

AGREEMENT NO.

66-17

**MEMORANDUM OF AGREEMENT
FOR CONTRACT C1045
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 CONTRACT 1045
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, February 21, 2017 (“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 Construction pursuant to the C1045 Contract; this is part of Segment 1 of the Purple Line Extension Project. This Agreement solely covers the C1045 Contract Construction required for the Project. The City and the LACMTA have entered into a separate agreement to cover the advance utility relocation work for 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 C1045 Contract Construction is necessary to build the La Cienega Station and tunnels as part of the Project. The La Cienega Station is the only station for the Project located within the jurisdictional boundaries of the City.

The La Cienega Station box will be located under Wilshire Boulevard immediately east of La Cienega Boulevard. A double crossover will be located east of the Station box and the Station entrance will be located on the northeast corner of Wilshire and La Cienega Boulevards. Since the Station will be the terminus station for Segment 1, a tail track will be located west of the Station box.

The scope of the C1045 Contract includes the demolition of existing buildings and the clearing of five properties within the City to facilitate the future Station entrance and Construction operations. The scope of work includes all excavation and Station Construction work including architectural finishes, mechanical and electrical systems and equipment including train control, traction power, communications, track work and the system tie-in to the existing Metro Purple Line, including testing and commissioning.

The C1045 Contract is a Design-Build Contract with the C1045 Contractor being responsible for the final Design and Construction of the C1045 Contract’s scope of work. The Parties desire to cooperate so that, among other things: (1) the C1045 scope of work is completed in a safe and

timely manner; (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 C1045 Contract addresses the following:

- (a) designation of the City Representative and LACMTA Representative and the development of an emergency contact list;
- (b) procedures that the LACMTA and the City will follow in reviewing and approving plans, submittals, and permit applications associated with the C1045 Contract Construction, which may include the planning, designing and effecting the Rearrangement of City Facilities, City utilities and various other public and private utilities, including certain work outside of City Rights-of-Way, such as demolition of buildings;
- (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 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 Facilities;
- (k) Indemnity, warranties and insurance requirements;
- (l) Federal and other requirements; and
- (m) Penalties for delays.

ARTICLE II
Term Of Agreement And Definitions

The term of this Agreement shall commence on the Effective Date and shall terminate when all C1045 Contract work within the jurisdiction of the City is completed and any Rearrangement of City Facilities is inspected and accepted by the City and a notice of completion is finalized and recorded.

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

- (a) "Approve" except as otherwise provided, means written approval by the City Representative or the LACMTA Representative or their designees, as applicable.
- (b) "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 City Facility or Replacement Facility over that which was provided by the corresponding existing City Facility or Conflicting Facility. A Betterment may also include a redesign, upgrade, or modification to the appearance of the Project's Design. 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 or this Agreement and all attachments and 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 Representative;
 - (v) A Replacement Facility that is the consequence of changes made by the LACMTA or its designers/contractors after the release of the RFP;
 - (vi) Any Replacement Facility that is equivalent to the City Facility being replaced or surrounding City Facilities;

(vii) Compliance with any permit conditions; and

- (c) "C1045" or "C1045 Contract" means the contract awarded by LACMTA for the Design and Construction of the stations and tunnels for Segment 1 of the Purple Line Extension Project.
- (d) "C1045 Contractor" or "Contractor" means the design build contractor, including its designers and subcontractors who have been contracted to design and construct the C1045 scope of work.
- (e) "City Facility" means City Rights-of-Way and real or personal property 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 utility lateral lines that extend from a main line into private property.
- (f) "City Representative" means the person or persons designated by the City Manager pursuant to Article III of this Agreement, to represent the City who shall manage and coordinate interactions between the City and the LACMTA concerning the Project and each component thereof in a timely manner, in accordance with Article III. City Representative may include a Consultant.
- (g) "City Rights-of-Way" means real property owned by the City, whether title is held in fee, easement, right-of-way, or otherwise, whether recorded or unrecorded, including prescriptive rights and licenses.
- (h) "City Standard" means the City's rules, regulations, ordinances, practices and codes of the City, including, but not limited to, standards, plans, specifications, general provisions and approved materials for public works projects that the City has documented in writing or has previously implemented. City Standards may also include published standards of appropriate, recognized professional organizations or requirements of the State of California or Federal Government.
- (i) "Conflicting Facility" means an existing City Facility, which the City and the LACMTA determine is so situated as to require Rearrangement in order to design and construct or operate the Project without adversely impacting the operation and maintenance of that City Facility.
- (j) "Construction" means the work of removal, demolition, replacement, alteration, realignment, building, fabricating, landscaping and all new fixed facilities to be built and systems and equipment to be procured and installed that are necessary to complete the Project in accordance with approved plans and specifications.
- (k) "Construction Staging Plans" means construction phasing/sequencing, which may include Traffic Management Plans developed for the C1045 Contract.

