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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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 Advance 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 intend to 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 required 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, communications line relocations, power line relocations, telecoms and fiber optic ductbank and cabling relocations and any other utility relocations 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.

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 and equitable 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 the LACMTA and the 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 the 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) Advance 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.

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) "Advance Utilities Relocation Phase" or "AUR" means the Advance 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) "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 (or as provided in the next sentence, a better 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;

(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; and

(vii) Compliance with any permit conditions.

(d) "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.

(e) "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.

(f) "City Rights-of-Way" means real property owned by the City, whether title is held in fee, easement, right-of-way, or otherwise, whether recorded or unrecorded, including prescriptive rights and licenses.

(g) "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 or requirements of the State of California or federal Government

(h) "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.

(i) "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.

(j) "Construction Staging Plans" means construction phasing/sequencing and traffic management plans developed for the AUR work.

(k) "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

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

(l) "Costs" shall mean all Direct and Indirect Costs incurred by the City and the LACMTA.

(m) "Days" means calendar days including Saturdays, Sundays, and legal holidays. See also definition of Working Days.

(n) "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.

(o) "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.

(p) "Direct Costs" means labor Costs, Consultant 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.

(q) "Effective Date" means the date set forth in the Preamble.

(r) "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.

(s) "Fiscal Year" means July 1 through June 30.

(t) "Hazardous Material" means any material that meets the definition of hazardous waste set forth in California Health and Safety Code Section 25117.

(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 XVI 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.

(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 various Worksite Traffic Control plans, Traffic Management plans, and Construction Staging Plans for the various stages of construction that the LACMTA may submit as part of its permit applications. Any Traffic Management Plans will be submitted for approval by the City Council as part of the applications for 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 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.

(hh) "Worksite Traffic Control Plan(s)" means the plans depicting the stages of traffic control for each stage of construction for the AUR work.

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 require 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 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 AUR 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 AUR 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 applications 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 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, does not change the purpose of the permit, 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, including without limitation, 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 XI). 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
- 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. No Rearrangement shall cause a material increase to maintenance and/or operation costs of the City. 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

No later than the City's final approval 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. Any 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 or a third party designated by 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.

ARTICLE VIII
City Rights-of-Way And Cost Liability

The LACMTA shall be responsible for the cost of all AUR work, including the cost of all Rearrangements and restoration of the City Rights-of-Way. If City Facilities will be relocated from the existing City Rights-of-Way to a new location that falls outside existing City Rights-of-Way, then the LACMTA, at no cost to the City, shall convey to the City a new right-of-way for such relocated City Facilities.

ARTICLE IX
Hazardous Materials

Upon discovery of Hazardous Material in connection with any Rearrangement, the City and the LACMTA shall immediately confer regarding the proper course of action for disposition of the Hazardous Material. The LACMTA will comply with all laws regarding the disposition of any Hazardous Material disturbed, and shall pay all costs associated with such compliance.

ARTICLE X
"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 to 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 XI
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 direct labor Costs for City Staff and all Consultant 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 that $250,000 is available in the fund from month-to-month. This reimbursement procedure shall 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 below 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 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, including the work by City staff and the City's Consultant described in this Article, 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 XII
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); Exhibit D attached hereto (entitled "Traffic Control and Work Hours Plan"); all 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, the standards included in this Article shall control over the conditions in Exhibit B, Exhibit D, and the Construction Staging Plans and Worksite Traffic Control Plans. The conditions in Exhibit B, Exhibit D, and 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 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 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.

The LACMTA shall comply with the following requirements:

(a) The minimum traffic lane requirements for streets impacted by Construction activities for daytime work shall be as set forth in Exhibit D attached hereto entitled Traffic Control and Work Hours Plan.

(b) The Construction Staging Plan or Worksite Traffic Control Plans shall include a parking control plan that observes the conditions set forth in Exhibit B, attached to this Agreement.

(c) 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 or a Worksite Traffic Control Plan or other form of traffic control requires the removal of the parking space. In the event that any on-street metered parking spaces are removed, including spaces removed by the City to provide loading or valet zones for impacted businesses, the LACMTA shall reimburse the City for the City's lost parking meter revenue due to the removal of the metered parking space. Additionally, the LACMTA shall mitigate the loss of metered parking spaces by making available an equivalent number of parking spaces in an offstreet parking facility located along Wilshire Boulevard between La Cienega and San Vicente Boulevards. Those parking spaces shall be provided for public use at a rate no greater than the metered parking rate. The LACMTA shall provide public notice of the

availability of the alternative parking spaces through consultation with businesses or the use of signage.

The LACMTA and its contractor shall ensure that the three offstreet parking structures located in 8484 Wilshire Boulevard, 8447 Wilshire Boulevard, and 8383 Wilshire Boulevard are not used for construction related parking during times that such parking would conflict with event parking for events that are held at the Saban Theatre.

The LACMTA shall coordinate with the City to ensure that Construction is scheduled in a manner that maintains adequate loading space for curbside valet parking during events at the Saban Theatre when valet parking is offered by the Saban Theatre.

