Project.
- (p) “Design Review” means the process of critical evaluation of plans and specifications by the LACMTA, the City, and others as necessarily required to complete the AUR work.
- (q) “Direct Costs” means labor Costs and Costs of purchasing equipment and/or materials, without markup or overhead of any kind. Direct Costs may be determined by the City’s pre-existing labor Costs standards which the City may revise on an annual basis.
- (r) “Effective Date” means the date set forth in the Preamble.
- (s) “Facility” means real or personal property now or in the future to be located within the City Rights-of-Way, including but not limited to, roadways, pipes, mains, services, meters, regulators and any equipment, apparatus and/or structure appurtenant thereto or associated therewith.
- (t) “Fiscal Year” means July 1 through June 30.
- (u) “Independent Compliance Monitor” or “Compliance Monitor” means the LACMTA funded independent compliance monitor selected jointly by the LACMTA and the City to ensure compliance with the conditions and required mitigation measures for the AUR permits covered under this Agreement pursuant to Article XIV of this Agreement.
- (v) “Indirect Costs” means administrative and overhead costs.
- (w) “LACMTA Representative” means the person designated by the Chief Executive Officer of the LACMTA pursuant to Article III of this Agreement to represent the LACMTA in all dealings with the City for purposes of this Agreement, in accordance with Article III.
- (x) “Project” means Segment 1 of the Purple Line Extension Project within the City of Beverly Hills.

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- (y) “Project Right-of-Way (ROW)” means the real property required to relocate and rearrange utilities to complete the Project.
- (z) “Rearrangement” means the alteration, removal, replacement, reconstruction, support or relocation of a City Facility or portion thereof or Facility or portion thereof, whether permanent or temporary, which facility the LACMTA determines must be rearranged in order to complete the Project.
- (aa) “Replacement Facility” means a facility, which is constructed or provided under the terms of this Agreement as a consequence of the Rearrangement of a Conflicting Facility or portion thereof.
- (bb) “RFP” means the Request for Proposal issued by the LACMTA in connection with the 1056 Contract or other required AUR work.
- (cc) “Station” or “La Cienega Station” means the LACMTA underground infrastructure required to access and support the operations of the Westside Purple Line Extension project, a heavy rail transit subway, generally bounded by La Cienega on the west, San Vicente on the east and within/below the Wilshire Boulevard right-of-way, including but not limited to appendages under and within various sidewalks and an entrance located at the northeast corner of Wilshire and La Cienega Blvd.
- (dd) “Traffic Management Plan” means the Traffic Management Plan for the 1056 Contract and is included as an exhibit to this Agreement. Traffic management plans for the additional AUR work will be submitted for approval by the City Council as part of the consolidated applications for such additional AUR work.
- (ee) “Work Order” means the document(s) which the LACMTA will issue to each appropriate City department, bureau, division or other constituent entity authorizing funding upon agreement by the Parties as to a defined scope of work and as to applicable Costs (Direct and Indirect). A Work Order document authorizes the City to perform work, and to be reimbursed therefor, on the preparation and/or review of Design plans, operation plans, or other agreed to work plans, and to provide materials, labor inspection, and/or Rearrangements under the terms and conditions of this Agreement. Work orders shall be issued to reimburse only actual allowable, allocable and reasonable costs with no profits.
- (ff) “Working Days” means those days that Beverly Hills City Hall is open for business.
- (gg) “1056 Contract” means the LACMTA Contract C1056 for the Construction of water, sewer, storm drain, and power ductbanks for AUR work of the Project.

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ARTICLE III

Designation Of The City Representative And The LACMTA Representative; Emergency Contact List

The City Manager, with the concurrence of the City Council, shall designate as the City Representative a person, persons, the holder of specified offices or positions, or a third-party Consultant or Consultants to act as the City Representative for the Project. The City Representative(s) will have the responsibility to manage and coordinate the City interaction with the LACMTA concerning the Project and each component thereof in a timely manner. The City may change its designated representative(s) by providing seven (7) days written notice to the LACMTA.

The Chief Executive Officer of the LACMTA shall designate a person, or the holder of a specified office or position, to act as the LACMTA Representative for the Project. The LACMTA Representative will have the responsibility to manage and coordinate the LACMTA's interaction with the City concerning the Project. The LACMTA may change its designated representative by providing seven (7) days written notice to the City.

The City Representative(s) and the LACMTA Representative shall confer from time to time to coordinate the work required to complete the AUR.

The LACMTA Representative and the City Representative shall establish an emergency contact list. Contact information for all organizations involved in the Project or organizations that have Facilities in the Project area including agencies, utility companies, contractors, sub-contractors, consultants and any other entity shall be included. The Parties shall request that each organization shall designate an emergency contact process that provides for the availability of resources twenty-four (24) hours per day/seven (7) days per week in the event of an emergency.

ARTICLE IV

Permitting And Submittal Process

The Design, plans, specifications and permit applications of the LACMTA, its consultants, its contractors or the respective utility owners working under a LACMTA issued Work Order for Construction and Rearrangement located within, on, under or over City Rights-of-Way for the AUR work shall be submitted for the City's review, comment and approval as provided under this Article.

The LACMTA, its consultants, its contractors or the respective utility owners working under a LACMTA issued Work Order will develop and gain technical review of the scope of work for the AUR work from City technical staff. The AUR work for the 1056 Contract will be grouped into a consolidated application for one permit to cover water, sanitary sewer, storm drain and power utility relocations. It is anticipated that the LACMTA will submit separate permit applications for gas relocation and communications relocation work. No utility relocation permit shall become effective until the City Council has had an opportunity to review and vote on approval. This Agreement shall not apply to the separate permits for gas relocation and communications relocation if the LACMTA notifies the City before work related to those

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permits begins that it has not accepted the permit conditions imposed by the City in connection with those permits.

The following process shall govern the submittal of plans and applications to City technical staff and for permit approval by the City Council for AUR work:

- (a) All items for the 1056 Contract shall be processed under one permit.
- (b) Additional Project work may be grouped into consolidated applications for one permit to cover work for the same type of utility relocation.
- (c) Within ten (10) Working Days after receipt of an application or a Design submittal for the Project work (i) the City shall inform the LACMTA whether the documents, including the plans and specifications, are complete for the City's technical review purposes, and (ii) if not complete, the City shall so notify the LACMTA and shall return the documents to the LACMTA together with an identification of those portions that are not complete and a description of the missing information listing the deficiencies.
- (d) Within thirty (30) Days after the City deems an application or Design submittal complete, City staff shall complete its review, and (i) inform the LACMTA that staff is recommending approval to the City Council or (ii) transmit its comments in the form of a comment matrix and annotated plans (as appropriate) to the LACMTA.
- (e) Before the thirty (30) Day review period ends, the City and the LACMTA may mutually agree to an extension of the review period.
- (f) Within thirty (30) Days after City staff has completed its review of a completed permit application or Design submittal, an agenda item will be included on the City Council's agenda in connection with a regularly scheduled meeting of the City Council where the Council shall consider whether to approve the permit application or Design submittal. The City Council may vote on the permit application or Design submittal or continue the matter to another meeting of the City Council. During consideration of the permit application or Design submittal, the City Council is permitted to impose conditions of approval for protection of the public health, safety or welfare.
- (g) Within seventy-two (72) hours after approval by the City Council, the City must issue a permit(s) or transmit a letter to the LACMTA approving the application, including any conditions of approval.

The provisions of this Article will also apply to any re-submittal of plans and specifications and permit application by the LACMTA, whether in response to a City notice or return of incomplete plans and specifications, or in response to the City's comments. Re-submittals shall include the City's comment matrix, the City's annotated plans, and confirmation of comment resolution. The LACMTA will use its best efforts to ensure that the City's comments are resolved prior to

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re-submittal. The LACMTA may conduct comment resolution meetings to address concerns with the City's comments for the purpose of reaching a satisfactory resolution.

Should a change be required to Design after the City has issued a permit covering the Design, a change will be approved at the City staff level without further approval by the City Council if the change, in the sole opinion of the City Representative, is de minimis and will not have material effects on utility or City services or material adverse construction effects on adjacent properties.

The LACMTA, its consultants, its contractors, and respective third party utility owners will be responsible for errors and omissions in the application materials, including plans, specifications, submittals, and all other related contract documents that they prepare.

Following City approval and issuance of a permit(s), changes in Design shall require approval by the LACMTA, respective third party utility owners and the City. All changes required to accommodate differing existing site conditions are the responsibility of the LACMTA, its consultants, and contractors. Field changes required due to differing site conditions must be reviewed and approved by the City in accordance with the provisions of this Section.

ARTICLE V Permit Fees

All Costs (Direct and Indirect) incurred by City staff or its Consultant(s) as a result of permit issuance, *i.e.* plan and/or Design Review, Construction inspection, coordination, and testing, will be reimbursed by the LACMTA through reimbursement procedures as provided for in this Agreement (see Article IX). Any fees imposed will be pursuant to City Standards in place at the time the fee is triggered. The City shall not enact new fees for the primary or sole purpose of imposing new fees on LACMTA or the Project.

Any costs associated with the following permits shall be reimbursed by LACMTA to the City through the procedures set forth in this Agreement:

- Excavation-Permits
- Potholing-Permits
- Utility-Permits
- Street improvement Permits
- Encroachment Permits
- Holiday Season Restrictions
- Lateral Support Bonds
- Liability Insurance
- Street Damage Restoration Fees
- Engineering Process Fees
- City Storm Drain Connection Permits
- Street Tree Permits
- Discharge of Excess Water into Street Permits
- Major Transit and Transportation Construction Impact Area Traffic Management Fees
- Peak Hour Exemption

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- Lane Closure Permits (including Sidewalk Closure Permits)
- Staging Material Permits (Street or Sidewalk Closure)
- Overload Permits
- Storm Drain Permits
- Connection Permits
- Revocable Permits
- Revocable Encroachment Permits
- Overload Permits
- Building Material Permits
- Tree Removal Permits
- Tree Prune or Root Prune Permits
- Tree Planting Permits

ARTICLE VI Design Criteria

The Design of each Rearrangement shall conform to the City Standards in effect at the time of permit issuance. The City agrees that it shall not adopt any new City Standards, or otherwise amend or supplement any existing City Standards, for the sole or primary purpose of delaying or frustrating the AUR work covered by this Agreement.

ARTICLE VII Betterments

As soon as possible, preferably during the preliminary engineering Design phase but in any event no later than the City's final comment due date for each permit application or Design submittal, the City shall inform the LACMTA what Betterments, if any, the City desires so that the LACMTA can review the Betterments and determine whether they satisfy the requirements set forth under this Article. Each Design furnished by the City shall specifically identify any Betterment included in such Design. Additionally, the LACMTA shall clearly identify to the City any Design or Design change requested by the City that the LACMTA considers a Betterment and, if the LACMTA fails to do so prior to the City Council's approval of any permit application or Design submittal that includes the Design or Design change, then the City's requested Design or Design change shall not be considered a Betterment. Once the City Council approves a permit, the City may only request a Betterment associated with the work in said permit if the City Council has previously approved the Betterment.

It is understood and agreed that no Betterment may be performed in connection with any Rearrangement (whether designed or constructed by the City or by the LACMTA) which is incompatible with the AUR work or which cannot be performed within the constraints of applicable law, and/or any applicable governmental Approvals. The City shall bear the Cost of all Betterments included in each Rearrangement. The LACMTA shall make all commercially reasonable efforts to obtain the best possible price for all Betterments requested by the City. The City may participate directly in any negotiations between the LACMTA and its contractor concerning the price of any Betterments.

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ARTICLE VIII “As-Built” Drawings

The LACMTA shall maintain a set of “as-built” plans of Rearrangements performed by the LACMTA during the progress of Construction. The contractor shall update the contract plans to incorporate the City’s approved changes. Once the as-built work done by the contractor is approved by the City, the LACMTA shall arrange for the transfer of as-built information on the contract plans electronic files in electronic format. Upon completion of the Rearrangement work reproducible “as-built” drawings showing all Replacement Facilities installed by the performing party, will be provided within sixty (60) Days after completion of work for each set of plans. All “as-built” plans shall be in a format that conforms to the electronic formats in use by the City.

ARTICLE IX Manner In Which The City Will Be Reimbursed For Costs

The LACMTA agrees to reimburse the City in the manner provided by this Agreement for its Costs (Direct and Indirect) for all staff and Consultants performing work associated with the AUR work consistent with this Agreement. Direct Costs shall include allowable direct labor Costs for work in furtherance of this Agreement. Indirect Costs shall be computed based upon the maximum rates allowable under federal and/or state law. Unless the Internal Revenue Service or the California Public Utilities Commission issue regulations or rulings to the contrary, reimbursable Costs will not include taxes purportedly arising or resulting from the LACMTA’s payments to the City under this Agreement.