- (l) “Consultant” means the person, persons or entity contracted by the City for the purpose of performing work on behalf of the City, which is necessary to meet the City’s obligations under this Agreement. Consultant does not refer to the “Independent Compliance Monitor” for monitoring sound and other mitigation measure requirements that shall be mutually agreed upon by both Parties.
- (m) “Costs” shall mean all Direct and Indirect Costs incurred by the City and the LACMTA.
- (n) “Days” means calendar days including Saturdays, Sundays, and legal holidays. See also definition of Working Days.
- (o) “Design” means engineering, architectural and other design work and the resulting maps, plans, specifications, special provisions, drawings, calculations, computer software and estimates which are needed to construct the Project.
- (p) “Design Review” means the process of critical evaluation of plans and specifications by the LACMTA, the City and others as necessarily required to complete the C1045 Contract.
- (q) “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.
- (r) “Effective Date” means the date set forth in the Preamble.
- (s) “Facility” means real or personal property now or in the future to be located within the City Rights-of-Way, including but not limited to, roadways, pipes, mains, services, meters, regulators and any equipment, apparatus and/or structure appurtenant thereto or associated therewith.
- (t) “Fiscal Year” means July 1 through June 30.
- (u) “Hazardous Material” means any material that meets the definition of hazardous waste set forth in California Health and Safety Code Section 25117.
- (v) “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 Project pursuant to Article XVI of this Agreement.
- (w) “Indirect Costs” means administrative and overhead costs.
- (x) “La Cienega Station” or “Station” shall refer to the proposed Purple Line subway station to be constructed substantially under Wilshire Boulevard between La Cienega and San Vicente Boulevards within the City of Beverly Hills.

- (y) “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.
- (z) “Project” means Segment 1 of the Purple Line Extension Project within the City of Beverly Hills.
- (aa) “Project Definition Documents” or “PDD” mean the C1045 Contract drawings, plans, and specifications provided to the City by the LACMTA, that define the anticipated scope of the C1045 Contract.
- (bb) “PDD Permit” means a permit approved by the City Council and issued by City staff that authorizes the LACMTA and its contractors to proceed with construction in a manner consistent with the Project Definition Documents submitted to and reviewed by the City.
- (cc) “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.
- (dd) “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.
- (ee) “RFP” means the Request for Proposal issued by the LACMTA in connection with the C1045 Contract.
- (ff) “Segment 1” means the portion of the Purple Line Extension Project between Western Avenue and La Cienega Boulevard.
- (gg) “Station” or “La Cienega Station” means the LACMTA underground infrastructure required to access and support the operations of the 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 the tail tracks or appendages under and within various sidewalks and an entrance located at the northeast corner of Wilshire and La Cienega Blvd.
- (hh) “Traffic Management Plan” means the various Worksite Traffic Control Plans and any other measures intended to mitigate traffic circulation, which may be included in Construction Staging Plans, for the various stages of Construction that the LACMTA may submit as part of its permit applications.
- (ii) “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 submittals, 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.

- (jj) "Working Days" or "Work Days" means those days that Beverly Hills City Hall is open for business.
- (kk) "Worksite Traffic Control Plan(s)" means the plans depicting the stages of traffic control for each stage of Construction for the C1045 Contract.

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 C1045 Contract.

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

Concurrent with the City Council approval of this Agreement, the City Council has approved a PDD Permit with appropriate conditions of approval attached as Exhibit A.

The following process shall govern City review and approval of Design submittals that are consistent with the PDD Permit approved by the City Council:

- (a) Within ten (10) Working Days after receipt of a Design submittal (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 submittals to the LACMTA together with an identification of those portions that are not complete and a description of the missing information listing the deficiencies.