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 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. Advance 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 and box offices at the Saban Theatre, shall be maintained during all times that the buildings are open to the public. The full sidewalk bordering the Saban Theatre shall be accessible to accommodate ingress and egress for all events at the Saban Theatre. Additionally, pedestrian access between the Saban Theatre and all off-site parking lots used by its patrons, including all crosswalks between the Saban Theatre and those off-site parking lots, shall be maintained at full width for all events at the Saban Theatre. Sidewalk closures in accordance with an approved Worksite Traffic Control Plan are permitted only when necessary to complete AUR work, no events are being held at the Saban, and when approved by the City. At all other times the minimum width available for pedestrians shall be five (5) feet 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;

San Vicente Boulevard; and

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.

Thirty (30) days after the LACMTA commences Construction, and periodically thereafter, the City shall review traffic levels on residential streets. If the City finds that Construction-related impacts have caused a material amount of traffic to divert onto residential streets, then the City shall notify the LACMTA of this traffic condition. Thereafter, the Parties shall work collaboratively to develop and implement additional mitigation intended to reduce residential street traffic caused by Construction. Such additional mitigation will be developed and implemented at the expense of the LACMTA. If after implementation of the additional mitigation the City finds that a material amount of traffic continues to divert onto residential streets due to Construction, the City may engage the services of a traffic control engineer to conduct a study of residential traffic levels and develop further mitigation measures to reduce traffic on residential streets. The LACMTA shall pay for the services of this traffic control engineer and mitigation of Construction related impacts.

ARTICLE XIII
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, the standards of this Article shall control over standards included in Exhibits B and D 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:

No person shall engage in construction, maintenance or repair work between the hours of four o'clock (4:00) PM and seven o'clock (7:00) AM of any day, or at any time on a Saturday, Sunday or public holiday unless such person has been issued an after-hours construction permit. The LACMTA may file an application for an after-hours construction permit, which describes

the type of construction activities that will take place during the hours authorized by the permit and provides justification, satisfactory to the City, that the after hours construction is necessary for one of the reasons set forth below. Thereafter, the City Representative, unless otherwise directed by the City Council, may issue an after-hours construction permit for the following Construction activities:

- Construction that will create planned service interruptions for water, electrical power, and sewer;
- Construction where the work zone is located in the intersection of Wilshire & La Cienega;
- Construction activities for three (3) of the seventy-four (74) stages of Worksite Traffic Control Plans requiring the reduction of available traffic lanes on Wilshire Boulevard to one lane in the eastbound direction;
- Construction where the work zone is located in the sidewalk and building entrances or adequate pedestrian access cannot be provided; and
- Construction activities when the work zone requires the complete closure of driveways.

If the City denies an after hours permit for work that would conflict with a requirement of this Agreement to 1) maintain pedestrian or driveway access during business hours, or 2) maintain two (2) lanes of traffic on Wilshire Boulevard in each direction during daytime hours, then the LACMTA may nevertheless conduct that work between the hours of 7 AM and 4 PM. In that event, the LACMTA shall identify to the City the conflicting requirement and shall identify to the satisfaction of the City how the LACMTA will minimize the duration of the conflict. Upon doing so, the LACMTA may proceed with the work between the hours of 7 AM and 4 PM.

The City Council may approve an after hours permit for additional construction activities. Any after hours construction permit shall require that work hours be adjusted to avoid construction work during events at the Saban Theatre. 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
Independence Day
Labor Day
Rosh Hashanah
Yom Kippur
Thanksgiving Day
The Friday after Thanksgiving Day
Christmas Day

The Independent Compliance Monitor (see Article XVI) shall be responsible for monitoring enforcement of the conditions of after-hours construction permits and enforcing available remedies pursuant to the procedures of Article XVII of this Agreement.

ARTICLE XIV
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 Advance 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, the standards of this Article shall control over conditions of Exhibits B and C , 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;
J. The duration of the noise;
K. Whether the noise is recurrent, intermittent, or constant;
L. Whether the noise is produced by a commercial or noncommercial activity; and
M. The monitoring of noise levels.

Noise Control Measures

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

Source	Noise Control Measures
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	No slamming tailgates Establish truck cleanout staging areas as needed. Use rubber gaskets or functional equivalent. Decrease speed of closure. Place plywood or dirt beds on all 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 residentially zoned streets. Movement of Construction equipment into and through the Construction site is prohibited between 4:00 PM and 7:00 AM except as allowed by this Agreement. 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. 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 over a movable fence for all night work, including the use of state-of-the-art technology where necessary to achieve 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 at all times will be limited to no more than 5dBa above pre-existing ambient noise levels at the property line of any residential building ("the Noise Standard"). Noise monitoring will be evaluated on a 15-minute average noise level (Leq 15 min). Metro and the City shall jointly establish the preexisting ambient hourly noise levels at residential property lines on Tower Drive that are closest to Wilshire Boulevard and at each location identified in Figure 18 of the Ambient Noise Level Report prepared for Metro by Acentech and dated March 19, 2014, attached hereto as Exhibit E, and incorporated herein by this reference. In the event that the Compliance Monitor identifies a potential violation of this Noise Standard at a property line where the ambient noise level has not previously been established: (1) the Compliance Monitor shall use the ambient noise level established at the nearest pre-existing monitoring location unless and until a new ambient noise level is established at the location of the potential violation; (2) LACMTA shall take the steps necessary to meet the Noise Standard at the location of the potential violation; and (3) LACMTA may elect to jointly establish with the City a new ambient noise level at the location of the potential violation. The Compliance Monitor shall then use the ambient noise level established at the pre-existing location or the newly established ambient level, as applicable, as the baseline for determining whether to impose a monetary contribution as provided for under Article XVII.