The City agrees to procure, and the LACMTA agrees to reimburse the City for, a third-party Consultant or Consultants who will assist the City in meeting its obligations under this Agreement. The Consultant(s) may include a team of individuals who provide a variety of services on behalf of the City, which, at minimum, shall include the following: 1) coordinating and facilitating plan review/approval and Construction management/observation; 2) observing and approving the installation of City Facilities; and 3) monitoring and enforcing the mitigation control measures provided in the Final Environmental Impact Report, this Agreement and its attachments and exhibits. In order to perform all services at a sufficient level, with the City’s approval, the Consultant may hire a sub-consultant or sub-consultants to perform specific services when necessary. The LACMTA shall only reimburse the City for Consultant(s) work that is performed in furtherance of the AUR work.

City staff may also work on the AUR work. City staff may oversee, review or comment on the work of the Consultant(s) and the City shall be entitled to reimbursement for such work. The LACMTA agrees to reimburse the City for Direct and Indirect Costs of City staff performing work or providing services associated with the AUR work consistent with this Agreement.

Notwithstanding the other provisions of this Article, LACMTA agrees that it will continue the current reimbursement procedure it has with the City whereby it deposits funds in the amount of \$250,000 into a City account for the City to drawdown upon for the work it has performed in conjunction with the obligations set forth in this Agreement so long as the City provides an adequate accounting of its work. The LACMTA shall replenish said fund on a monthly basis so as \$250,000 is available in the fund from month-to-month. This reimbursement procedure shall

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apply up until the annual work plan for Fiscal Year 2015-16 is implemented. For work covered by an annual work plan for Fiscal Year 2015-16 and all subsequent years, reimbursement for Costs to the City shall be in accordance with the provisions detailed in this Article.

To assist the LACMTA and the City in estimating the level of service to be provided for the AUR work which will require work by the City and its Consultant(s) pursuant to this Agreement, the LACMTA and the City will cooperate to develop a mutually agreeable annual work plan for each LACMTA Fiscal Year starting with Fiscal Year 2015-16 for which such work by the City will be required, in accordance with the following provisions:

- (a) Not later than February 28 of 2015 and each calendar year thereafter during the term of this Agreement, the LACMTA shall provide City with information regarding anticipated AUR work requirements. The LACMTA's provided information shall include a list of each item of work that the LACMTA anticipates to request from the City for the AUR work during the upcoming Fiscal Year and the estimated start and finish dates for the work item that the LACMTA anticipates to request from the City. Within thirty (30) Working Days after receiving the required information from the LACMTA, the City shall submit a preliminary annual work plan, to the LACMTA for required work by the City during the upcoming LACMTA Fiscal Year, which would include an estimated amount of money, via a Form 60 (a copy of which is attached as Exhibit A to this Agreement), that the City will require for reimbursement of work performed and purchase of requested items.
- (b) For each LACMTA Fiscal Year, following the LACMTA's receipt of the preliminary annual work plans, the City and the LACMTA shall each negotiate in good faith such issues as are necessary in order to attempt to finalize such annual work plans, not later than April 30 prior to the commencement of such LACMTA Fiscal Year.
- (c) For each LACMTA Fiscal Year, within sixty (60) Days after the City's submittal to the LACMTA of the final annual work plans agreed upon by the Parties, the LACMTA shall issue to the City a Work Order identifying each item of work the LACMTA anticipates the City will perform through the end of the LACMTA Fiscal Year, the amount of money the City and the LACMTA estimate that the City will be reimbursed therefore, and the anticipated schedule for performance of such work. For funding purposes, such Work Orders may be made effective as of the estimated work start date for the described activities upon the City's sign-off. The City and the LACMTA acknowledge that, due to the dynamics of the Project and related Construction, such Work Orders will be subject to amendments (including additions, deletions and modifications), and additional Work Orders may be issued throughout the LACMTA Fiscal Year as deemed appropriate by the parties and as approved by the LACMTA and the City by signing off the amendment to the Work Order or additional Work Order.

The LACMTA shall issue Work Orders to the City, following the City's submittal of an estimate in the form of a Form 60. Completion of the Form 60 is required by the LACMTA to authorize

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the performance of all work and the purchase of all materials and equipment required under the terms and conditions of this Agreement. The City and the Consultant(s) may perform any work so authorized. Each Work Order shall specify the work to be performed and any materials or equipment to be acquired, the amount of money that the City will be reimbursed therefore, and a schedule, including the estimated starting and finishing dates for work so authorized. Work Orders shall include estimated schedules. The City shall not be authorized to do any work, and shall not be paid, credited or reimbursed for Costs or expenses associated with any work, not requested by a Work Order, unless otherwise mutually agreed in writing. The City shall not be required to perform any work not requested by a Work Order or otherwise to be reimbursed pursuant to written agreement. The City shall be reimbursed for all Costs for work requested by a Work Order, regardless of whether such Costs exceed the agreed upon estimate.

The City shall be reimbursed for all Costs incurred in searching for and contracting with the Consultant(s) within sixty (60) days of the date that the contract for the Consultant(s)'s services is executed by the City and the Consultant(s).

City shall be reimbursed for all Costs incurred in developing and executing this Agreement and Consultant(s) contracts within sixty (60) days of the date of this Agreement. City shall be reimbursed for all Costs incurred for work related to preparing and implementing the annual work plans within sixty (60) days of the approval of the annual work plan by both the LACMTA and the City.

ARTICLE X

Construction Staging, Traffic Control And Parking Requirements

Construction staging and traffic control requirements (including lane closures, street closures and hauling restrictions) shall be in accordance with the standards set forth in: this Article; Exhibit B attached hereto (entitled "City of Beverly Hills Conditions for Approval of Utility Relocation Permits"); the Construction Staging Plans and Worksite Traffic Control Plans; the LACMTA's completed permit application and submittals for the AUR work at issue; and any conditions of approval included in a City-issued permit. To the extent that there is any conflict between those documents, conditions in Exhibit B and the Construction Staging Plans and Worksite Traffic Control Plans shall control over the standards included in this Article and the conditions in Exhibit B, the Construction Staging Plans and Worksite Traffic Control Plans shall all control over the permit application and permit. Standards of this Article shall also control over the permit application and permit.

The LACMTA shall develop and submit to the City its Construction Staging Plans and Worksite Traffic Control Plans that demonstrate vehicle and pedestrian access within the Project area at all times. The City Council must approve, as part of an AUR permit application, the Construction Staging Plans and Worksite Traffic Control Plans before the LACMTA may close any traffic lanes. If after City Council approval conditions necessitate additional Worksite Traffic Control Plans or revised Worksite Traffic Control Plans to protect public safety or accommodate business or resident needs that are immediately required, such plans may be approved by City staff..

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The LACMTA shall comply with the following requirements in the development of its Construction Staging Plans and Worksite Traffic Control Plans:

- (a) The minimum traffic lane requirements for streets impacted by Construction activities shall be as set forth in Exhibit D attached hereto entitled Traffic Control and Work Hours Plan.
- (b) Street Closures will be as outlined in Exhibit D to this Agreement.
- (c) The Construction Staging Plan or Worksite Traffic Control Plan shall include a parking control plan that observes the conditions set forth in Exhibit B, attached to this Agreement as well as the following requirements:

On-street metered parking regulations in the commercial area and permit parking restrictions in the residential area shall be observed unless the area of the work is directly beneath the subject parking space. Nighttime permitted commercial or residential on-street parking may not be used by the LACMTA for LACMTA vehicles or equipment unless the City and the LACMTA agree that such use is necessary. If the parties agree that such use is necessary, then a parking control plan shall provide for equivalent overnight replacement parking for parking spots at the nearest possible location where parking has been removed.

- (d) Detours:

The City may consider limited, temporary street closures if necessary to accommodate Construction. If approved, street closures may occur during the hours provided for in Exhibit D to this Agreement. Proposed detour routes must be submitted and approved in accordance with this Agreement as part of the street closure request. Detour routes must not use residential streets. Advanced notification of street closures in accordance with a City reviewed and approved notification process is required.

- (e) The Construction Staging Plan or Worksite Traffic Control Plan shall include a Pedestrian Access Plan, which shall be approved by the City. Pedestrian access to buildings, including all entrances to the Saban Theatre, shall be maintained during all times that the buildings are open to the public. The minimum width available for pedestrians shall be outlined in the Pedestrian Access Plan and shall be sufficient to protect the public safety and the operational needs of impacted properties within the Project area.

- (f) Preliminary Haul routes and Overload routes:

Haul routes and overload/oversized vehicle routes must be reviewed and approved by the City. The following streets are designated for use by vehicles exceeding a maximum gross weight, including the vehicle and its load, of three (3) tons:

La Cienega Boulevard;

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San Vicente Boulevard;

Wilshire Boulevard (West to La Cienega only).

- (g) The LACMTA shall at all times provide adequate street access to public safety vehicles when lane or street closures are in place.

ARTICLE XI Allowable Work Hours And Workdays

Allowable work hours and workdays, including after hour construction, holiday moratorium exceptions and peak hour exemptions shall be in accordance with the standards set forth in: this Article; Exhibits B and D attached hereto; the LACMTA's completed permit application and submittals for the AUR work at issue; and any conditions of approval included in a City-issued permit. To the extent that there is any conflict between those documents, conditions in Exhibits B and D shall control over standards included in this Article and the permit application and permit. Conditions of Exhibit B and D and the standards of this Article shall control over the permit application and permit.

The City and the LACMTA agree that the following shall apply, unless the Parties agree that it is unsafe to perform the scope of work in question under the requirements below:

- (a) No person shall engage in construction, maintenance or repair work between the hours of six o'clock (6:00) PM and eight o'clock (8:00) AM of any day, or at any time on a Sunday or public holiday unless such person has been issued an after-hours construction permit. In addition, no person shall engage in such work within a residential zone, or within five hundred (500) feet of a residential zone, at any time on a Saturday unless such person has been issued an after-hours construction permit. For the purpose of this section, "public holiday" shall mean:

New Year's Day
Martin Luther King Jr. Day
President's Day
Memorial Day
The First Two Days of Passover
Father's Day
Independence Day
Labor Day
Rosh Hashanah
Yom Kippur
Thanksgiving Day
The Friday after Thanksgiving Day
Christmas Day

- (b) The City Representative, after consultation with appropriate City officials, may issue an after-hours construction permit authorizing work and/or entrance to a work site otherwise prohibited by this Section if the City Representative

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determines that the public interest will be served by such a permit. Situations in which the public interest may be served by the issuance of such an after-hours Construction permit include, but are not limited to, Construction that may interfere with vehicular or pedestrian traffic in heavily traveled public rights-of-way. The LACMTA will file an application for an after-hours Construction permit and provide all back-up required to justify an after-hours Construction permit as part of the development/review and staff level review of the plans and specifications for the AUR work in question. Such permit shall require City Council approval. The after-hours permit for the AUR work in question may be approved by the City Council as part of the original permit approval for the AUR work in question. The Independent Compliance Monitor (see Article XIV) shall be responsible for monitoring enforcement of the conditions of after-hours construction permits and enforcing available remedies pursuant to the procedures of Article XV of this Agreement.

ARTICLE XII Noise Control Plans And Mitigation Measures

Noise plans and mitigation measures shall be in accordance with the standards set forth in: this Article; Exhibit B attached hereto; Exhibit C attached hereto (entitled "Metro 5-Step Noise Control Plan for Advanced Utility Work in Beverly Hills"); the LACMTA's completed permit application and submittals for the AUR work at issue; and any conditions of approval included in a City-issued permit. To the extent that there is any conflict between those documents, conditions in Exhibit B and Exhibit C shall control over conditions included in this Article, the permit application and the permit. Conditions in Exhibit B and Exhibit C and the standards of this Article shall control over the permit application and permit.

Noise Control Plans

The LACMTA, through its consultants, contractors, subcontractors or agents, shall follow the Noise Control Plan incorporated into this Agreement as Exhibit C. Additionally the LACMTA, through its consultants, contractors, subcontractors or agents, shall develop specific Noise Control and Noise Monitoring Plans and submit such plans in conjunction with each application pursuant to Article IV that involves Construction or Rearrangement.

In evaluating the effectiveness of a specific Noise Control Plan, the factors which may be considered include, but are not limited to, the following:

- A. The volume of the noise;
- B. The intensity of the noise;
- C. Whether the nature of the noise is usual or unusual;
- D. Whether the origin of the noise is natural or unnatural;
- E. The volume and intensity of the background noise, if any;
- F. The proximity of the noise to residential sleeping facilities;
- G. The nature and zoning of the area within which the noise emanates;
- H. The density of the inhabitation of the area within which the noise emanates;
- I. The time of the day or night the noise occurs;

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- J. The duration of the noise;
- K. Whether the noise is recurrent, intermittent, or constant; and
- L. Whether the noise is produced by a commercial or noncommercial activity.