- (b) Within thirty (30) Days after the City deems the Design submittal complete, City staff shall complete its review, and (i) approve the Design submittal or (ii) transmit its comments in the form of a comment matrix and annotated plans (as appropriate) to the LACMTA.
- (c) Before the thirty (30) Day review period ends, the City and the LACMTA may mutually agree to an extension of the review period.
- (d) If the LACMTA wishes to pursue a Design submittal that is not consistent with the City Council-approved PDD Permit, then within thirty (30) Days after City staff has completed its review of the 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 Design submittal. The City Council may vote on the Design submittal or continue the matter to another meeting of the City Council. During consideration of the Design submittal, the City Council is permitted to impose conditions of approval for protection of the public health, safety or welfare. A Design submittal shall be considered consistent with the City Council approved PDD Permit if, in the sole opinion of the City Representative, it does not change the purpose of the permit, is de minimis and will not have material effects on City Facilities or City services or material adverse construction effects on adjacent properties.
- (e) Within seventy-two (72) hours after approval of the Design submittal by the City Council, the City must issue a revised PDD Permit or transmit a letter to the LACMTA approving the Design submittal, which shall include any conditions of approval.

The provisions of subsections (a) through (e) of this Article will also apply to any re-submittal of Design submittals by the LACMTA, whether in response to a City notice or return of incomplete Design submittals, 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.

The LACMTA, its consultants, its contractors, including the C1045 Contractor, and respective third parties will be responsible for errors and omissions in the application materials, including plans, specifications, submittals and all other related contract documents that they prepare.

All changes required to accommodate differing existing site conditions are the responsibility of the LACMTA, its consultants and contractors.

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 and approval, 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.

The Design submittal and construction approval processes as set forth in this Agreement shall be in lieu of the requirements listed below. Any costs associated with the requirements listed below shall be reimbursed by LACMTA to the City through the procedures set forth in this Agreement.

- Excavation Permits
- Demolition 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
- 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

Nothing in this Article relieves the C1045 Contractor from its obligation to pay the City's Business License Tax.

The LACMTA represents that the C1045 Contractor must comply with the City's Dewatering Ordinance, found at Section 9-4-610 of the Beverly Hills Municipal Code. Unless the City and C1045 Contractor mutually agree to an alternative compliance option, the agreed upon method by which the C1045 Contractor shall satisfy its obligations under the Ordinance is by obtaining a dewatering permit from the City and paying an annual replenishment fee. The City shall annually establish the replenishment fee amount, which shall be based on the City's cost (using Metropolitan Water District rates then in effect) to purchase an equivalent amount of water removed from the City Right-of-Way in furtherance of the Project, less the City's avoided costs to extract/pump and treat the water. The fee shall be paid by January 31st following each year that the C1045 Contractor undertakes dewatering activities.

ARTICLE VI

Design Criteria and Operation and Maintenance of City Facilities

The Design, Construction and/or relocation of temporary City Facilities, including utilities, street and sidewalk restoration, traffic control, and any repair, replacement, or other construction of City Facilities shall conform to the City Standards in effect at the time of PDD permit issuance, except as mutually agreed between the City and LACMTA. The Design and Construction of street and sidewalk restoration, traffic control, tree restoration, and any repair, replacement or construction of any other City Facilities, except for City utilities, for permanent use thereafter shall be located and constructed in accordance with applicable City Standards in place 180 days prior to the time permanent work begins. The City Standards and procedure for permanently relocating City utilities shall be governed by Article XXII. No work 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 Project. In the event that the City adopts any new City Standard, or otherwise amends or supplements an existing City Standard, the City shall immediately thereafter give notice to the LACMTA of the new, amended, or supplemented City Standard.

LACMTA agrees to be responsible, at LACMTA's expense, for operation and maintenance of City Facilities and other Facilities placed into a temporary condition as a result of the Project. The responsibility includes financial responsibility for any water quality or other regulatory violations that result from operation and maintenance problems with the City Facilities or other Facilities while they 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 City Facilities or other Facilities are modified in any way or if access to existing City Facilities or other 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 (if required by the City) and accepted in accordance with Article XXI. 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 temporary condition.

ARTICLE VII
Betterments

At any time the City may request a Betterment to a City Facility or to LACMTA infrastructure, provided that a Betterment of LACMTA infrastructure requires LACMTA approval, which shall not unreasonably be withheld. Within 45 Days of the City's request, LACMTA shall clearly identify to the City any Design or Design change requested by the City that the LACMTA considers a Betterment. If the LACMTA fails to do so, then the City's requested Design or Design change shall not be considered a Betterment. Any Betterment requested by City staff is to be approved by City Council.

Any Design or Design change initiated by the City shall specifically identify any Betterment included in such Design or Design change.

It is understood and agreed that no Betterment may be performed in connection with the Project (whether designed or constructed by the City or by the LACMTA) which is incompatible with the Project 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. 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 work associated with the C1045 Contract, 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 work associated with the Project, the LACMTA shall immediately notify the City regarding the proper course of action for disposition of the Hazardous Material. The C1045 Contractor will handle, treat, and dispose of encountered Hazardous Materials in accordance with specifications in the C1045 Contract. The LACMTA or C1045 Contractor will comply with all laws regarding the disposition of any Hazardous Material disturbed, and the City shall not be responsible for any costs associated with such compliance.