ARTICLE XV
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, the standards of this Article

shall control over conditions in Exhibit B, 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

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, including automobile drivers.
- Temporary lighting will be limited to the amount necessary to safely perform the required work and ensure pedestrian safety.
- 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 XVI
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 XVII
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 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 with impacts on the same business or residence 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 and shall make a further contribution for each subsequent violation of the same Permit Condition if the violation impacts the same business or residence within a seven (7) Day period following the third violation, based on the following schedule:

Violation 3:	$10,000 per violation
Violations 4 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. This Article is in lieu of any other method set forth in the Beverly Hills Municipal Code for imposing monetary fines or penalties upon the LACMTA for violations of the Permit Conditions.

In addition to any monetary contributions required under this Article, the Compliance Monitor may order an immediate 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 order a halt to any work that poses a clear and immediate threat to public safety. If work is halted for reasons of public safety, the Compliance Monitor shall not allow resumption of the work until the threat to public safety has been abated.

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 XVIII
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" box must be planted in the same location within six (6) months of the initial removal. To the extent possible, the LACMTA shall replace trees on an ongoing basis so long as doing so does not conflict with future LACMTA work.

ARTICLE XIX
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), including, but not limited to, local newspapers and social media;
- Parking validation and other incentives for local businesses;
- Public outreach programs;
- Up to two (2) cameras or other surveillance equipment to publicly broadcast Construction progress;
- Additional noise mitigation as necessary to prevent exceedances of 5dBa (L_{eq} 15 min) above pre-existing ambient noise levels during business hours at historic structures;
- Public affairs representatives and consultants; and
- Other urban design, mitigation, public outreach, and business assistance projects as mutually agreed upon by the Parties.

The LACMTA agrees to devote One Million dollars ($1,000,000.) for such types of measures. The LACMTA shall expend an additional Four Hundred Thousand dollars ($400,000.) 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 XXVI.

The LACMTA also agrees to provide the following additional environmental and business mitigation, either as part of current LACMTA operations or by a third party as part of any contract awarded by the LACMTA for AUR work:

- Locate construction staging areas for all AUR work outside City limits;
- Maintain full sidewalk width to accommodate ingress and egress for events held at the Saban Theatre;

- Clean worksite and adjacent areas at least once each work day and remove and paint over graffiti within 48 hours of discovery;
- Use street plates instead of decking;
- Placement of large, clearly visible signage indicating that all businesses are open during construction at a location identified by the City

ARTICLE XX
Advance Notification Process And Establishment Of A Public Phone Line

The advance 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 included in this Article shall control over Exhibit B and Exhibit C and the permit application. Conditions in Exhibit B and Exhibit C 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 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 advance 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:

Activity	Advance notification	Method
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. In addition to the construction notices provided in the schedule, the LACMTA shall also e-mail construction notices when possible.

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

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 XXI
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.

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 XXII
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. 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.

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 XXIII
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 willful 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 willful misconduct of the City as determined by a court or administrative body of competent jurisdiction.

The LACMTA shall maintain an administrative claims process throughout the term of this Agreement that may be initiated by filing a claim substantially in the form set forth in Exhibit F. The City shall make copies of Exhibit F available upon request at City Hall and on its website to any persons or businesses claiming damage caused by the LACMTA.

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 willful 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 willful 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 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 XXIV
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 shall be resolved pursuant to Article XXIX. 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 XXV
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 arc 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 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 XXVI
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 twenty (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 ten (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 seven (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 LACMTA may provide the City notice to cure. The City shall have seven (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 three (3) Working 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 two (2) Working 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 its 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 XXVII
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 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.

ARTICLE XXVIII
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 LACMTA and its contractor shall protect and maintain all basement walls, footing encroachments, and marquees of all buildings adjacent to the Construction work zone. The LACMTA and its contractor shall also protect the structure and maintain the visibility of the Saban Theatre's marquee.

The LACMTA shall meet and confer with representatives of the Saban Theatre on a weekly basis to discuss coordination of Construction with Saban operations and events.