Noise Control Measures

As part of the Noise Control Plan and specific Noise Control Plan, the LACMTA shall employ the following noise control measures:

<u>Source</u>	<u>Noise Control Measures</u>
Backup alarms	Use of low impact alarms, which include manually-adjustable alarms, self-adjusting alarms and broadband alarms. Configure traffic pattern to minimize backing movement.
Slamming tailgates	Establish truck cleanout staging areas. Use rubber gaskets. Decrease speed of closure. Use bottom dump trucks.
Pavement breakers (jackhammers)	Fit with manufacturer approved exhaust muffler. Enclose pavement breaker activities with a noise barrier fence.
Vibratory rollers and packers	Avoid use in vibration sensitive areas, including, but not limited to, any residential area or within 100 feet of the Saban Theatre.
Drilling for Piles	No impact pile driving will be used.
Prolonged idling of Equipment	No idling of heavy equipment. Locate equipment away from noise sensitive areas to the extent practicable.
Construction Operations Planning	No truck traffic shall be permitted on residential streets. Movement of Construction equipment into and through the Construction site is prohibited between 6:00 PM and 8:00 AM except as allowed pursuant to Article IV or Article XII or noise variance. Use modern equipment equipped with state of the art engine insulation and mufflers. No generators larger than 25 KVA shall be used and, where a generator is necessary, it shall be equipped with the best available technology to minimize noise. Operate equipment at the lowest possible power levels. Provide noise muffling enclosures for fixed equipment.

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Provide noise awareness training to contractors/workers.

Use solar, battery powered, or hybrid equipment whenever and wherever practical.

All staging areas shall be enclosed.

Due to the nature of construction, source noise controls are frequently inadequate to sufficiently minimize noise impacts because of the close proximity of the construction to residences and businesses. The following path mitigation techniques shall be employed at all times to reduce the impact of construction noise:

- Use of temporary noise barriers and sound control curtains or an equivalent form of solid object to either destroy part of the sound energy by absorption, or to redirect part of the energy by wave deflection.
- All jackhammers, pavement breakers and saw cutters used at the Construction site shall be enclosed with shields, acoustical barrier enclosures, or noise barriers.
- Enclose activities likely to create a noise disturbance and enclose stationary equipment.
- Employ sound blankets for all night work where noise potential is 5dBa above pre-existing ambient noise levels at the property line of the nearest residential building. If sound blankets are to remain in place for more than five (5) Days, the LACMTA must seek approval from the City.

Noise Control Monitoring

The LACMTA, through its consultants, contractors, subcontractors or agents, shall develop a specific Noise Monitoring Plan that includes all requirements contained in this Agreement and Exhibits B and C, which shall be subject to City approval.

Construction noise levels during nighttime hours will be limited to no more than 5dBa above pre-existing ambient noise levels at the property line of the nearest residential building. Noise monitoring will be evaluated on a 15-minute average noise level (Leq 15 min). Pre-existing ambient noise levels will be gathered at sensitive noise receptors as identified in the EIR.

ARTICLE XIII

Light Plans And Mitigation Measures

Light plans and mitigation measures shall be in accordance with the standards set forth in: this Article; Exhibit B attached hereto, the LACMTA's completed permit application and submittals for the Project work at issue; and any conditions of approval included in a City-issued permit. To the extent that there is any conflict between those documents, conditions in Exhibit B shall control over conditions included in this Article, the permit application and permit. Conditions in Exhibit B and the standards of this Article shall control over the permit application and permit.

Lighting Spill Mitigation Measures

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Construction activities during evening and nighttime hours may require the use of temporary lighting. To minimize the impact of temporary lighting on adjacent properties, the following mitigation measures shall be implemented:

- Lighting will be directed downwards and shielded. Care shall be taken in the placement and orientation of portable lighting fixtures to avoid directing lights toward sensitive receptors.
- Temporary lighting will be limited to the amount necessary to safely perform the required work.
- In addition to minimizing light spill, sensitive receptors and motorists on public streets will not have direct views of the light source (glare) from construction lighting. Light sensitive receptors include but are not limited to residential areas.

ARTICLE XIV Independent Compliance Monitor

The LACMTA shall fund an Independent Compliance Monitor to ensure compliance with the conditions and required mitigation measures covered under this Agreement and all exhibits attached hereto; the LACMTA's completed permit application and submittals for the Project work at issue; and any conditions of approval included in a City-issued permit. The Compliance Monitor shall be an independent contractor, not otherwise employed by the LACMTA or the City, and shall be selected jointly by the LACMTA and the City. The Compliance Monitor shall have no pre-existing relationship with either Party, unless this requirement is specifically waived by the Parties. The City, the LACMTA and the Compliance Monitor shall enter into a three party contract to engage the services of the Compliance Monitor. The Compliance Monitor shall invoice the LACMTA for its work and subject to the City's and the LACMTA's verification and approval of the invoice, the LACMTA shall pay the Compliance Monitor. The engagement of the Compliance Monitor shall be for a term of one year, with said engagement to be reviewed annually by both the City and the LACMTA and subject to renewal by consensus of both the City and the LACMTA or to termination by either the City or LACMTA. A Compliance Monitor shall be employed for the full time during which the AUR work within the scope of this Agreement is being performed. Nothing in this Article shall be construed to limit the ability of the City Engineer, City Representative, or Consultant(s) to notify or inform the LACMTA or the Compliance Monitor of any alleged violations of mitigation measures or conditions of approval.

ARTICLE XV Enforcement Of Permit Conditions And Mitigation Measures

When the Compliance Monitor finds that the LACMTA or its contractors have violated the terms of the AUR permit for the work at issue (collectively for the purposes of this Article "the Permit Conditions"), the Compliance Monitor shall provide documentation of the violation to both the City and the LACMTA within twenty-four (24) hours of the violation. The LACMTA shall provide a response to the nonconformance report within forty-eight (48) hours that shall include a description of the investigative actions taken to resolve the nonconformance, a description of

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the cause of the nonconformance, the actions taken or planned to correct the nonconformance, and the actions taken to prevent recurrence of the nonconformance.

The Compliance Monitor shall have the power to order compliance with the Permit Conditions. If the Compliance Monitor identifies three violations of the same Permit Condition at the same location for the same work activity within a three (3) day period, the LACMTA shall be required to make a monetary contribution into a fund established for the purpose of mitigating construction impacts on businesses and residents impacted by the construction for each subsequent violation of the same Permit Condition at the same location for the same work activity occurring within this three day period, based on the following schedule:

Violation 4: \$10,000 per violation

Violations 5 or more: \$15,000 per violation

The City shall control the fund established by this Article and shall direct expenditures to mitigate construction impacts on businesses and residents upon finding a link between the violation and the impact to businesses or residents.

In addition to any monetary contributions required under this Article, the Compliance Monitor may order a halt to the work causing a violation until the LACMTA, its contractors or other third parties take action to correct the violation and prevent the violation from being repeated. If the work is halted, the Compliance Monitor shall not allow resumption of the work causing the violation until the violation is resolved and will not be repeated.

The Compliance Monitor shall report to the City and the LACMTA on no less than a weekly basis regarding compliance with the required permit conditions and mitigation measures for the AUR work covered by the scope of this Agreement.

ARTICLE XVI Tree Removal And Replacement

Tree removal will be avoided wherever possible. If a tree must be removed, tree removal shall be in accordance with the standards set forth in: this Article; Exhibit B attached hereto; the LACMTA's completed permit application and submittals for the Project work at issue; and any conditions of approval included in a City-issued permit. To the extent that there is any conflict between those documents, conditions in this Article shall control over conditions in Exhibit B and the permit application. Conditions in Exhibit B and the standards of this Article shall control over the permit application and permit.

If a tree is required to be uprooted and removed from its current location, the same tree shall be preserved and replanted when possible. If a new replacement tree is required to be used, it shall be a 36" Box of the same species and planted in the same location as the removed tree. The LACMTA shall plant all replacement trees within six months of any tree removal. If a tree must be removed as part of the AUR work and a replacement tree must be removed again to accommodate the currently anticipated location of Station appendages or other AUR work, an interim replacement tree of the same species and a minimum size of 24 inch box must be planted in the same location within six (6) months of the initial removal. To the extent possible, the

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LACMTA shall replace trees on an ongoing basis so long as doing so does not conflict with future LACMTA work.

ARTICLE XVII Business Mitigation Assistance

The LACMTA shall implement business mitigation measures for the purpose of assisting those businesses financially affected by the AUR work performed under this Agreement. Business mitigation assistance will include, but is not limited to, the following:

- Advertising of local businesses (local and regional);
- Parking validation and other incentives for local businesses;
- Public outreach programs;
- Cleaning of sidewalks, surrounding buildings, windows, graffiti, and the construction site;
- Public affairs representatives and consultants; and
- Other urban design and business assistance projects.

The LACMTA agrees to devote up to \$250,000 for such types of measures. The LACMTA shall expend an additional \$100,000 annually on business mitigation assistance if the AUR work is not completed within forty-two (42) months from the date construction begins, unless the delay is caused by a Permitted Delay as defined in Article XXV.

ARTICLE XVIII Advanced Notification Process And Establishment Of A Public Phone Line

The advanced notification process and establishment of a public phone line shall be in accordance with the standards set forth in: this Article; Exhibit B attached hereto; the LACMTA's completed permit application and submittals for the Project work at issue; and any conditions of approval included in a City-issued permit. To the extent that there is any conflict between those documents, conditions in Exhibit B shall control over conditions included in this Article and the permit application. Conditions in Exhibit B and the standards of this Article shall control over the permit application and permit.

The Project area is a sensitive area for residents, businesses, commuters, and visitors. The LACMTA and its contractors and consultants will be required to minimize any inconvenience to the public and provide advance notification to the public of Construction activities and planned service interruptions. Within ten (10) Days after execution of this Agreement, the LACMTA shall develop a community outreach plan, satisfactory to the City. The plan shall include quarterly public meetings to provide Project Construction information to residents and businesses nearby the Project.

The LACMTA shall be responsible for all advance notifications to the public for work associated with the Project. The method of notification and the notification distribution area (notification plan) shall be reviewed and approved by the City. Project information and Construction notifications may be provided in multiple formats including, mail, electronic mail, Project website, social media and on-street portable changeable message boards. Notifications shall

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conform to any applicable local ordinance and, whether delivered orally or in writing, shall include appropriate information concerning the Project and/or service interruptions and instructions on how to limit inconvenience caused.

The following minimum advanced notifications to the appropriate distribution area shall be provided when Construction activity is scheduled to occur and shall be supplemented as provided in the notification plan:

<u>Activity</u>	<u>Advance notification</u>	<u>Method</u>
Start of Construction (for each major activity)	21 calendar days 14 calendar days (1st notice) 2 calendar days (2nd notice)	On-street changeable message boards Mail or hand deliver Mail or hand deliver
Lane Closures	7 calendar days	On-street changeable message boards
Driveway Closure	7 calendar days (1st notice) 2 calendar days (2nd notice)	Mail or hand deliver Mail or hand deliver
Sidewalk Closure	7 calendar days 2 calendar days (1st notice)	On-street signs Hand deliver
No Parking (public)	7 calendar days	On-street sign
No Parking (private)	7 calendar days	On-street signs
Utility Service Interruptions (Water, Sewer, Electric, Gas, Telephone, Data)	30 calendar days (1st notice) 2 calendar days (2nd notice)	Mail or hand deliver Hand deliver

Construction Notices shall be provided to affected businesses and residents for all lane closures, driveway closures, sidewalk closures, and parking restrictions in accordance with the schedule above.

On-street changeable message boards related to lane closures, driveway closures, sidewalk closures and parking restrictions will be installed based on traffic engineering plans and documents. They shall be installed thirty (30) days prior to the beginning of construction. These requirements will be incorporated into traffic plans as they are put out by the contractor.

The LACMTA shall maintain and update a Project website for the duration of the Project. The LACMTA shall provide to the City a monthly schedule of all proposed activities within the City.

Establishment of a Public Phone Line

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The LACMTA shall establish and fund a toll-free phone line that is available twenty-four (24) hours a day to respond to concerns related to construction disturbances within the City. This phone line shall incorporate a Construction Relations phone line prompt for immediate live response. Contact information for the public liaison person and phone line shall be included in all Construction notices. The LACMTA shall respond to complaints within forty-eight (48) hours of receipt and, where possible, shall address the complaint by corrective action in a timely manner. The LACMTA shall provide documentation to the City Representative that the complaint was effectively resolved. The LACMTA will immediately log the complaint and notify the City Representative and the Compliance Monitor.

ARTICLE XIX Inspection During Construction

The City and the LACMTA agree that all work on City Facilities will conform to standard policies and practices of the City inspector as it relates to inspection, sampling, and testing. The LACMTA agrees to require adherence to such policies and practices by its contractors and will include those requirements in its contracts with its contractors.

Notwithstanding City inspection or approval of any Construction, all work performed by either party for Construction of the Project shall be subject to LACMTA inspection and final approval. The LACMTA also may inspect the Construction of Rearrangements to ensure that the work has been performed in accordance with the approved Designs.