ARTICLE X
“As-Built” Drawings

The LACMTA shall maintain a set of “as-built” plans of C1045 Contract Construction performed by the LACMTA during the progress of Construction, which shall be subject to City review. The contractor shall update the plans to incorporate all changes to the approved plans. Once the C1045 Contract Construction is approved by the City, the LACMTA shall arrange for the transfer of reproducible “as-built” drawings showing all City Facilities installed by the performing party within sixty (60) Days. 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 C1045 Contract consistent with 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 issues 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 C1045 Contract.

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 C1045 Contract.

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 draw down 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 City account from month-to-month. This reimbursement practice shall apply up until the annual work plan for the Fiscal Year ending June 30, 2017 is implemented, unless the Parties otherwise agree to continue or discontinue the current

reimbursement practice. Upon discontinuance of this reimbursement practice, reimbursement for Costs to the City shall be in accordance with the provisions detailed below in this Article for work covered by an annual work plan for Fiscal Year 2016-17 and all subsequent years.

To assist the LACMTA and the City in estimating the level of service to be provided for work associated with the C1045 Contract 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 Fiscal Year starting with Fiscal Year 2016-17 for which such work by the City will be required, in accordance with the following provisions:

- (a) Not later than February 28 of 2016 and each calendar year thereafter during the term of this Agreement, the LACMTA shall provide City with information regarding anticipated C1045 Contract 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 C1045 Contract 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 Fiscal Year, which would include an estimated amount of money, via a Form 60 (a copy of which is attached as Exhibit B to this Agreement), that the City will require for reimbursement of work performed and purchase of requested items.
- (b) For each 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 Fiscal Year.
- (c) For each 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 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 of the Work Order. 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 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 not 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 submit billings for reimbursement of Costs as soon as practicable. Each billing 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 LACMTA shall reimburse the City for each submitted billing within sixty (60) Days of receipt.

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; all Construction Staging Plans, Traffic Management Plans, and Worksite Traffic Control Plans; the LACMTA's completed PDD Permit and submittals for the C1045 Contract 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 , the Construction Staging Plans, Traffic Management Plans, and Worksite Traffic Control Plans, the PDD Permit and any other City-issued permits. The Construction Staging Plans, Traffic Management Plans, and Worksite Traffic Control Plans shall all control over the PDD Permit and any other City-issued permits. Standards of other City-issued permits shall control over the PDD Permit.

The LACMTA and its consultants and contractors shall develop and submit to the City Worksite Traffic Control Plans that demonstrate vehicle, public safety vehicle, and pedestrian access within the Project area or approved detours at all times. The City Council hereby approves, as part of the PDD Permit, the following minimum criteria for Worksite Traffic Control Plans to be used when the LACMTA closes any traffic lanes. If after City Council approval, conditions necessitate additional criteria for 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) Except as provided in the work hours matrix in Article XIII, the minimum traffic lane requirements for arterial streets (Wilshire Boulevard and La Cienega Boulevard) impacted by Construction activities shall be as follows: (1) three lanes in each direction between the hours of 7 AM and 9 AM; (2) two lanes in each direction between the hours of 9 AM and 4 PM; (3) three lanes in each direction between the hours of 4 PM and 8 PM; and (4) one lane in each direction between the hours of 8 PM and 7 AM. These minimum traffic requirements may be varied by an approved Worksite Traffic Control Plan that protects the surrounding neighborhood and promotes the free flow of traffic along the arterial streets.
- (b) The minimum traffic lane requirements for all other streets impacted by Construction activities shall be one lane in each direction, unless varied by an approved Worksite Traffic Control Plan that protects the surrounding neighborhood.
- (c) The Worksite Traffic Control Plans shall be designed to minimize traffic impacts on residential streets.
- (d) Parking, staging, or queuing of Project-related vehicles, including workers' vehicles, trucks, and heavy vehicles, shall be prohibited on City streets at all times, including for miscellaneous trips, outside of a permitted workspace identified in a Worksite Traffic Control Plan. The LACMTA shall notify the City thirty (30) Days in advance of any agreement for off-street parking with any owner of a private parking facility.
- (e) The Construction Staging Plans or Worksite Traffic Control Plans developed by the C1045 Contractor shall include a parking management plan that observes the conditions set forth in this Agreement.
- (f) 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 satisfactory to the City Representative shall provide for equivalent overnight replacement parking for removed residential permit parking spots at the nearest possible location to the location where parking has been removed. In the event that any on-street metered parking spaces are removed because 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, 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 off street parking facility located along Wilshire Boulevard between La Cienega and San Vicente Boulevards. If off street parking is not available along Wilshire Boulevard due to a street closure, then the LACMTA shall procure parking spaces in the nearest off street available facility. The 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 shall further post appropriate signage on on-street metered parking spaces when Construction activities may restrict the use of a metered parking space.