The City Representative or his or her designee, the City Engineer, and Consultant(s), as well as the Independent Compliance Monitor, 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

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 XXIX
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 an 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 XVII (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

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 XXX
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

With copy to:	The City Attorney City of Beverly Hills 455 N. Rexford Dr., Room 230 Beverly Hills, California 90210
To LACMTA:	Dennis Mori Executive Officer, Project Management One Gateway Plaza, 17th Floor Los Angeles, California 90012
With copy to:	Charles Safer Assistant County Counsel One Gateway Plaza, 24th Floor Los Angeles, California 90012

Notices given by certified mail shall be deemed delivered on the date of delivery or attempted delivery shown on the return receipt. Notices given by messenger or reputable overnight delivery service shall be deemed delivered one (1) business day after delivery to the messenger or overnight delivery service unless a later actual delivery date is confirmed by the records of the messenger or overnight delivery service, in which case that actual delivery date shall govern. Any signatory hereto may from time to time, by notice given to the other signatories hereto change the address to which communications to such signatory are to be sent or designate one or more additional persons or entities to which communications are to be sent.

Time is of the essence of each provision hereof in which time is a factor.

If any provision of this Agreement shall for any reason be held to be invalid, illegal or unenforceable by any court of competent jurisdiction, the validity of the other provisions of this Agreement shall in no way be affected thereby.

No alteration, amendment or modification of this Agreement shall be valid unless evidenced by a written instrument executed by the parties hereto with the same formality as this Agreement.

No waiver by any party of the rights, conditions, or the performance of any covenant or promise herein shall be effective unless contained in a writing signed by such party. No such written waiver shall reduce the rights or remedies of the Parties nor shall it invalidate this Agreement, nor shall it be deemed to be a waiver by such party of any other rights, conditions, or the performance of any covenant or promise (whether preceding or succeeding and whether or not of the same or similar nature). No failure or delay by one party to exercise any right or remedy it may have by reason of the default of any other party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right or remedy by such party while the other party continues to be so in default.

Except as otherwise expressly provided in this Agreement, the Parties do not intend by any provision herein to confer any right, remedy or benefit upon any third party (express or implied), and no third party shall be entitled to enforce or otherwise shall acquire any right, remedy or benefit by reason of any provision of this Agreement.

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:
_____	_____

EXHIBIT A

CONTRACT PRICING PROPOSAL (Professional Services)	LACMTA "FORM 60"	PAGE 1 of 2
Name of Proposer:	Service to be Furnished	
Home Office Address		
Project /Location (s) Where work is performed	Total Amount of Proposal	Contract No.

DETAILED DESCRIPTION OF COST ELEMENTS

1a. Direct Labor (Specify)	Est. Hours	Rate/ Hour	Est. Cost($)	Total Est. Cost
Administration				
Construction Management				
Inspection				
1b. Overtime				
Total Direct Labor				$ -
2. Labor Overhead	O.H. (%)	x Base=	Est. Cost($)	
Labor Overhead				
Construction Labor Overhead				
Total Labor Overhead				$ -
3. Travel*			Est. Cost($)	
a. Transportation				
b. Per Diem or Subsistence				
Total Travel				$ -
4. Subcontractors/Subconsultants **			Est. Cost($)	
Total Subcontractors				$ -
Fee on Subcontractors				
5. Other Direct Costs *				$0.00
6. General & Admin. Expenses				
TOTAL ESTIMATED COST				$ -
7. Fee				
TOTAL ESTIMATED COST AND FEE				$ -

* Itemize on "Form 60" - Continuation Page

** Attach LACMTA "Form 60" for all proposed subcontractors/subconsultants

CONTRACT PRICING PROPOSAL (Professional Services) *Continuation Page*	LACMTA "FORM 60"	PAGE 2 of 2

SUPPORTING SCHEDULE

ITEM NO.	ITEM DESCRIPTION	Est. Cost ($)	Total Est. Cost ($)
Travel:			
Other Direct Costs:	Reimbursables		
	Mileage		

EXHIBIT B

CITY OF BEVERLY HILLS
CONDITIONS FOR APPROVAL OF
UTILITY RELOCATION PERMITS

The following permit conditions (the "Permit Conditions") shall constitute the terms of the advance utility relocation ("AUR") permit for the 1056 Contract work. The Permit Conditions are based on that certain Memorandum of Agreement between the City of Beverly Hills (the "City") and the Los Angeles County Metropolitan Transportation Authority (the "LACMTA") entitled "Memorandum of Agreement for the Advance Utilities Relocation Phase of the Purple Line Extension Project – Segment I" (the "Agreement"); all exhibits attached thereto; Worksite Traffic Control Plans submitted by the LACMTA; the March 2012 Final Environmental Impact Report for the Westside Subway Extension (the "Final EIR"); and all completed permit applications and submittals for the scope of work at issue. Any conflicts between the Permit Conditions and those documents shall be interpreted and resolved pursuant to the applicable provisions of the Agreement.

The following Permit Conditions shall be enforceable by the Independent Compliance Monitor established by Article XVI of the Agreement to the fullest extent provided under Article XVII of the Agreement:

Construction Staging and Traffic Control

- The LACMTA shall abide by the provisions of Article XII of the Agreement, "Construction Staging, Traffic Control and Parking Requirements."