All Rearrangement and Construction of City Facilities by the LACMTA shall be offered to the City for inspection by LACMTA. Reimbursed inspection services shall be authorized by the LACMTA under an appropriate Work Order. Upon issuance of an appropriate Work Order, the City shall provide inspectors, who may be either City staff or Consultant(s), who will be available throughout Project Construction, at the LACMTA's expense and as needed to observe and inspect the Rearrangement of City Facilities so that upon completion of Construction, the City will have a basis for acceptance of the work. The City's inspectors shall coordinate with the LACMTA Representative and the LACMTA's contractors. The City's inspection shall also include planned field reviews for compliance with all requirements of this Agreement, including those found in Exhibit B, Exhibit C, Construction Staging Plans, Worksite Traffic Control Plans, and Pedestrian Access Plans. Inspection will involve the verification of the safety and adequacy of vehicular and pedestrian access and circulation immediately adjacent to the Construction area, and maintenance of appropriate access to businesses, as provided in the Construction Staging Plans and Worksite Traffic Control Plans. All City inspectors performing services in accordance with a Work Order shall submit copies of daily written inspection reports to the LACMTA, each within forty-eight (48) hours after the subject inspection.

During any inspection, each party shall cooperate to quickly resolve any deviations from, or violations of, any approved plans discovered in the course of such inspection. The City will provide immediate verbal notice of any deviation, violation or nonconformance to the LACMTA's Construction manager as well as to the LACMTA staff (as designated by the LACMTA Representative), followed by a written notice not later than twenty-four (24) hours after discovery. Each notice shall include an explanation of the resolution desired by the inspector. Failure to provide notice shall not constitute a waiver by the City.

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As soon as the work of any specific Rearrangement has been completed (and tested when called for by the approved Design), the party which performed the Construction work, shall notify the other party in writing that the Rearrangement is ready for final inspection. After notification is provided in writing, the inspection shall take place within twenty-four (24) hours of such notification. The final inspection of any Rearrangement shall be attended by the LACMTA Representative and the City Representative, at the LACMTA's expense. Each party will provide to the other party's representative immediate verbal notice of any deficiencies or discrepancies in any Construction work or any other issues discovered in the course of the final inspection, followed by a written notice within five (5) Days thereafter. Each notice shall include an explanation of the resolution desired by the notifying party. Promptly upon completion of the Rearranged City Facility (including if applicable, completion of any corrective work performed), the City shall furnish its written notice that Construction of the City Facility is accepted.

ARTICLE XX

Operation And Maintenance Of City Utilities

The LACMTA proposes to relocate and rearrange existing City owned utilities including, water distribution pipelines and facilities, sanitary sewer collection systems, storm drain pipelines, traffic signal systems, fiber optic communications facilities and street light systems. The LACMTA and the City recognize that relocation/rearrangement of City Facilities and other Facilities is necessary to accommodate the Construction of the La Cienega Station. The LACMTA and the City further acknowledge that certain relocated/rearranged City Facilities and other Facilities will remain within the limits of Station construction in a long-term, temporary condition and may rely on the Station excavation shoring system for support.

Upon completion of the La Cienega Station Construction, the City Facilities and other Facilities will be relocated into their permanent location and constructed in accordance with applicable City Standards, including standards for depth and materials, in effect at the time the La Cienega Station is completed. All permanently relocated City Facilities and other Facilities shall conform to the City Standards in place at the time the permanent relocation work begins. At its sole discretion, the City may allow certain utilities to remain in their long-term, temporary condition or location on a permanent basis. In which case, the LACMTA would have no ongoing maintenance obligations for those permanent utilities after the City accepts them.

LACMTA agrees to be responsible, at LACMTA's expense, for operation and maintenance of City Facilities and other Facilities in their long-term, temporary condition within or adjacent to the limits of the Station Construction. The responsibility includes financial responsibility for any water quality or other regulatory violations that result from operation and maintenance problems while the Facilities are in a long-term, temporary condition and remedying the cause of any such violations. The responsibility for operation and maintenance begins when the existing Facilities are modified in any way or if access to existing Facilities is not available due to Project related construction. The responsibility for operation and maintenance ends when the City Facilities and other Facilities are relocated/rearranged to their permanent location and accepted in accordance with this Agreement. LACMTA further agrees to coordinate with the City and conduct utility operation or maintenance, including regulatory compliance measures, when the City Facilities or other Facilities are in a long-term, temporary condition.

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LACMTA and its contractors and consultants will be required to operate and maintain City Facilities in accordance with City Standards and provide uninterrupted service to the maximum extent feasible by minimizing any utility service interruptions caused by or during Construction. Additionally, LACMTA agrees to provide emergency response twenty-four (24) hours per day, seven days per week, to utility operation and maintenance issues for the City Facilities and other Facilities under its control in accordance with City service standards.

Nothing in this Agreement shall be construed as providing the LACMTA authority to replace lateral lines that extend from a main line into private property because the City does not own such lateral lines. LACMTA shall be responsible for any damage to lateral lines during Construction. LACMTA shall promptly take corrective action to fix any damaged lateral lines. This provision is included in this Agreement for the benefit of property owners whose lateral lines are affected by the AUR work.

ARTICLE XXI

Indemnity, Warranties And Insurance Requirements

The LACMTA shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liabilities, losses, damages, or injuries, to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or wilful misconduct of the LACMTA, its officers, employees, agents, contractors, or subcontractors in connection with the AUR work. This indemnification excludes only such portion of any claim, demand, cause of action, liability, loss, damage, penalty, fine, or injury, to property or persons, including wrongful death, which is caused by the sole negligence or wilful misconduct of the City as determined by a court or administrative body of competent jurisdiction.

In the event that the City voluntarily chooses to undertake AUR work or construct its own Betterment, the City shall defend, indemnify, and hold harmless the LACMTA, its officials, officers, employees, and agents from any and all actual or alleged claims, demands, causes of action, liabilities, losses, damages, or injuries, to property or persons, including wrongful death, whether imposed by a court of law or by administrative action of any federal, state, or local governmental body or agency, arising out of or incident to any acts, omissions, negligence, or wilful misconduct of the City, its officers, employees, agents, contractors, or subcontractors in connection with the City's actual proprietary Design or Construction performance for that AUR work or Betterment under this Agreement. This indemnification excludes only such portion of any claim, demand, cause of action, liability, loss, damage, penalty, fine, or injury, to property or persons, including wrongful death, which is caused by the sole negligence or wilful misconduct of the LACMTA or its contractors as determined by a court or administrative body of competent jurisdiction.

In contemplation of the provisions of Section 895.2 of the Government Code of the State of California imposing certain tort liability jointly upon public entities solely by reason of such entities being Parties to an agreement as defined by Section 895 of said Code, the Parties hereto, as between themselves pursuant to the authorization contained in Sections 895.4 and 895.6 of said Code, contract out of Section 895.2 of said Code and agree to indemnify and defend the

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other in accordance with the terms of this Article for the full liability imposed upon it, or any of its officers, agents or employees, by law for injury caused by a negligent or wrongful act or omission occurring in the performance of this Agreement to the same extent that such party would be responsible under this Article.

The LACMTA, its contractors and suppliers must provide warranties for Project structural stability work for a period of at least two (2) years following the City's acceptance of any work and must provide warranties for Project rearrangement work for at least one (1) year following the City's acceptance of any work. Said warranties shall require the LACMTA, its contractors and suppliers to warrant that any work shall be free from defect and include the City as a beneficiary of said warranties. Defects may include, but are not limited to, damage to the City Rights-of-Way and City Facilities caused by excavation activities or the failure of any Rearrangements. The LACMTA must promptly remedy or cause to be remedied any defect subject to the warranties. The LACMTA must include provisions for the warranties provided for under this Article in any contracts it enters into with contractors that may perform AUR work. Nothing in this Article shall be construed to limit or reduce the City's ability to claim that any Project work suffers from a latent or patent defect and to enforce any rights it may have to remedy a latent or patent defect.

Promptly, but no later than thirty (30) Days after the LACMTA executes a contract between the LACMTA and a contractor or supplier to perform AUR work, the LACMTA shall cause and shall provide to the City a certificate to each of the following policies naming the City and the LACMTA as additional insureds: 1) unless otherwise mutually agreed by the Parties, Construction contractors shall provide evidence of insurance in at least the following amounts or any greater amounts otherwise required by law: \$5,000,000 in General Liability, \$1,000,000 in Workers' Compensation / Employer's Liability, and \$5,000,000 in Combined Single Limit (CSL) in Auto Liability; 2) unless otherwise mutually agreed by the Parties, Design contractors shall provide evidence of insurance in at least the following amounts or any greater amounts otherwise required by law: \$5,000,000 in General Liability, \$1,000,000 in Workers' Compensation / Employer's Liability, \$1,000,000 (CSL) in Auto Liability, and \$2,000,000 in Professional Liability. In the event of a cancellation or reduction of insurance, the contractors or suppliers shall be required to give at minimum thirty (30) Days prior written notice to the LACMTA and the City. The City recognizes and agrees that insurance can be provided through a contractor-controlled insurance program, or a program of self-insurance.

ARTICLE XXII

Audit And Inspection

Upon reasonable notice, each party (and its authorized representatives) shall have reasonable rights to inspect, audit and copy, during normal business hours, and upon reasonable notice, the other's records relating to its performance hereunder (and all costs incurred with respect thereto) for AUR work, from the date hereof through and until expiration of three (3) years after the accepted completion of all Rearrangements for such AUR work, or such later date as is required under other provisions of this Agreement. By providing any of its records to the other party for examination, the party providing such records represents and warrants that such records are accurate and complete. The Parties shall mutually agree upon any financial adjustment found necessary by any audit. If the Parties are unable to agree on such adjustment, then the matter

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shall be resolved pursuant to Article XXIV. The City and the LACMTA shall insert into any contracts entered into by the City or the LACMTA, respectively, for the performance of work on Rearrangements hereunder the above requirements and also a clause requiring their respective contractors to include the above requirements in any subcontracts or purchase orders. In the case of such contractors, subcontractors and suppliers, the records subject to the above requirements shall include, without limitation, any relevant records as to which a tax privilege might otherwise be asserted.

ARTICLE XXIII Federal And Other Requirements

This Agreement may be subject to a financial assistance agreement with the U.S. Department of Transportation, Federal Transit Administration, and is therefore subject to the following terms and conditions:

The City agrees to comply with all financial record keeping, reporting and such other requirements as may be imposed as a condition to or requirement of funding obtained by the LACMTA from third parties, but only if the LACMTA provides to the City reasonable notice and evidence of such requirements demonstrating the City's requirements and obligations. In that event, the City shall permit the authorized representatives of the LACMTA, the U.S. Department of Transportation, the Comptroller General of the United States, and any other government agency providing funding or oversight on the Project, to inspect, audit and copy, during normal business hours and upon reasonable notice, all Costs and other relevant records relating to performance by the City, its contractors and subcontractors under any Work Order issued to the City for the Project or Rearrangements of City Facilities related thereto, from the date of this Agreement through and until expiration of three (3) years after the accepted completion of all Rearrangements for the Project, or such later date as is required by the rules and regulations of any such government agency (provided that the LACMTA gives reasonable notice of such later date to the City). Examination of a document or record on one occasion shall not preclude further examination of such document or record on subsequent occasions. By providing any of its records for examination, the City represents and warrants that such records are accurate and complete. The City shall insert into any contracts it enters into for the performance of work hereunder the above requirements and also a clause requiring the contractors (or consultants) to include the above requirements in any subcontracts or purchase orders. In the case of such contractors, consultants, subcontractors and suppliers, the records subject to the above requirements shall include, without limitation, any relevant records as to which a tax privilege might otherwise be asserted.

No members of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

No member, officer, elected official or employee of the LACMTA, or of the City, during his or her tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof. To the LACMTA's and the City's knowledge, no board member, officer or employee of the LACMTA has any interest, whether contractual, non-contractual, financial or otherwise in this transaction, or in the business of the City; and if any such interest comes to the knowledge of either party at any time, a full and complete disclosure of all such information will

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be made in writing to the other party, even if such interest would not be considered a conflict under Article 4 of Division 4 (commencing with Section 1090) or Division 4.5 (commencing with Section 3690) of the Government Code of the State of California.

In connection with the performance of this Agreement, the Parties shall not discriminate against any employee or applicant for employment because of age, race, religion, color, sex, sexual orientation, national origin or disability. The Parties shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their age, race, religion, color, sex, sexual orientation, national origin, or disability. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

In connection with the performance of this Agreement, the City will cooperate with the LACMTA in helping the LACMTA to meet all applicable federal regulations imposed on the LACMTA with regard to the utilization of disadvantaged business enterprises, to the extent reasonably practicable.

Without limiting any other provision of this Article, the City agrees to comply, and to cause all of its contractors who work on projects subject to this Agreement to comply with, all applicable nondiscrimination laws, rules and regulations, imposed on the City, whether imposed by Federal, State or local authority.