The LACMTA and its Contractor shall ensure that the three off street parking structures located in 8484 Wilshire Boulevard, 8447 Wilshire Boulevard, and 8383 Wilshire Boulevard are not used for Construction-related parking one-hour prior to and one-hour after a Saban Theatre event. The Independent Compliance Monitor shall also verify compliance with this prohibition prior to all events 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.

(g) Temporary Street Closures and Detours:

Temporary full street closures are permitted upon thirty (30) day notice to the City only for the following work activities:

- Installation of piles across Wilshire Boulevard;
- Installation of decking; and
- Removal of decking.

Additional activities may be conducted concurrently with the above activities during a full street closure. The LACMTA shall comply with the work hours provided for in Article XIII of this Agreement during any temporary street closure. All detour routes during temporary street closures shall be subject to review and approval by the City. Detour routes must not use residential streets as depicted in Exhibit C. Advance public notification of street closures in accordance with the notification process outlined in this Agreement is required.

(h) The Construction Staging Plans and Worksite Traffic Control Plans shall include Pedestrian Access Plans which shall be approved by the City. Pedestrian Access Plans shall be subject to the following minimum criteria:

- 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.
- Pedestrian access between the Saban Theatre and all off-site parking lots used by its patrons shall be maintained for all events at the Saban Theatre.
- The LACMTA shall maintain all crosswalks between the Saban Theatre and those off-site parking lots during all events at the Saban Theatre, unless infeasible to do so. Whenever the LACMTA or its Contractor removes a crosswalk from service, the LACMTA shall establish and maintain temporary replacement crosswalks

unless the City determines that a replacement crosswalk is not necessary to maintain an adequate level of service.

- The sidewalk shall be used exclusively for pedestrian use and shall not be used for Construction activities or staging, unless Construction is taking place within the sidewalk.
- Sidewalks that are being maintained in a temporary condition shall meet the minimum coefficient of friction and meet the following criteria:
 - Sidewalks in a temporary condition in excess of 6 months shall be constructed of pre-cast concrete panels or cast in place concrete; unless pre-cast or cast in place concrete is infeasible and the City grants approval to use metal replacement panels or asphalt;
 - Sidewalks in a temporary condition up to 6 months shall be covered on a temporary basis by wooden “boardwalks” for a period not to exceed six months in any given area. Wooden boardwalks shall be constructed of a painted wood and, where required, handrails shall be finished and smooth. Wooden boardwalks shall be illuminated to City Standards;
 - During that period of time when the C1045 Contractor is installing piles and decking across and along Wilshire Boulevard, the C1045 Contractor shall protect pedestrians from debris, dust, and noise.
 - Temporary sidewalks and any sidewalk adjacent to Construction activities shall be illuminated to City Standards.
- Temporary lighting shall be set to turn on automatically when ambient light falls below City Standards.
- Sidewalks that are being maintained in a temporary condition shall meet then current standards required by the Federal Americans with Disabilities Act and similar California laws for sidewalks being maintained in a temporary condition.
- Temporary street light and traffic signal foundations outside of the Construction work zones shall be wrapped in an aesthetically pleasing material satisfactory to the City. Overhead electrical wiring shall be maintained in a neatly bundled condition.
- Sidewalk closures in accordance with an approved Construction Staging Plan or Worksite Traffic Control Plan are permitted only when necessary to facilitate C1045 Contract work, and when approved by the City and coordinated with the Saban Theatre.
- Unless subject to an approved closure or an approved width reduction, the minimum sidewalk width shall be five (5) feet and additional width shall be

required as necessary to protect the public safety and the operational needs of impacted properties within the Project area, when requested by the City. The C1045 Contractor shall endeavor to maintain the maximum width of sidewalk possible.