- The LACMTA shall comply with Exhibit D of the Agreement, "Traffic Control and Work Hours Plan."

Pedestrian Access

- The LACMTA shall abide by the provisions of Article XII of the Agreement, "Construction Staging, Traffic Control and Parking Requirements."

Parking

- The LACMTA shall abide by the provisions of Article XII of the Agreement, "Construction Staging, Traffic Control and Parking Requirements."

Hauling Routes

- The LACMTA shall abide by the provisions of Article XII of the Agreement, "Construction Staging, Traffic Control and Parking Requirements."

Allowable Work Hours and Workdays

- The LACMTA shall abide by the provisions of Article XIII of the Agreement, "Allowable Work Hours and Workdays."
- Full street access shall be restored at the end of each working day.
- The LACMTA shall comply with all conditions of any after hours construction permit issued by the City.

Noise Mitigation Measures

- The LACMTA shall abide by the provisions of Article XIV of the Agreement, "Noise Control Plans and Mitigation Measures."
- The LACMTA shall abide by Exhibit C of the Agreement, "Metro 5-Step Noise Control Plan for Advance Utility Work in Beverly Hills."

Light Mitigation Measures

- The LACMTA shall abide by the provisions of Article XV of the Agreement, "Light Plans and Mitigation Measures."

Tree Removal and Replacement

- The LACMTA shall abide by the provisions of Article XVIII of the Agreement, "Tree Removal and Replacement."

Advance Public Notification

- The LACMTA shall abide by the provisions of Article XX of the Agreement, "Advance Notification Process and Establishment of a Public Phone Line."

Final EIR

- The LACMTA shall comply with all mitigation measures of the Final EIR applicable to the 1056 Contract Work.

Business Mitigation

- Locate construction staging areas for all AUR work outside City limits
- Clean worksite and adjacent areas at least once each work day and remove and paint over graffiti within 48 hours of discovery
- Use street plates instead of decking

- Place large clearly visible signage, at a location identified by the City, indicating that all businesses are open during construction.

Miscellaneous

- The LACMTA shall protect and maintain all basement walls, footing encroachments, and marquees of all buildings adjacent to the construction work zone.
- The LACMTA shall protect the structure and maintain the visibility of the Saban Theatre's marquee.

In addition to the Permit Conditions provided above, the following standard permit conditions of the City shall apply to the permit for the 1056 Contract work.

1) Restoration of City facilities shall be per City Standards, as defined in the Agreement, City of Beverly Hills Standard Detail Drawings and approved plans.
2) Trash collection service shall be maintained at all times. Applicant to coordinate work with appropriated trash collection service providers. Call Public Works Customer Service at (310) 285-2467 for service provider information.
3) Contact Dig Alert prior to excavation.
4) Schedule pre-construction inspection two (2) days prior to work on any City facilities. Contact: Mark Cuneo, City Engineer at 310-285-2557 or email: mcuneo@beverlyhills.org.
5) Trench plates shall be recessed and secured per City standard drawings and requirements.
6) Unsecured trench plates shall be re-secured within one day (24 hours) of notification from City representative.
7) Posting of "No Parking" signs indicating the dates and time of the parking restriction seven (7) days prior to work activity or as required by City Inspector.
8) Contact parking enforcement to register parking restrictions 72 hours in advance of proposed restriction. Unregister parking restrictions will not be enforced.
9) Hauling that meets the following criteria may require engineering investigations, routing definition, coordination, police escort, and control of permit movement:
    a. Loads in excess of 14 feet wide.
    b. Loads in excess of 135 feet in overall length.
    c. Loads that are of a weight that require:
        i. More than a 13-axle, single-vehicle width hauling combination, or
        ii. A 13-axle, single-vehicle width hauling combination with a load deck where the inner axles in the groups bordering the load deck are 40 feet or more apart, or
        iii. Two or more side-by-side vehicles with a combined width of 14 feet or more supporting the load.
10) Damage to public improvements as a result of permitted transport shall be reported to the Police Department immediately.

EXHIBIT C

Metro 5- Step

Noise Control Plan

For

Advanced Utility Work in

Beverly Hills

5-Step Noise Control Plan

1. Training
2. Scheduling of Noisy Activities
3. Noise Control Measures
4. Monitoring
5. Response

Part 1 - Training

1.1 Employees must take Noise Awareness Training

1.2 Provided monthly or as appropriate to adequately

train construction staff.

1.3 Emphasizes the importance of noise control

1.4 Inform workers that Metro is working under an After Hours Construction Permit with Beverly Hills

1.5 Discusses methods of limiting noise on the construction site:

(a) No yelling

(b) No idling of equipment

(c) Avoid staging equipment in front of residences

(d) Use Noise control measures such as noise blankets, quiet equipment, placing materials instead of dropping, etc.