Both Parties understand that the Buy America requirements in Title 49 USC § 5323(j)(1) and the applicable regulations in 49 CFR Part 661 (“Buy America”) may apply to the procurement of certain manufactured products and other materials procured for use in the work outlined in this Agreement. If all good faith efforts are made to obtain and utilize Buy America-compliant material, but such material is not produced in sufficient and reasonably available quantities of a satisfactory quality (meeting the City’s standards), the LACMTA will seek a waiver from the Federal Transit Administration pursuant to Part 661.7 of the Buy America regulations. The City will cooperate with the LACMTA, and provide supporting documentation, in pursuit of any such waiver from Buy America requirements. All costs of using Buy America-compliant material or material that is subject to a waiver request shall be borne by the LACMTA.

ARTICLE XXIII Construction Review Deadlines And Delays

City shall complete its review and take action on any construction submittals that are consistent with the Design as approved by the City Council within 20 days from the date a complete application is submitted to the City. If the City has not completed its review within that time, the LACMTA may provide the City notice to cure. The City shall have 10 days to cure by completing its review after receipt of the LACMTA notice.

City shall complete its review and take action on any Requests for Information that are consistent with the Design as approved by the City Council within 7 days from the date a complete application is submitted to the City. If the City has not completed its review within that time, the

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LACMTA may provide the City notice to cure. The City shall have 7 days to cure by completing its review after receipt of the LACMTA notice.

City shall complete its review and take action on any Requests for Change that are consistent with the Design as approved by the City Council within 3 days from the date a complete application is submitted to the City. If the City has not completed its review within that time, the LACMTA may provide the City notice to cure. The City shall have 2 days to cure by completing its review after receipt of the LACMTA notice.

If the City fails to meet the established deadlines in this Article and additionally fails to respond to the notice to cure established in this Article, and if the LACMTA demonstrates to the City that this failure constitutes an adverse impact to the Cost of the Project and is a direct result of the delays to the LACMTA's Construction contract's critical path work, then the LACMTA may direct the Contractor to perform the work, on a conditional basis pending the City's compliance.

If a party or its contractor fails to meet such deadline, than any affected time deadlines for the other party or other activities under this Agreement or any Work Order shall be revised accordingly.

ARTICLE XXIV Procedures For City Billings To The LACMTA

Except as provided in Article IX for reimbursement for Costs, the Parties agree that the following procedures shall be observed for the City's submission to the LACMTA of monthly billings, on a progress basis, for work performed by the City under a specific Work Order.

The City's billings shall begin as soon as practicable, but not exceeding ninety (90) Days, following the commencement of a specific Rearrangement or other work under a given Work Order, and shall follow the City's standard billing procedures. Invoices, and other data to document costs incurred, shall be provided to the LACMTA upon request. Each billing shall be noted as either "progress" or "final," shall be addressed to the LACMTA Representative, and shall include a certification that the charges identified in such billing were appropriate and necessary to performance of the referenced contract, and have not previously been billed or paid. The final billing, with a notation that all work covered by a given Work Order has been performed, shall be submitted to the LACMTA as soon as practicable, but not exceeding ninety (90) Days, following the completion of the Rearrangement or other work, shall recapitulate prior progress billings, shall show inclusive dates upon which work billed therein was performed, and shall include a certification that the charges identified in such billing were appropriate and necessary to performance of the referenced contract, and have not previously been billed or paid. For purposes of closing out, the final invoice shall be submitted to the LACMTA no later than ninety (90) Days after completion of the Project work. Upon the end of sixty (60) Days and no evidence of invoice, the LACMTA shall follow up with a notice to the City indicating the LACMTA's position on closing out the Project. Upon issuance of the notice to the City, the LACMTA shall grant the City sixty (60) Days to submit a final invoice.

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ARTICLE XXV Miscellaneous

Under no circumstances shall the City be liable to the LACMTA for damages to the LACMTA for delays associated with the Project work under this Agreement.

The parties and their contractors shall timely commence, diligently prosecute and complete the Construction and other activities for each Rearrangement on or before the applicable deadlines established in this Agreement or in the respective Work Orders.

Neither Party shall arbitrarily or capriciously withhold or delay any action or approval required under this Agreement or necessary to complete the AUR.

The City Representative, City Engineer, and Consultant(s) shall at all times be permitted to enter the LACMTA work site in order to conduct monitoring for compliance with mitigation measures and technical AUR work. The City Representative, City Engineer, and Consultant(s) shall further be permitted to communicate any alleged violations or technical defects they independently identify to the LACMTA Representative and/or the Compliance Monitor.

The City has filed four lawsuits related to the Westside Subway Extension. These lawsuits include: *The City of Beverly Hills v. Los Angeles County Metropolitan Transportation Authority*, Case No. BS137607, (filed May 30, 2012); *The City of Beverly Hills v. Los Angeles County Metropolitan Transportation Authority*, Case No. BS144164, (filed July 26, 2013); *City of Beverly Hills v. Federal Transit Administration et al.* CV 12-9861 (amended November 21, 2013) and *City of Beverly Hills v. Federal Transit Administration*, CV 13-8621 (filed November 21, 2013). The Parties acknowledge that nothing in this Agreement is intended to waive the causes of action or defenses asserted in those lawsuits or to relinquish or otherwise modify in any way the positions of the parties in those lawsuits.

Equal Employment Opportunity: In connection with the performance of this Agreement, the Parties shall not discriminate against any employee or applicant for employment because of age, race, religion, color, sex, sexual orientation, national origin or disability. The Parties shall take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their age, race, religion, color, sex, sexual orientation, national origin, or disability. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

Disadvantaged Business Enterprise: In connection with the performance of this Agreement, the City will cooperate with the LACMTA so that the LACMTA may meet all applicable federal regulations imposed on the LACMTA with regard to the maximum utilization of disadvantaged business enterprises. Nothing in this Agreement shall require the City to adopt or implement a Disadvantaged Business Enterprise program or preference.

Throughout the term of this Agreement, if the City plans to construct new facilities unrelated to AUR work that would cross or otherwise occupy locations that might conflict with Construction

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of AUR work, the City will coordinate the Design and installation of such facilities with the LACMTA.

Performance by any Party of its obligations hereunder (other than for payment of money) shall be excused during any period of "Permitted Delay." Permitted Delay shall mean and include delay beyond the reasonable control of the Party claiming the delay (despite the good faith efforts of such Party), including without limitation, all of the following: acts of God; civil commotion; riots; strikes; picketing or other labor disputes; shortages of materials or supplies; damage to work in progress by reason of fire, floods, earthquake, or other casualties; failure, delay or inability of the other Party to act; and litigation brought by a third party attacking the validity of this Agreement.

ARTICLE XXVI Resolution Of Disputes

Attempt to Resolve: In the event of a claim or dispute arising out of or relating to this Agreement, both Parties shall make good faith efforts to resolve the claim or dispute through negotiation or voluntary mediation.

Arbitration – No Work Stoppage: Failing a resolution through these "good faith efforts," or in the absence of good faith efforts to resolve, either party may serve upon the other a written demand for arbitration. The Parties shall, within ten (10) Days thereafter, or within such extended period as they shall agree to in writing, attempt to agree upon a mutually satisfactory arbitrator. If they are unable to agree, each party, prior to the expiration of the ten (10) Day or extended period, shall designate one person to act as arbitrator. The two designated arbitrators shall promptly select a third arbitrator ("neutral arbitrator") to form a three person panel. If either party fails to designate its arbitrator within ten (10) Days after the date of delivery of the demand for arbitration or the agreed extended period, or if the two designated arbitrators are unable to select a neutral arbitrator within five (5) Days after appointment, a neutral arbitrator shall be designated pursuant to Section 1281.6 of the California Code of Civil Procedure who shall hear the matter as the sole arbitrator.

California Law: Section 1283.05 of the California Code of Civil Procedure is specifically made applicable, but only with respect to those issues not involving work stoppage. A hearing date shall be set as promptly as possible following selection of the arbitrator(s). The arbitrator(s) award shall follow promptly the hearing's conclusion, shall be supported by law and substantial evidence and the issuance of written findings of fact and conclusions of law. The making of and award failing to comply with the requirements of the immediately preceding sentence shall be deemed to be in excess of the arbitrator(s)' power and the court shall vacate the award if after review it determines that the award cannot be corrected without affecting the merits of the decision upon the controversy submitted.

Arbitration - Work Stoppage: In no event shall work be stopped in the event of a claim or dispute, except for reasons of public health or safety, or where the Independent Compliance Monitor orders a halt to the work pursuant to Article XV (Enforcement of Permit Conditions And Mitigation Measures), or where it is absolutely necessary to first resolve the dispute in order to be able to continue work. In the event that work is stopped, either party may serve upon the

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other a written demand for arbitration. A neutral arbitrator shall be immediately designated pursuant to Section 1281.6 of the California Code of Civil Procedure.

Arbitrator: No person shall act as neutral arbitrator who in any way has any material financial or personal interest in the results of the arbitration. Failure to disclose any such interest or relation shall be grounds for vacating the award. Notwithstanding Sections 1282.2(b) and Section 1282(e) of the California Code of Civil Procedure (regarding postponement of the hearing), where work is stopped, the neutral arbitrator may not postpone nor adjourn the hearing except upon the stipulation of all parties to the arbitration. The arbitration may proceed in the absence of a party who, after due notice, fails to appear.

Compensation of the Arbitrator: Each party shall pay the expenses and fees of the arbitrator it selects. The expenses and fees of the neutral arbitrator shall be paid with the provisions of Section 1284.2 of the California Code of Civil Procedure.

California Arbitration Act: Except as is otherwise provided herein, any arbitration under this Article shall be governed by the California Arbitration Act.

ARTICLE XXVII **Applicable Law**

This Agreement will be governed by and construed under the laws of the State of California without regard to conflicts of laws principles.

This Agreement supersedes any prior understanding or written or oral agreements between the Parties hereto respecting the within subject matter and contains the entire understanding between the Parties with respect thereto. Notwithstanding the preceding sentence, the LACMTA shall remain liable for all fees for any permits processed before the effective date of this Agreement and any work performed on the permit applications.

This Agreement may be executed in two or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same document, which shall be binding and effective as to each of the Parties hereto.

Each individual executing this Agreement hereby represents and warrants that he or she has the capacity set forth on the signature pages hereof with the full power and authority to bind the party on whose behalf he or she is executing this Agreement to the terms hereof.

All notices and other correspondences between the City and the LACMTA shall be in writing, addressed as follows, and delivered personally or sent by certified mail, return receipt requested, or reputable overnight messenger service:

To City:

The City Manager
City of Beverly Hills
455 N. Rexford Dr., Fourth Floor
Beverly Hills, California 90210

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The Parties agree that specific performance and injunctive relief should be available to enforce the rights of the Parties under this Agreement, including the provisions of any Construction Staging Plan or Worksite Traffic Control Plan or other measure developed pursuant to this Agreement.

The section headings used in this Agreement are for convenient reference only and shall not be used in construing this Agreement. The words “include,” “including” or other words of like import are intended as words of illustration and not limitation and shall be construed to mean “including, without limitation.”

WHEREOF, the Parties have caused this Agreement to be executed as of the dates set forth below.

City of Beverly Hills

The LACMTA

Approved as to Form:

Approved as to Form:

Attachment 2

**Memorandum of Agreement: Advance Utility Relocation Phase of the Purple Line
Extension**

Summary of Key Issues from Council Discussion of July 1

1. Mitigation Monitoring, Enforcement, and Financial Disincentives - Articles XV and XVI

The Council has provided clear direction that the Memorandum of Agreement governing utility relocation in connection with the Purple Line extension (“Agreement”) must establish significant monitoring and enforcement of all mitigation measures established by the City. Staff and Metro reached agreement on the following:

- Metro would fund an “Independent Compliance Monitor” for the entirety of the utility relocation work. To ensure its independence, the Compliance Monitor would be jointly selected by the City and Metro and may not have a pre-existing relationship with either party. The Compliance Monitor’s performance would be reviewed annually, and either Party could unilaterally terminate the Compliance Monitor’s contract. In which case, a new Compliance Monitor would be chosen. The termination authority would allow the City to terminate a Compliance Monitor if he or she was not rigorously enforcing the mitigation measures.
- The Compliance Monitor is empowered to enforce and order compliance with all mitigation measures.
- The Compliance Monitor has authority to halt any work causing a violation of the mitigation measures until Metro or its contractor takes action to correct the violation and prevent further violations. Work could not be resumed until the violation is resolved.

In addition, Staff and Metro have been working on establishing meaningful financial disincentives to deter violations. The Agreement contains Metro’s most recent proposal, which was provided to Staff late Thursday afternoon. Staff believes this language should still be improved and requests that the Council direct Staff to continue negotiating over the structure of the financial disincentives and return to the Council with a revised proposal.

Under Metro’s proposal, after three violations of the same permit condition at the same location within a three-day period, Metro would be required to contribute money into a fund established for mitigating construction impacts on businesses and residents. A \$10,000 contribution would be required for the fourth violation and a \$15,000 contribution for each subsequent violation within that three-day period. Funds collected as a result of Metro’s violations could only be spent on additional mitigation linked to the specific violation.