- Notwithstanding the foregoing, the sidewalk bordering the Saban Theatre shall be accessible to accommodate ingress and egress for all events at the Saban Theatre in accordance with Exhibit D. The minimum sidewalk width during all events at the Saban Theatre shall be sufficient to meet City Standards and all other applicable laws.
 - All temporary sidewalks shall be adequately lit to protect public safety.
 - Chain link fencing shall not be used as a protective barrier between Construction activities and sidewalks unless the sidewalk face of the chain link fencing is completely shielded by an opaque, aesthetically pleasing material satisfactory to the City. Opaque screening is not required at intersections, crosswalks or driveways when vehicular and pedestrian line-of-sight is required. Opaque screening can consist of vinyl graphics attached to the chain link fencing. Opaque screening can also consist of mesh privacy screens if they are well maintained and free of dirt, graffiti, or tears. However, if the City provides the LACMTA with visual documentation that a mesh privacy screen is dirty, vandalized, or torn on three occasions, then the LACMTA may no longer use mesh privacy screens to shield chain link fencing.
- (i) Preliminary Haul routes and Overload routes:
- Haul routes and overload/oversized vehicle routes must be reviewed and approved by the City. Hauling shall be prohibited on the residential portions of City streets. 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 (East of La Cienega only).
- (j) The LACMTA shall at all times provide adequate street access to public safety vehicles, including when lane or street closures are in place. All Worksite Traffic Control Plans shall demonstrate the manner in which public safety vehicles access properties within the Project area vicinity.
- (k) The LACMTA shall provide adequate street access to City service vehicles, including but not limited to trash pickup and street sweeping service vehicles, during planned service times.

Thirty (30) days after the LACMTA commences Construction, periodically thereafter, and at times of any full street closures 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 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 engineer and mitigation of Construction related impacts.

**ARTICLE XIII
Allowable Work Hours And Workdays**

Allowable work hours and workdays, including after hours construction, holiday moratorium exceptions and peak hour exemptions shall be in accordance with the standards set forth in: this Article; the PDD Permit and submittals for the C1045 Contract; 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 the PDD Permit and submittals for the C1045 Contract and any other City-issued permit. Conditions of other City-issued permits shall control over the PDD Permit and submittals for the C1045 Contract.

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:

Construction Activity	Weekdays	Weekends
Engineering (Survey / Potholing / Geotechnical Borings / Instrumentation & Monitoring)	7:00am to 4:00pm 8:00pm to 7:00am*	8:00am to 7:00pm*
Utility Relocations & New Utility Services	7:00am to 4:00pm 8:00pm to 7:00am*	8:00am to 6:00pm 6:00pm to 8:00am*
Pile installation & jet grouting (behind K-rail closures)/well installation and dewatering activities	7:00am to 8:00pm Breakdown, clean-up and other non-drilling activities may occur between 8:00pm and 10:00pm.	7:00am to 8:00pm Breakdown, clean-up and other non-drilling activities may occur between 8:00pm and 10:00pm.
Pile installation (across Wilshire)	Not Permitted	7:00am to 8:00pm Breakdown, clean-up and other non-drilling activities may occur between 8:00pm

		and 10:00pm.
Deck installation	Friday 8:00pm to Monday 7:00am (59 hours)	Friday 8:00pm to Monday 7:00am (59 hours)
Access through deck panels for material delivery and utility maintenance	<p>7:00am to 4:00pm (two lanes to be maintained in each direction along Wilshire Boulevard)</p> <p>10:00pm to 7:00am (one lane to be maintained in each direction along Wilshire Boulevard). The LACMTA shall present to the City a construction work plan, which shall contain noise, light and other types of targeted mitigation measures, for each activity conducted during these hours demonstrating that the activity will not have an unreasonable impact on the surrounding neighborhood. The City and the LACMTA shall jointly agree on the contents of each construction work plan. If any activity during these hours causes an unreasonable impact to the surrounding neighborhood, additional mitigation will be added to the construction work plan for that activity. If the unreasonable impact continues despite further mitigation, the City may require that activity to be conducted exclusively during the following hours: 7:00am to 4:00pm (one lane to be maintained in each direction along Wilshire Boulevard). When determining whether an impact is unreasonable, the City shall take into account the hour of day, the proximity to the work site, and other similar factors.</p>	<p>7:00am to 4:00pm (two lanes to be maintained in each direction along Wilshire Boulevard)</p> <p>10:00pm to 7:00am (one lane to be maintained in each direction along Wilshire Boulevard). The LACMTA shall present to the City a construction work plan, which shall contain noise, light and other types of targeted mitigation measures, for each activity conducted during these hours demonstrating that the activity will not have an unreasonable impact on the surrounding neighborhood. The City and the LACMTA shall jointly agree on the contents of each construction work plan. If any activity during these hours causes an unreasonable impact to the surrounding neighborhood, additional mitigation will be added to the construction work plan for that activity. If the unreasonable impact continues despite further mitigation, the City may require that activity to be conducted exclusively during the following hours: 7:00am to 4:00pm (one lane to be maintained in each direction along Wilshire Boulevard). When determining whether an impact is unreasonable, the City shall take into account the hour of day, the proximity to the work site, and other similar factors.</p>
Work conducted in the staging yards to support Station Construction or other	<p>7:00am to 6:00pm</p> <p>6:00pm to 7:00am. The</p>	<p>7:00am to 6:00pm</p> <p>6:00pm to 7:00am. The</p>