Part 2 - Scheduling of Work

2.1 Schedule noisiest activities during permitted work hours between 7:00 AM and 4:00 PM (However Traffic and Theatre restrictions may require that some of this work occurs at night or on weekends). Examples of noisy activities include:

(a) Saw-cutting

(b) Pile-drilling

(c) Jack-hammering

2.2 If construction activity is permitted by an after-hours construction permit, schedule work hours between Gale and Hamilton that have the least impact on restaurants and theatres:

(a) Weeknights - Perform utility work from 1AM to 9AM during weeknights

(b) Weekends - Perform utility work from 8AM to 6PM on Saturdays or Sundays or both, depending on theater schedules

Part 3 - Noise Control Measures

Noise Control Measures include:

Equipment

3.1 Use low impact backup alarms on equipment. The backup alarms shall be white sound, broadband and multi-frequency type alarms. Acceptable manufacturers are Brigade, ECCO or approved equal. (FEIR Mitigation Measure Construction Comment No. 30). Ambient-sensitive self-adjusting backup alarms shall be strategically placed on vehicles to minimize engine noise interference.

3.2 Use modern equipment equipped with state of the art engine insulation and mufflers. (FEIR Mitigation Measure Construction Comment No. 26 and No. 37).

3.3 No generators larger than 25 KVA shall be used and, where a generator is necessary, it shall be equipped with maximum noise muffling capability. (FEIR Mitigation Measure Construction Comment No. 37). Operate equipment at the lowest possible power levels.

3.4 Use Solar-powered generators and light stands (not engine powered). (FEIR Mitigation Measure Construction Comment No. 33).

3.5 Use solar-powered arrow boards. (FEIR Mitigation Measure Construction Comment No. 33).

3.6 Use nylon slings for lifting in lieu of chainfall.

Hauling/Staging

3.7 Configure traffic patterns to minimize backing movement.

3.8 Use Approved Haul Routes on Major Streets

3.9 No truck traffic permitted on residentially zoned streets.

(a) Movement of construction equipment in or out of the construction site is prohibited between 4:00 PM and 7 AM daily, except where otherwise permitted.

Work Areas

3.10 Enclose pavement breaker and sawcutting activities with a noise barrier fence. Noise barrier fence shall include a STC rating of 25 or greater. (FEIR Mitigation Measure Construction Comment No. 34).

3.11 To minimize slamming tailgates use rubber gaskets or equivalent.

3.12 Place plywood or dirt on beds of trucks.

3.13 No slamming tailgates and decrease the speed of tailgate closures

3.14 No impact pile driving will be used. (FEIR Mitigation Measure Construction Comment No. 43).

3.15 Locate equipment away from noise sensitive areas to the extent practicable. (FEIR Mitigation Measure Construction Comment No. 35).

3.16 Use noise control signage in work zone that states "Noise Control Zone." (FEIR Mitigation Measure Construction Comment No. 29).

3.17 Stage equipment away from residences, where possible.

3.18 No idling of heavy equipment.

3.19 Use Slurry backfill (which doesn't require vibratory equipment - FEIR Mitigation Measure Construction Comment No. 45).

3.20 No parking by construction staff on city streets. (FEIR Mitigation Measure Construction Comment No. 40).

Staging Areas

3.21 Noise barrier fences at all staging areas/lay-down yards to have a wall assembly of STC-25 or greater, and the ability to reduce noise by 5dba. (FEIR Mitigation Measure Construction Comment No. 27).

3.22 Noise control signage in staging areas that state "Noise Control Zone" and "Slow Down." (FEIR Mitigation Measure Construction Comment No. 29).

Part 4 - Noise Monitoring

4.1 4 levels of monitoring:

(a) Metro

(b) Contractor

(c) Environmental consultant

(d) Independent Compliance Monitor

4.2 A trained Metro acoustic monitor shall be present on-site during nighttime construction activities (7 p.m. to 7 a.m.) to verify that such activities do not generate noise greater than 5dB above ambient noise levels, when measured at the property line nearest to sensitive receptors.

4.3 In addition, a trained Independent Compliance Monitor shall be present on-site during nighttime construction activities to verify that such activities do not generate noise greater than 5dB above ambient, noise levels, when measured at the property line nearest to sensitive noise receptors.

4.4 If noise levels from construction activities exceed ambient noise levels by more than 5dB, the acoustic monitor or the Independent Compliance Monitor shall have the authority

to temporarily halt noise-generating construction activity and to require the implementation of additional noise reduction measures as necessary to attain this noise standard. In that event, construction shall not resume until the noise exceedance is resolved and will not be repeated.

4.5 Acoustical engineer interprets results, prepares monthly compliance reports, provides input/comments. (FEIR Mitigation Measure Construction Comment No. 22). Monthly compliance reports will be provided to the City of Beverly Hills, and are available to others upon request.

4.6 Construction noise at night must be limited to no more than 5dB above the current ambient noise level.

4.7 Metro and the City shall jointly establish the preexisting ambient hourly noise levels at residential property lines on Tower Drive that are closest to Wilshire Boulevard and at each location identified in Figure 18 of the Ambient Noise Level Report prepared for Metro by Acentech and dated March 19, 2014.

Part 5 - Response

5.1 24-hour hotline and email.