2. Measurable/Enforceable Noise Standards – Article XII

Metro has agreed to comply with the noise standard set forth in the City's Municipal Code, which sets a limit of 5dB above ambient noise level, when measured at the property line of the nearest noise receptor. The 5db standard is monitored on a 15-minute average noise level (Leq 15 min.). Metro has developed a "5-Step Noise Control Plan" that establishes a number of mitigation measures intended to gain compliance with this standard and to further reduce noise below the standard. The Compliance Monitor, as well as Metro's own engineers, would have authority to enforce the noise standard and to halt work where noise exceeds the standard.

Rincon Consultants, the City's noise consultant for this phase of the project, recently provided the City with its recommended additional noise mitigation measures. On Tuesday, Staff will be looking for direction from the City Council regarding the permitted hours of work for construction. Based on the Council's direction, staff will work with Metro and Rincon to finalize the Five-Step Noise Control Plan and to potentially incorporate additional measures.

3. Pedestrian Access – Article X

On July 1, Council members expressed a desire to protect pedestrian access to local businesses impacted by Construction. The Agreement now expressly requires Metro to maintain pedestrian access to all buildings, including the entrance to the Saban Theatre, during all times that the buildings are open to the public. For example, sidewalk access to the Saban Theatre must be available during all religious services and musical performances.

4. Complaint Resolution – Article XVIII

In response to concerns expressed by Council members on July 1, the Agreement now sets forth more detail regarding the process for handling complaints. Under the Agreement, Metro will establish and fund a toll-free 24-hour phone line dedicated to responding to concerns related to construction within the City. A live person will be available for all calls and will immediately notify a Metro representative, the City, and the Compliance Monitor of the complaint. Metro must also respond to complaints within 48 hours and take action to address the complaint. The phone number for this complaint line will be included in all public notices. Metro has also provided the City with an e-mail address for complaints submitted electronically.

5. Indemnification – Article XXI

Metro has agreed to the indemnification requirements that the Beverly Hills Municipal Code imposes on all entities that construct in the public right-of-way. [BHMC § 8-7-22].

In addition, Metro will warrant from defect all structural stability work for a period of at least two years and all utility rearrangement work for at least one year following the City's acceptance of utilities in their final position (Metro will be responsible for operation and maintenance until that time). Such warranties are in addition to the City's legal rights to assert that the utility work suffers from a latent or patent defect.

In response to comments made at the July 1 study session, Staff explored Metro's willingness to obtain an additional performance bond to guarantee restoration of the right-of-way and permanent relocation of utilities. For this purpose, such a bond would need to be in an amount of approximately \$4 million to \$5 million. Metro responded that it does not use bonding companies to guarantee performance of its work since it is financially capable of warranting the work. Metro's annual budget is currently \$5 billion and it receives roughly \$1.5 billion annually in county sales tax alone. If Metro suspends or discontinues the project, staff believes Metro is likely to have sufficient budgetary resources to restore the right of way or reimburse the City should the City be required to restore the right of way or complete any of the utility work.

6. Betterments and the City's Standards – Article VII

The Council raised several issues with respect to the City's responsibility to pay for so-called "Betterments" or upgrades to existing City facilities.

As an initial matter, in the current draft Agreement, the City's standards are the baseline for all work under the Agreement. Metro must construct all temporary utility facilities in conformance with the City's standards at the time permits are issued for the work. Metro must also comply with the City's then current standards at the time it permanently relocates utilities upon completion of the La Cienega station. The City will not be financially responsible for Metro's obligation to comply with current City standards.

The City will only be responsible for the cost of a betterment if the City expressly requests the betterment or if it is identified as a betterment by the parties, and the Council approves the betterment.

In the event that the City does request a betterment, the Agreement obligates Metro to make all commercially reasonable efforts to obtain the best possible price for the work. In fact, the City may participate directly in any negotiations between Metro and its contractor to negotiate a price for the City's requested work.

7. Business Impact Mitigation – Article XVII

Metro has agreed to provide "business mitigation assistance" during the utility relocation work. Business mitigation programs funded during this phase include, but are not limited to: (1) advertising for local businesses; (2) parking validation programs; (3) public

outreach programs; (4) cleaning sidewalks, buildings, windows, graffiti, and the construction site; (5) public outreach representatives and consultants; and (6) other urban design and business assistance projects. Metro has agreed to spend up to \$250,000 for these purposes.

At the meeting of July 1, the City Council received testimony that Metro provided roughly \$27 million of mitigation to the Hollywood area during construction of the Red Line. Metro has asserted that it now provides much of that mitigation as a matter of course on all Metro construction projects. For example, the Hollywood mitigation budget included funds to upgrade to concrete decking on Hollywood Boulevard during station construction, as opposed to wood decking. Now, concrete decking has been included in the plans for this project.

8. Delay Damages – Article XXV

The Agreement expressly provides that the City will not be liable to Metro for delays associated with the utility relocation work.

9. Construction Delays – Article XVII

The Council has expressed concern that the utility relocation work could proceed for an indefinite period of time, causing extended impacts to residents and businesses. Metro's construction schedule for this work is 30 months. To deter Metro from delaying completion by more than one year, the Agreement would require Metro to expend an additional \$100,000 annually in business mitigation assistance if the utility work is not completed within 42 months from the start of construction for reasons within Metro's control. Metro has additionally asserted that it has a significant financial incentive to assure that work is completed as quickly as possible.

Attachment 3



December 2, 1992

Edward McSpedon, P.E.
President/CEO

TO: RCC BOARD MEMBERS - 12/7 MEETING
FROM: EDWARD McSPEDON
SUBJECT: METRO RED LINE, HOLLYWOOD SEGMENT - ENHANCED CONSTRUCTION PROGRAM

ISSUE

Approval of the Enhanced Construction Program as discussed in the attached report to the Planning and Mobility Improvement Committee (PMIC).

	Δ Cost (Millions)
Enhanced Construction Mitigation Program	+ \$16.665
Enhanced Cut and Cover Construction Method for Hollywood/Highland Station	- \$20
Net Cost Impact	- \$ 3.335

RECOMMENDATION

Staff recommends that the RCC Board and Commission:

1. Adopt an enhanced construction mitigation program for Hollywood Boulevard including those measures that address the community and business concerns expressed by elected officials, residents, business people and community leaders and as a result of comments at public meetings and hearings.
2. Construct the Hollywood/Highland station with enhanced cut-and-cover methods rather than with the mined station method.

Edward Mc Spedon
EDWARD McSPEDON, P.E.
President/CEO



818 West Seventh Street
Suite 1100
Los Angeles, CA 90017
Tel 213 623-1194
Fax 213 236-4805

Leading the Way to Greater Mobility



DECEMBER 3, 1992

MEMO TO: PLANNING AND MOBILITY IMPROVEMENT COMMITTEE - 12/9/92 MEETING

FROM: EXECUTIVE DIRECTOR

SUBJECT: METRO RED LINE HOLLYWOOD SEGMENT ENHANCED CONSTRUCTION PROGRAM

ISSUE

In order to meet the revenue operations date for Metro Rail Segment 2 and Segment 3 stations on Hollywood and Vermont Boulevards, three separate decisions must be made by the end of January 1993. Staff has completed the analyses which, if implemented as a package, could provide Hollywood with fully-functional, aesthetic transit stations that will attract auto commuters to transit. The project will be built with far less disruption than initially projected in the environmental documents and will include an unprecedented community-based business improvement program. Finally, all three Hollywood stations will be open at the earliest time possible to spur the revitalization of the District.

This memo addresses two key issues by describing staff recommendations for an enhanced business improvement program during construction and by recommending that the Hollywood/Highland station be built using enhanced cut and cover techniques rather than the mined technique previously authorized. A separate memo recommends action on transit enhancement changes in project scope that have been developed as a result of station area planning studies to enhance transit access and joint development potential at several Segment 2 stations.

This item is on the agenda as an information/possible action item because staff is uncertain whether the community and/or LACTC will be ready to act on any or all of the recommendations at the December 16, 1992 meeting.

RECOMMENDATIONS

- 1) Adopt an enhanced construction mitigation program for Hollywood Boulevard including those measures that address community and business concerns expressed by elected officials, community leaders and as a result of comments at public meetings and hearings. Other measures are included in the initial mitigation program adopted under CEQA and NEPA in the Hollywood Construction Impact Program, (see Attachment A).



Los Angeles County
Transportation
Commission

818 West Seventh Street
Suite 1100
Los Angeles, CA 90017
Tel 213 623-1194

Leading the Way to Greater Mobility

Metro Red Line
December 1, 1992
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- 2) Construct the Hollywood/Highland station with enhanced cut-and-cover methods rather than with the mined station method.

RELATIONSHIP TO 30-YEAR INTEGRATED TRANSPORTATION PLAN (ITP)

Revised cost estimates have been developed for the construction mitigation program, the transit access improvement program and the enhanced cut and cover construction program. The business improvement (enhanced construction mitigation) program will cost \$27.776 million, which is \$16.665 million more than initially budgeted for the Hollywood area stations. The enhanced cut and cover construction methods will be \$20 million less than the estimate to construct the Hollywood/Highland Station with mined tunnelling techniques.

If the Hollywood/Highland station is constructed using cut and cover techniques, the cost reduction realized thereby will be adequate to fund the enhanced business improvement program. In such case, the transit access enhancements will have no net increase in the Segment 2 or 3 project costs.

BACKGROUND

Hollywood Boulevard Business Improvement (Construction Mitigation) Program - The RCC has been developing a customized mitigation program for Hollywood Boulevard for more than a year. Construction impacts in Hollywood have been significantly reduced by previous LACTC and RCC actions. First, it was decided to build the Hollywood/Highland station at the same time as the two other Hollywood Boulevard stations in order to reduce the duration of construction on the boulevard.

Second, in order to minimize disruptions of Metro Rail tunnelling beneath Vermont Boulevard and Hollywood Boulevard, tunnelling access and soil removal from Vermont and Hollywood tunnels was consolidated into a single site at Barnsdall Park (eliminating tunnel soil removal at three other sites that were previously planned at LA College, Hollywood/Vine and at Hollywood/La Brea).

Third, LACTC assured all three Hollywood stations will be constructed from off-street staging areas with construction activities occurring either off-street or under the deck rather than from above the station on the street. Although off-street staging was always planned for the Hollywood/Western and Hollywood/Vine stations, until recently no suitable site was available for Hollywood/Highland station construction staging.

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The recent deferral of the Melvin Simon Company project at Hollywood/Highland, has resulted in a suitable construction laydown site being available. By using the cut and cover technique, the construction schedule can be reduced by one year so that the Hollywood/Highland station can open for service prior to completion of the other Segment 3 stations..

In addition to these actions, 22 specific mitigation and business improvement strategies have been developed to address community concerns. (See Attachment A). These strategies fall into three types, as follows:

1. Mitigations required in the 1989 FSEIS/FSEIR, the preceding Metro Rail federally-approved EIS's, and EIR's related historical/cultural agreements that principally mitigate significant physical impacts caused by the construction or operation of Metro Rail on Hollywood Blvd.
2. Mitigations initiated by the RCC staff beyond the EIS to ensure that the LACTC minimizes adverse economic effects to the tourist market and Hollywood Boulevard retailers during construction. Some of these were developed as a result of MOS-1 and Blue Line experience. Others were proposed to address the unique Hollywood retail and community needs.
3. Mitigations incorporated as a result of proposals by others. These included mitigation measures developed to address 14 issues raised by elected officials, issues raised at public hearings and meetings, and numerous suggestions of the CRA and community leaders with significant constituencies and sometimes contrasting views.

The mitigation plan provides uniquely tailored protection to the historic district and retail and entertainment communities during construction, yet it does not adversely affect the ability to meet the revenue operation date for the subway stations or tunnels under Hollywood Boulevard. The plan also includes creation of Hollywood Metro Advisory Committee that will be used to monitor implementation of the business enhancement strategies and recommend modifications to the elements and budgets within the \$27 million program as construction progresses.

CUT AND COVER vs. MINED STATION CONSTRUCTION

Since the LACTC authorized the RCC to construct the Hollywood/Highland station by mining methods, the RCC and EMC

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have further considered the merits of both techniques.

Originally, the decision was made to build the station using the mining method for this station since no adjacent off-street construction staging area was available at the Hollywood/Highland station and previous experience building a cut and cover station through the street decking was deemed to have too significant impacts for the Hollywood/Highland intersection. The recent decision of Melvin Simon Company to defer their major development at the intersection provided an opportunity to reconsider the station construction staging method.

Since access to the station for construction now can be from off-street lots north of the Boulevard, the cut and cover construction impacts on the Boulevard and its retailers and theaters can be reduced dramatically. The total duration of construction can be shortened by one year and the nature and duration of significant traffic impacts become comparable to those of the "mined" technique. In addition, using lessons learned from previous construction in Segments 1 and 2, the RCC has continued to develop cut and cover station construction techniques to the point that, once the initial street decking is installed (a three-month process), the two techniques have comparable impacts.