work within the staging yards	<p>LACMTA shall present to the City a construction work plan, which shall contain noise, light and other types of targeted mitigation measures, for each activity conducted during these night hours demonstrating that the activity will not have an unreasonable impact on the surrounding neighborhood. The City and the LACMTA shall jointly agree on the contents of each construction work plan. If any activity during these hours causes an unreasonable impact to the surrounding neighborhood, additional mitigation will be added to the construction work plan for that activity. If the unreasonable impact continues despite further mitigation, the City may require that activity to be conducted exclusively during the following hours: 7:00am to 6:00pm. When determining whether an impact is unreasonable, the City shall take into account the hour of day, the proximity to the work site, and other similar factors.</p> <p>If work conducted in the staging yards to support Station Construction or other work within the staging yards is limited to 7:00am to 6:00pm, then any dependent work requiring access through the deck panels for material delivery or utility maintenance on Wilshire Boulevard may be performed from 7:00am to 10:00pm while maintaining one lane in each direction, if required.</p>	<p>LACMTA shall present to the City a construction work plan, which shall contain noise, light and other types of targeted mitigation measures, for each activity conducted during these night hours demonstrating that the activity will not have an unreasonable impact on the surrounding neighborhood. The City and the LACMTA shall jointly agree on the contents of each construction work plan. If any activity during these hours causes an unreasonable impact to the surrounding neighborhood, additional mitigation will be added to the construction work plan for that activity. If the unreasonable impact continues despite further mitigation, the City may require that activity to be conducted exclusively during the following hours: 7:00am to 6:00pm. When determining whether an impact is unreasonable, the City shall take into account the hour of day, the proximity to the work site, and other similar factors.</p> <p>If work conducted in the staging yards to support Station Construction or other work within the staging yards is limited to 7:00am to 6:00pm, then any dependent work requiring access through the deck panels for material delivery or utility maintenance on Wilshire Boulevard may be performed from 7:00am to 10:00pm while maintaining one lane in each direction, if required.</p>
Deck Removal	Friday 8:00pm to Monday 7:00am (59 hours)	Friday 8:00pm to Monday 7:00am (59 hours)
Street Restoration behind concrete barriers for curb, gutter, bus pad and	7:00am to 8:00pm	7:00am to 8:00pm

sidewalk	Breakdown, clean-up and other quiet activities may occur between 8:00pm and 10:00pm. 10:00pm to 7:00am*	Breakdown, clean-up and other quiet activities may occur between 8:00pm and 10:00pm. 10:00pm to 7:00am*
Utility restoration work	7:00am to 4:00pm 8:00pm to 7:00am*	8:00am to 6:00pm 6:00pm to 8:00am*
Final street restoration	7:00am to 4:00pm 8:00pm to 7:00am*	8:00am to 6:00pm 6:00pm to 8:00am*

For activities not shown in the table above, the default work hours shall be as follows:

Weekdays	Weekends
7:00am to 4:00pm	8:00am to 6:00pm
8:00pm to 7:00am*	6:00pm to 8:00am*

The work hours designated by an asterisk may be permitted only for the following activities and by pre-approval of the City:

- 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 requiring the reduction of available traffic lanes on Wilshire Boulevard to one lane in either 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.

For those activities when Construction is permitted to begin at 7 AM, traffic control for those activities may begin at 6:30 AM on Wilshire Boulevard, La Cienega Boulevard, and San Vicente Boulevard. No other Construction is permitted during this one half hour time period.

Deck installation, pile installation across Wilshire Boulevard, and deck removal activities shall be completed exclusively during weekends when Wilshire Boulevard will be fully closed to traffic. Deck installation and pile installation across Wilshire Boulevard shall be completed over seventeen (17) consecutive weekends, and deck removal shall be completed over a separate

seventeen (17) consecutive weekends. If a holiday moratorium falls on a Friday, Saturday, Sunday, or Monday, then the C1045 Contractor will not close Wilshire Boulevard for the weekend, and that weekend will not count against the seventeen (17) weekends authorized for the phase of work. Wilshire Boulevard shall remain fully open during this period. Upon request by the C1045 Contractor, the City may permit the C1045 Contractor to work over a weekend that includes a holiday moratorium, and that weekend shall count against the seventeen (17) weekends authorized for the phase of work. The C1045 Contractor shall submit the request to the City six (6) months prior to the beginning of the phase of work.