5.2 Hotline will be monitored by a live person.

5.3 Contact information is provided to the community via:

(a) All project materials

(b) Signs

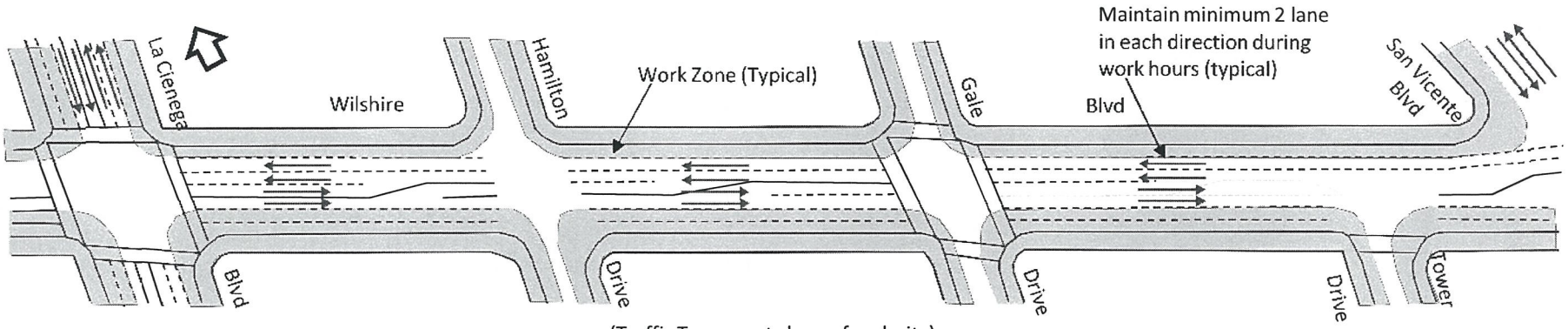
(c) Website

(d) Social media channels

(e) E-mail

EXHIBIT D

Advanced Utility Relocations – Work Hours and Lane Closures
Option B –Day Work



(Traffic Tapers not shown for clarity)