As the previously-adopted mining techniques continue to be refined by RCC construction management staff and consultants, the duration has extended and the construction method has resulted in more surface impacts than initially discussed. Consequently, the final designs and construction methods for cut and cover construction of the Hollywood/Highland station \$20 million less expensive, will save 12-months and provide comparable duration of impacts.

One major difference between the mining method originally described and the mining technique now specified is the inclusion of a new construction step to prevent settlement of the street and historic structures. Four-inch diameter pipes will be drilled at five-foot intervals from the surface of the roadway 45-feet deep to just above the station box mining area. This drilling operation will require closure of parking lanes on Hollywood and Highland for about the same period as the drilling of soldier piles for the cut and cover construction method. The pipes would be used to inject concrete grouting into the area above the station construction in the event that settlement occurs during the mining operation.

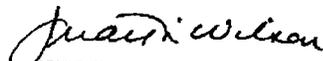
Although the mined station construction technique should continue to be considered where stations are built under the street with

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no adjacent off-street construction staging area available, because the Simon site is available and the station can be built from off of the street, RCC and LACTC staff recommend that the Hollywood/Highland Station be constructed using the same cut and cover methods as the other two stations on Hollywood Boulevard.

PREPARED BY: STEVE LANTZ
Director, Westside Area Team


NEIL C. PETERSON
Executive Director

ATTACHMENT A

Hollywood Boulevard Metro Red Line Station Area Program Business Enhancements/Construction Mitigations	Budget (In Millions)
1. Sidewalks maintained at 10-foot during business hours. Hollywood Boulevard will not be widened by reducing the size of sidewalks.	2.600
2. Two daily cleanings of sidewalks, construction zones, surrounding buildings, windows and graffiti under contract with a local non-profit organization. Hollywood/Highland will be cleaned three times daily.	1.445
3. Extensive signage program for Hollywood businesses, including regional billboards.	1.600
4. Aggressive parking program developed by consultants to include Metro Valet parking, 3-hour validations, validation incentives for business owners, parking lot enhancements to allow stacked parking on adjacent lots.	3.920
5. Heavy construction work hours limited from midnight to 9 a.m. seven-days-a-week. If LA DOT concurs, Hollywood/Highland heavy construction will be staged from 2 a.m. to 11 a.m. to accommodate movie theaters.	N/A*
6. Security on construction sites at all times plus additional funding to CRA for supplemental security surrounding construction zones under the Hollywood Cooperative Security Project.	2.291
7. Public affairs staff will be on Hollywood Boulevard 7-days a week, 12-hours per day with direct access to the RCC Resident Engineer to whom contractors report.	1.548
8. Special RCC construction accommodations for premieres and other special theater events, major parades and festivals will include work shut downs, cleanings, directional signage, event advertising, and special tourist displays.	1.450
9. RCC-hired marketing consultants will provide ongoing marketing, advertising, public agency and customer-base expansion assistance to Boulevard merchants.	3.000
10. RCC will provide regional and local advertising in magazines, newspapers and flyers to promote commerce in Hollywood. Information will also be provided in movie trailers and visitors guides.	2.420
11. An RCC lighting consultant will provide design concepts to enhance the lighting around construction zones with the objective of providing enhanced security and theatrical excitement to the Boulevard.	.500
12. At the Hollywood/Highland station, construction access and soil haul limited to two sites north of Hollywood Boulevard (no trucking will be needed from south side of the Boulevard). The construction staging site initially needed behind the El Capitan Theater will not be needed. This also reduces construction impacts on Hollywood High School.	N/A*
13. Construction staging area fencing will be designed by the ARTS program. Fencing used along the sidewalk will not obscure signage or visibility of stores.	.310
14. All street decking in station areas will be built at street level. Parking lanes along Hollywood Boulevard at Hollywood/Highland will be closed only when necessary for immediate construction activity. There will be no permanent street lane closures during construction. Since construction access to the underground stations will be from off-street construction staging areas, once the utilities are relocated and decking is in place, the construction will be comparable to mining. No equipment will be stored on street (other than on McCadden Place). In-street material storage will be held to a minimum and stacked no higher than 4-feet on the decking. Glassphalt will be used to repave street areas that have it.	N/A*

Hollywood Boulevard District Five Year Program Business Enhancements/Construction Mitigations	Budget (in Millions)
15. Sound baffling will be used beneath the street decks to reduce the noise from construction occurring under the Boulevard. Permanent power sources will be used instead of portable generators to reduce noise impacts.	N/A*
16. Where construction requires the removal of stars, museum-preservation techniques will be used to remove, display and return them to their original prominence on the Boulevard.	3.100
17. Concrete decking will be used to provide an enhanced driving surface through Hollywood/Highland intersections.	N/A*
18. During station construction, LACTC will contribute up to \$300,000 per year in grants to CRA's "Live on Hollywood" program. "Live on Hollywood" is a community-based program intended to draw people to the Boulevard and maintain its important role as a visitors attraction and community center. Programs include a series of public markets, outdoor entertainment events and historic information and tours.	1.200
19. A low-interest business loan program will be offered to retailers and businesses affected by construction at station areas to help them bridge the construction impact periods.	N/A*
20. Construction milestones will be promoted with special community events.	1.200
21. A Hollywood District Hotline 1 (800) RAIL-STAR has been established and will be staffed 7-days a week. Badges, signs and stickers on construction staff equipment will carry the message: "Am I a good neighbor? Questions? Suggestions? Call 1(800) RAIL-STAR."	.416
22. Provide space for half-price live theater ticket office in the Hollywood/Vine RCC field office.	N/A*
TOTAL Enhanced Mitigation Budget	\$27.776
Original Mitigation Budget	<11.109>
Net Enhancement Cost	\$16.665

*N/A= Since strategy is included in Metro Red Line construction budgets, additional funding is needed.

11/24/92

Item 28 - Revised Attachment A

Hollywood Boulevard Metro Red Line Four-Year Program of Business Enhancements/Construction Mitigations	Budget (In Millions)
1. Sidewalks maintained at 10-foot during business hours. Hollywood Boulevard will not be widened by reducing the size of sidewalks.	2.600
2. Two daily cleanings of sidewalks, construction zones, surrounding buildings, windows and graffiti under contract with a local non-profit organization. Hollywood/Highland will be cleaned three times daily.	1.445
3. Extensive signage program for Hollywood businesses, including regional billboards.	1.600
4. Aggressive parking program developed by consultants to include Metro Valet parking, 3-hour validations, validation incentives for business owners, parking lot enhancements to allow stacked parking on adjacent lots.	3.920
5. Heavy construction work hours limited from midnight to 9 a.m. seven-days-a-week. If LA DOT concurs, Hollywood/Highland heavy construction will be staged from 2 a.m. to 11 a.m. to accommodate movie theaters.	N/A*
6. Security on construction sites at all times plus additional funding to CRA for supplemental security surrounding construction zones under the Hollywood Cooperative Security Project.	2.291
7. Public affairs staff will be on Hollywood Boulevard 7-days a week, 12-hours per day with direct access to the RCC Resident Engineer to whom contractors report.	1.548
8. Special RCC construction accommodations for premieres and other special theater events, major parades and festivals will include work shut downs, cleanings, directional signage, event advertising, and special tourist displays.	1.450
9. RCC-hired marketing consultants will provide ongoing marketing, advertising, public agency and customer-base expansion assistance to Boulevard merchants.	3.000
10. RCC will provide regional and local advertising in magazines, newspapers and flyers to promote commerce in Hollywood. Information will also be provided in movie trailers and visitors guides.	2.420
11. An RCC lighting consultant will provide design concepts to enhance the lighting around construction zones with the objective of providing enhanced security and theatrical excitement to the Boulevard.	.500
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13. Construction staging area fencing will be designed by the ARTS program. Fencing used along the sidewalk will not obscure signage or visibility of stores.	.310
14. All street decking in station areas will be built at street level. Parking lanes along Hollywood Boulevard at Hollywood/Highland will be closed only when necessary for immediate construction activity. There will be no permanent street lane closures during construction. Since construction access to the underground stations will be from off-street construction staging areas, once the utilities are relocated and decking is in place, the construction will be comparable to mining. No equipment will be stored on street (other than on McCadden Place). In-street material storage will be held to a minimum and stacked no higher than 4-feet on the decking. Glassphalt will be used to repave street areas that have it.	N/A*

Hollywood Boulevard District Four-Year Program of Business Enhancements/Construction Mitigations	Budget (in Millions)
15. Sound baffling will be used beneath the street decks to reduce the noise from construction occurring under the Boulevard. Permanent power sources will be used instead of portable generators to reduce noise impacts.	N/A*
16. Where construction requires the removal of stars, museum-preservation techniques will be used to remove, display and return them to their original prominence on the Boulevard.	3.100
17. Concrete decking will be used to provide an enhanced driving surface through Hollywood/Highland intersections.	N/A*
18. During station construction, LACTC will contribute up to \$300,000 per year in grants to CRA's "Live on Hollywood" program. "Live on Hollywood" is a community-based program intended to draw people to the Boulevard and maintain its important role as a visitors attraction and community center. Programs include a series of public markets, outdoor entertainment events and historic information and tours.	1.200
19. A low-interest business loan program will be offered to retailers and businesses affected by construction at station areas to help them bridge the construction impact periods.	N/A*
20. Construction milestones will be promoted with special community events.	1.200
21. A Hollywood District Hotline 1 (800) RAIL-STAR has been established and will be staffed 7-days a week. Badges, signs and stickers on construction staff equipment will carry the message: "Am I a good neighbor? Questions? Suggestions? Call 1(800) RAIL-STAR."	.416
22. Provide space for half-price live theater ticket office in the Hollywood/Vine RCC field office.	N/A*
TOTAL Enhanced Mitigation Budget	\$27.776
Original Mitigation Budget	<11.109>
Net Enhancement Cost	\$16.665

*N/A= Since strategy is included in Metro Red Line construction budgets, additional funding is needed.

11/24/92



ITEM

2 A

Minutes

RAIL CONSTRUCTION CORPORATION (RCC) DECEMBER 7, 1992 MEETING

MEMBERS PRESENT

ROBERT KRUSE, CHAIRMAN
DAVID ANDERSON
ERNEST CAMACHO
JOHN MURRAY
MAS NAGAMI

STAFF PRESENT

EDWARD McSPEDON, PRESIDENT/CEO
JOEL SANDBERG, PROJECT MANAGER, METRO RED LINE, SEGMENTS 2
MAUREEN TAMURI, MANAGER, FACILITIES ENGINEERING
LES DURRANT, MANAGER, SYSTEMS ENGINEERING
LARRY KELSEY, MANAGER, CONTRACTS
DAVE SIEVERS, PROJECT MANAGER, METRO GREEN LINE
LINDA FORD McCAFFREY, MANAGER, CONTRACTS
ROBERT CLEGG, CONTRACT ADMINISTRATOR, CONTRACTS
CHARLES STARK, PROJECT MANAGER, METRO RED LINE, SEGMENTS 2 & 3
JESSICA CUSICK, DIRECTOR, ART FOR RAIL
STEVE LANTZ, DIRECTOR, WESTSIDE AREA TEAM
GIL SALDANA, PUBLIC AFFAIRS OFFICER
LES PORTER, DEPUTY EXECUTIVE DIRECTOR, FINANCE & INVESTMENTS
SHEILA WALKER, CONTRACT COMPLIANCE ANALYST
LINDA MEADOW, MANAGER, SYSTEM SAFETY
AL FRISCH, PLANNING COORDINATOR, SAFETY & SECURITY
BONNIE VERDIN, BOARD SECRETARY
MERCY MENESES, ASSISTANT BOARD SECRETARY

OTHER

AUGUSTIN ZUNIGA, COUNTY COUNSEL
MARTY RUBIN, EMC
DON MINER, PARSONS DILLINGHAM
JAMES OKAZAKI, LOS ANGELES DEPT. OF TRANSPORTATION
JESS DIAZ, SCRTO



**Rail
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Corporation**

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Transportation Commission

818 West Seventh Street
Suite 1100
Los Angeles, CA 90017
Tel 213 623-1194

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1. CALL TO ORDER

The meeting was called to order at 1:10 p.m.

2. APPROVAL OF MINUTES

The minutes of the November 8, 1992 meeting were approved as submitted.

5. CHAIRMAN'S REMARKS

Mr. Kruse reported the following:

- Several Board members recently toured Metro Red Line, Segments 2 & 3 and were excited by the impressiveness of these public works projects. Some very, very difficult mitigation measures were required at the portal of this very large tunneling job.
- The RCC Board has been, and remains, actively involved in the MTA merger process.