EXHIBIT E

Figure 18: Wilshire / La Cienega Measurement Locations

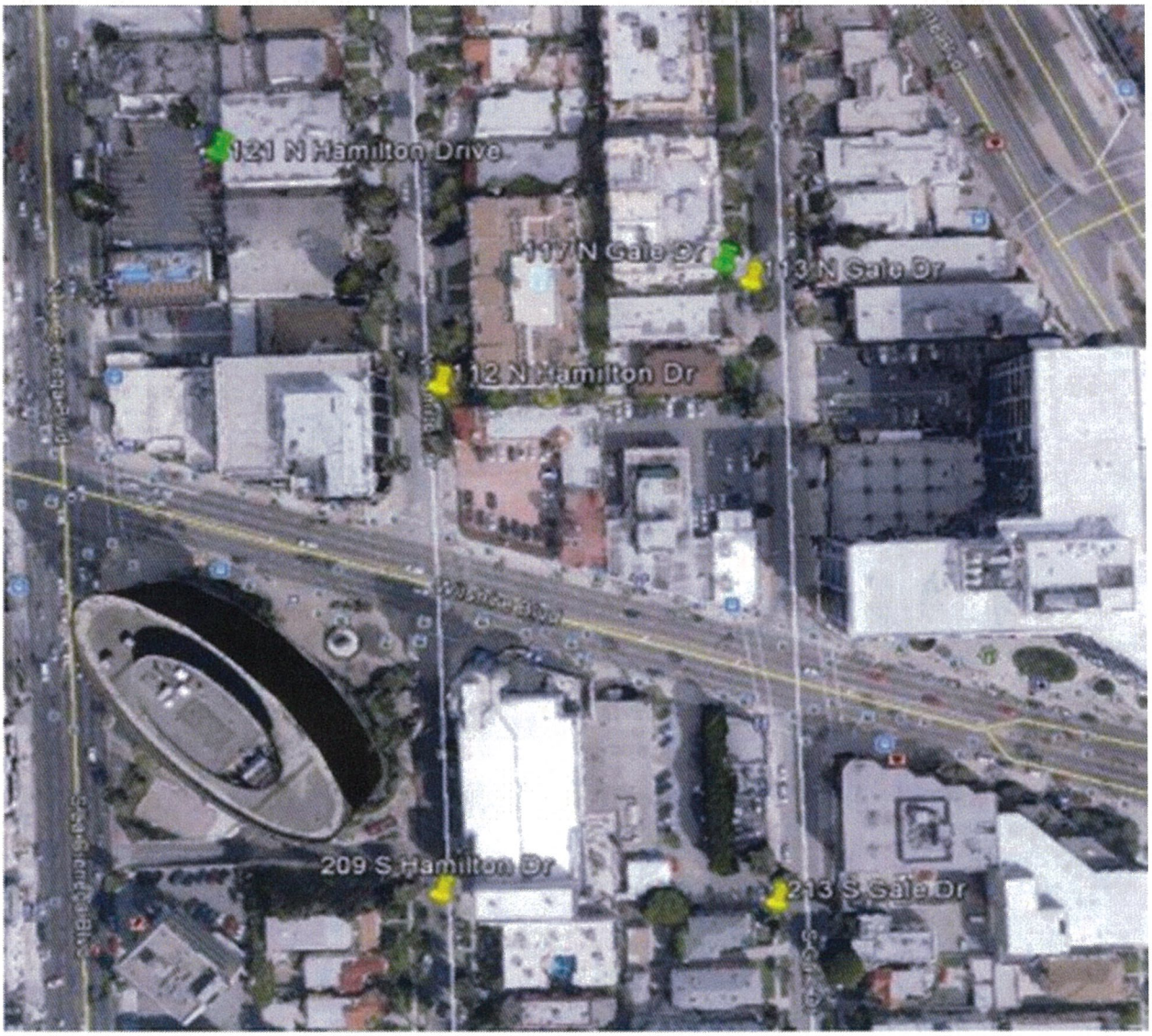


EXHIBIT F

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

Metro

Dear Claimant:

In order to file a Claim for Damages you must fill out the enclosed form as completely as possible, using blue or black pen. Be sure to include your current address, telephone number and signature in spaces provided. In case of automobile damage, only the registered owner may present a claim for repairs and must sign the form.

Mail your completed form to:

BOARD SECRETARY'S OFFICE – LEGAL SERVICES
Los Angeles County Metropolitan Transportation Authority (Metro)
One Gateway Plaza, M/S 99-3-1
Los Angeles, CA 90012- 2952

After your claim is processed our Insurance Adjuster will contact you in approximately ten days.

NOTE: NO PAYMENT WILL BE MADE UNTIL IT IS DETERMINED THAT METRO IS LEGALLY RESPONSIBLE FOR YOUR DAMAGES.

Thank you for the opportunity to assist you in this matter.

Enclosed: Claim for Damages Form

Claim for Damages

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza, Mail Stop 99-3-1, Los Angeles, CA 90012-2952

Please type or print.

FOR OFFICE USE ONLY
Claim number & Reciept date

CLAIMANT INFORMATION

Last Name _____ First Name _____ Middle Name/Initial _____

Occupation _____ Social Security Number _____ Birth date _____

Street Address _____

City | State | Zip _____ Telephone Number _____

IF CLAIMANT IS A MINOR: PARENT OR GUARDIAN INFORMATION

Last Name _____ First Name _____ Middle Name/Initial _____

Street Address _____

City | State | Zip _____ Telephone Number _____

IF YOU HAVE AN ATTORNEY: ATTORNEY INFORMATION

Last Name _____ First Name _____ Middle Name/Initial _____ Telephone Number _____

Street Address _____ City | State | Zip _____

INCIDENT INFORMATION

Please indicate if you were a Metro bus or Metro rail passenger: ☐ Yes ☐ No

1. ☐ bus ☐ rail ☐ platform ☐ parking lot ☐ bus stop ☐ terminal ☐ other _____
2. Other than bus or rail car, vehicle description _____
3. **Accident date** _____ Time _____ Location _____
4. Direction _____ On which street _____ Cross-street _____
5. Speed _____ Weather _____ Bus or Rail Car # _____ Line # _____
6. Boarding point _____ Operator Name or Badge # _____

OWNER OF PRIVATE VEHICLE PLEASE COMPLETE THIS SECTION:

7. Name _____ Driver License # _____
   Address _____
   Telephone _____ Vehicle: Year _____ Make _____ Model _____
   Insured? ☐ Yes ☐ No Vehicle Lic. # _____ Injured? ☐ Yes ☐ No Insurance Tel. # _____
   Carrier _____ Policy # _____

CONTINUED

Claim for Damages

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza, Mail Stop 99-3-1, Los Angeles, CA 90012-2952

Please print or type.

OWNER OF PRIVATE VEHICLE PLEASE COMPLETE THIS SECTION (CONTINUED):

8. Describe what occurred (if necessary, you may add another page):

9. What property damage or bodily injury do you claim? Give full extent of damage or injury claimed:

10. The amount claimed if under $10,000 as of the date of presentation together with the basis of computation thereof. Attach medical bills and/or repair estimates.

11. Name(s) and address(es) of witness(es):

12. Name(s) and address(es) of doctor(s):

13. Dates of prior claims against the Los Angeles County Metropolitan Transportation Authority (METRO) or Southern California Rapid Transit District (RTD). If none, write "None".

Signature of Claimant

Date

Claims arising after January 1, 1988 must be filed within 6 months from the date of accident. For Law governing filing of claim and statute of limitations as to filing action see Chapter 201 Statutes 1987 (Sec 900 ET SEQ Government Code). For your protection California Law requires the following to appear on this form: Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in State Prison. Added by Stats. 1989, c. 1119, S 3.

Please mail your claim to:
Metro Board Secretary's Office – Legal Services
One Gateway Plaza, 99-3-1, Los Angeles, CA 90012-29952

Metro™