6. PRESIDENT'S REMARKS

Mr. McSpedon reported the following:

- The Board's High Technology Procurement Subcommittee met for the first time last week. The Subcommittee will meet again in January, 1993.
- The Administrative Subcommittee also recently convened to work on improving the format of Board agenda items.
- On Friday, the RCC met with SCRTD staff to review the Metro Red Line, Segment 1 start-up readiness. There will be another meeting this Friday at which time an assessment will be made to determine if an adjustment to the January 10 opening date will be necessary.
- December 15 is the projected date for the hole-through of the tunneling on Wilshire Boulevard into the Wilshire/Western Station. This is a milestone event representing the completion of all the tunneling excavation for Metro Red Line, Segment 2.
- Next Sunday, December 13, subway rides will be given to all employees (and their families) who worked on Metro Red Line, Segment 1.

Mr. Murray pointed out that to approve this item would be getting out in advance of the Commission since the amendments to the policy haven't yet been approved.

Mr. McSpedon suggested that the Board take action on this item contingent upon the PMIC action on 12/9, and the Commission's approval of the amendments to the policy on 12/16.

Mr. Rubin clarified that this selection does, in fact, follow the new criteria because during the process, the team was modified to reflect the modified criteria which recognizes local employment, local economy and technology transfer aspects. On a further positive note, Mr. Rubin added that although the DBE goal was established at 25%, the goal was negotiated at 40% participation.

Mr. Murray moved, Mr. Camacho seconded to approve this item contingent upon PMIC/Commission approval of the EMC's Contracting Plan/List of Subconsultants, Contract E0070 for Metro Rail Projects. Motion was approved.

The RCC Board recommended that the Commission accept the EMC's selection of Cambridge Seven Associates and its subcontractors.

Mr. Nagami pointed out that the DBE goal was not included in the report. Staff was directed to amend the report to include this data for submission to the PMIC and Commission meetings on 12/9 and 12/16, respectively.

25. METRO RED LINE, SEGMENT 1, START-UP READINESS

Mr. Stark provided an update on this item.

Mr. Stark stated that the schedule looks achievable at the present moment. Of course, the SCADA System problems must still be resolved and two more railcar pairs must be accepted by the SCRTD before we have 16 cars for service but the schedule appears to provide sufficient time to work through these issues provided no major problems of an unforeseen nature arise between now and the opening date.

26. METRO BLUE AND RED LINES: ART PROJECTS FOR GRAND AND WILSHIRE/NORMANDIE STATIONS

Ms. Cusick provided a presentation on this item.

27. METRO RED LINE, SEGMENT 3
TUNNEL ENGINEERING PREVIEW FOR HOLLYWOOD SEGMENT

Mr. Stark provided a presentation on this item.

Mr. McSpedon mentioned that on 12/9 PMIC is scheduled to choose from an aerial line on the Ventura Freeway or a Burbank/Chandler subway San Fernando alignment. Either choice will impact our project.

28. METRO RED LINE, HOLLYWOOD SEGMENT
ENHANCED CONSTRUCTION PROGRAM

Mr. McSpedon opened up the discussion by providing background on this project.

Mr. Miner provided a slide show presentation depicting the differences between cut-and-cover vs. mined tunneling of this project.

Mr. Lantz and Mr. Saldana briefed the Board on the details of the enhanced construction program.

Mr. McSpedon clarified for Mr. Murray, that to opt for the cut-and-cover method tunneling of this project does not preclude us from using the mined tunneling method in another area of this project or future projects. Mr. McSpedon further elaborated that there still may be an opportunity where mining would be a viable approach under the right set of circumstances.

Mr. Lantz stated that the estimated savings of \$20 million in opting for the cut-and-cover alternative will not necessarily be used entirely for construction mitigation purposes although the LACTC is entirely prepared to spend what is necessary to see the community through the impacts of construction.

Mr. Nagami noted a problem in the format of this report in that information contained in the attachment documents should have been brought forward in the report.

Mr. Anderson moved, Mr. Murray seconded the approval of this item contingent upon the PMIC's approval of this item at its meeting on 12/9. Motion was approved.

The RCC Board recommended that the Commission:

- Adopt an enhanced construction mitigation program for Hollywood Boulevard including those measures that address the community and business concerns expressed by elected the officials, residents, business people

and community leaders and as a result of comments at public meetings and hearings.

- Construct the Hollywood/Highland station with enhanced cut-and-cover methods rather than with the mined station method.

29. CONSTRUCTION LOAN PROGRAM

Mr. McSpedon prefaced Mr. Porter's briefing by saying that this is an item of major interest to the business community impacted by our construction projects.

Mr. Kruse stated that the potential for this program sounds great, however, the banking climate at the present time will not give commercial loans. Mr. Kruse added that to offer the program simply to have banks reject loans can only make for disgruntled business people. Mr. Kruse stated that the Commission must back these loans if the program is going to work.

Mr. Porter stated that this program is not contingent upon Proposition A & C funds. In addition, Mr. Porter clarified for Mr. Murray that the loan program will be available not only to Hollywood and Wilshire Boulevard merchants but impacted merchants anywhere along our construction projects.

Mr. Anderson inquired whether the Commission has any intention of asking the banks to defer payment of interest during the period of construction, which conceivably will span several years. Mr. Porter stated that the Commission will fund the interest payments until construction is completed. Mr. Porter affirmed Mr. Anderson's understanding that the Commission will, then, be at risk for the interest paid and therefore shares the risk with the bank.

30. MBE/WBE PROGRAM STATUS UPDATE

Ms. Walker provided a briefing on this item.

Ms. Walker stated that effective 11/1/92, the MBE/WBE Program was put in place for all RCC procurements. In addition, stated Ms. Walker, there now exists an interagency list of approximately 10,000 certified MBE/WBE firms.

Mr. Kruse stated that it appears a Board subcommittee must convene to work through how staff will manage the certification program. Ms. Walker stated that there is a plan; however, the plan will require additional staffing.

31. OPERATION SAFETY UPDATE

Ms. Meadows provided a presentation on this item.

Ms. Meadows stated that she anticipates requesting Board approval for increased funding in January, 1993.

28. PUBLIC COMMENT

The Board heard comments from Mr. Walsh.

29. BOARD MEMBER REQUEST FOR FUTURE ITEMS

There were no requests for future items.

EXECUTIVE SESSION

The Board adjourned to Executive Session to discuss:

Potential Litigation - G. C. #54956.9 (b)

•Contract No. MC001

Actual Litigation - G. C. #54956.9 (a)

•Parcel No. B2-217

ADJOURNMENT

The meeting adjourned at 4:47 p.m.

Bonnie Verdini

BONNIE VERDIN
Board Secretary
(c:\wp51\brdatgs\12792.min)

Attachment 4

**BEVERLY HILLS CITY COUNCIL
PUBLIC NOTICE**



METRO WESTSIDE SUBWAY EXTENSION

On July 29, 2014, City Council will review a permit application submitted by the Los Angeles County Metropolitan Transportation Authority (Metro) for preliminary construction work associated with the Westside Subway Extension station site located on Wilshire Boulevard between La Cienega and San Vicente Boulevards. A summary of work is described below:

- **Utility Relocation:** Construction work includes relocation and rearrangement of sewer, water, storm drain and electrical power utilities required for the construction of the La Cienega Station.
- **Project Area:** Work will primarily occur along Wilshire Boulevard between La Cienega and San Vicente Boulevards. Limited work will also occur on Wilshire Boulevard west of La Cienega Boulevard, La Cienega Boulevard, San Vicente Boulevard and Hamilton, Tower and Gale Drives.
- **Project Duration:** Advanced Utility Relocations will take approximately 30 months to complete
- **Work Hours:** Two scenarios for construction hours will be considered
 - a. Nighttime work between 10 pm and 8 am (midnight to 9 am during theatre events) and limited daytime work between 10 am and 3 pm Monday – Friday and on weekends
 - b. Daytime work between 7 am and 4 pm with limited night time and weekend work

If approved, construction would begin no earlier than three weeks after Metro provides public notice to adjacent residences and businesses.

MEETING: Beverly Hills City Council
DATE: **Tuesday, July 29, 2014**
TIME: 7:00 p.m., or as soon thereafter as the matter may be heard
LOCATION: City Hall, Council Chambers, 455 N. Rexford Drive, Beverly Hills, CA, 90210

PUBLIC COMMENT:

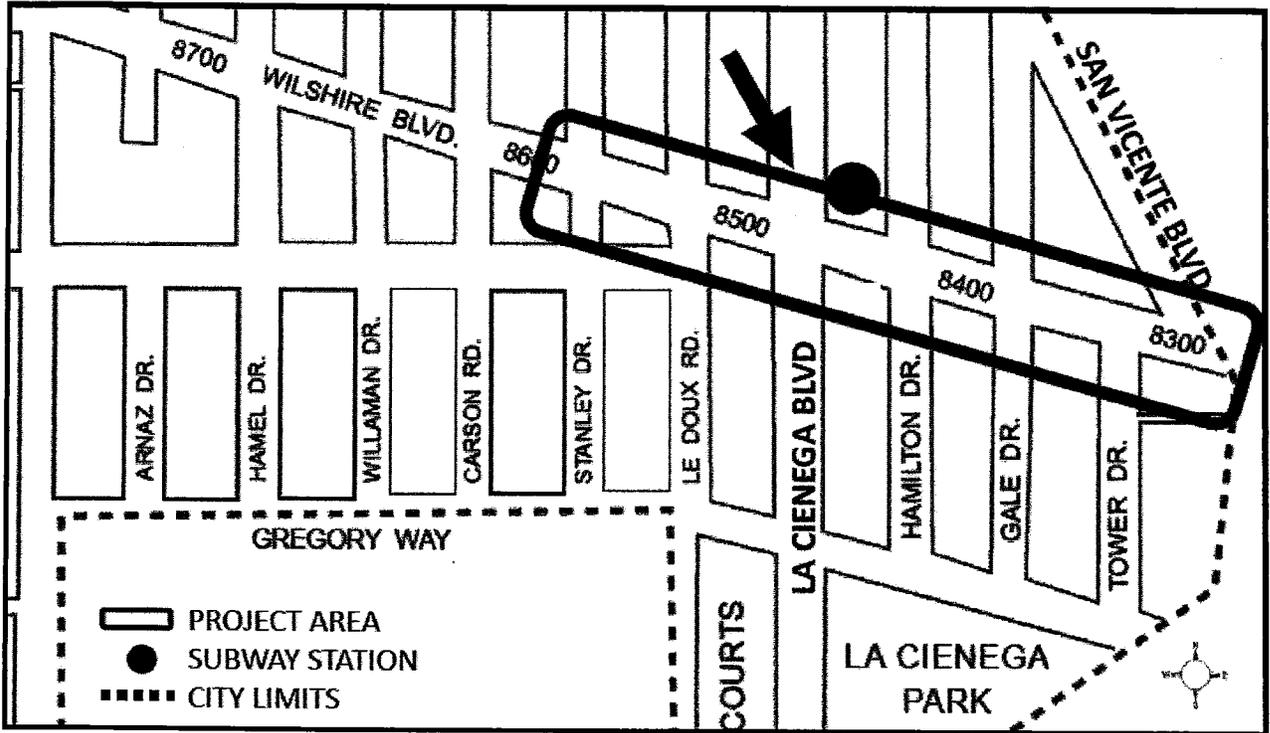
Persons wishing to comment on this proposal are invited to attend the July 29, 2014 City Council meeting. You may also submit correspondence by e-mail or standard mail for review by the Beverly Hills City Council. Please submit correspondence by Monday, July 28, 2014, 5pm.

By Email: transportation@beverlyhills.org

By Mail: City of Beverly Hills
Community Development Department - Transportation
455 North Rexford Drive
Beverly Hills, CA 90210

If you would like additional information, please contact Transportation Planning at (310) 285-1128 or visit the Beverly Hills subway extension webpage at www.beverlyhills.org/subway.

City of Beverly Hills Westside Subway Extension



Attachment 5

WebCBH TRANSPORTATION

From: Laurie Schick ·
Sent: Saturday, July 19, 2014 2:21 PM
To: WebCBH TRANSPORTATION
Subject: Subway Station Extension Work Hours

Dear Community Development Department -- Transportation:

I am writing regarding the work hours for the Metro Westside Subway Extension. I live on Hamilton just north of Wilshire, which means I will be severely affected by the construction work that is being scheduled. Although those who use Wilshire only during the day will be inconvenienced by scenario a (mostly nighttime work), these folks will only be inconvenienced for a relatively short part of their day. For those of us who will be trying to sleep between 10pm and 8am these night hours would be severely debilitating every single night and then every single day due to interrupted sleep for the duration of the construction.

If this were only a business district I would understand the evening hours. However, there are people who live less than a block away and we need to be considered first and foremost. I thus strongly suggest that scenario b (daytime work) be the choice.

Sincerely,

Laurie Schick, PhD
143 N Hamilton Dr #A
Beverly Hills, CA 90211

WebCBH TRANSPORTATION

From:
Sent: Tuesday, July 22, 2014 9:59 PM
To: WebCBH TRANSPORTATION
Subject: How do I get to make a public comment?

As you might guess, nighttime work would be very upsetting to people trying to sleep. It is even more upsetting that the schedule would be adjusted to accommodate the Saban Theatre schedule. Sure feels like the residents are a low priority but the show must go on.