The LACMTA shall pay the City fifty thousand dollars (\$50,000) per day, excluding a Friday or Monday, that the C1045 Contractor must close Wilshire Boulevard in order to continue work related to deck installation/pile installation across Wilshire Boulevard or deck removal beyond the respective seventeen (17) weekends authorized for each phase of work (i.e., beginning the Saturday of the 18th weekend). The City shall submit an invoice to the LACMTA for any amounts incurred pursuant to this paragraph, and the LACMTA shall pay the invoice within thirty (30) days of receipt. Funds received by the City for this purpose shall be expended on activities or programs reasonably related to mitigating or preventing construction impacts to businesses or residents. The LACMTA shall not be required to make payments to the City pursuant to this paragraph if the delay is caused by a Permitted Delay as defined in Article XXVII. If the LACMTA believes that a delay is caused by a Permitted Delay, the LACMTA shall provide documentation to the City demonstrating the basis for this conclusion accompanied by all available supporting evidence. If the City, after reviewing the evidence, finds that the delay was not caused by a Permitted Delay, then the Parties shall resolve the dispute in accordance with Article XXVIII.

As provided in Article V and Exhibit A, the C1045 Contractor must pay the City's Business License Tax in accordance with Article 2, Chapter 1, Title 3 of the Beverly Hills Municipal Code. For each day, excluding a Friday or Monday, that the C1045 Contractor completes work related to deck installation/pile installation across Wilshire Boulevard or deck removal and reopens Wilshire Boulevard prior to the conclusion of the 17th weekend authorized for each phase of work, the C1045 Contractor shall receive a credit of twenty-five thousand dollars (\$25,000) against the C1045 Contractor's total Business License Tax amount. The C1045 Contractor shall not receive a credit if the work is completed on the Sunday of the 17th weekend. Under no circumstances shall the total credit value exceed the Contractor's total Business License Tax amount.

The LACMTA shall provide the City notice of the start date of the full closure at the earliest possible time, but in no case less than thirty (60) days prior to the start of the full closure.

For any additional work hours, 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 five reasons set forth above. The City Council may approve an after-hours permit for additional construction activities.

If the City denies a request for an after-hours permit or additional authorized work hours for work that would conflict with a requirement of this Agreement to 1) maintain pedestrian or

driveway access during business hours, or 2) maintain minimum traffic requirements on Wilshire Boulevard, then the LACMTA may nevertheless conduct the work hours as shown in table above. 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 hours shown in the table above.

Except when work is otherwise permitted by the City in accordance with this Article , no work shall be permitted during a holiday moratorium. For the purpose of this Article, a “holiday moratorium” 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 control plans and mitigation measures shall be in accordance with the standards set forth in: this Article; Exhibit E, attached hereto (entitled “Metro 5-Step Noise Control Plan”); specific Noise Control and Noise Monitoring Plans; the LACMTA’s completed PDD Permit 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 Exhibit E, specific Noise Control and Noise Monitoring Plans, the PDD Permit and other City-issued permits. Exhibit E and the standards of this Article shall control over specific Noise Control and Noise Monitoring Plans, the PDD Permit application and other City-issued permits. The conditions included in the PDD Permit shall control over specific Noise Control and Noise Monitoring Plans and other City-issued permits. Other City-issued permits shall control over specific Noise Control and Noise Monitoring Plans.

Noise Control Plans

The LACMTA, through its consultants, contractors, subcontractors or agents, shall follow the Metro 5-Step Noise Control Plan incorporated into this Agreement as Exhibit E. Additionally, the LACMTA, through its consultants, contractors, subcontractors or agents, shall develop specific Noise Control and Noise Monitoring Plans and submit such plans to the City Representative for approval.

In evaluating the effectiveness of specific Noise Control and Noise Monitoring Plans, 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 Construction or non-Construction related;
- 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 Metro 5-Step Noise Control Plan and specific Noise Control and Noise Monitoring Plans, the LACMTA shall employ the following noise control measures:

<u>Source</u>	<u>Noise Control Measures</u>
Backup alarms	When backup alarms are used, they shall be 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 or decrease speed of closure.
Pavement breakers (jackhammers)	Fit with manufacturer approved exhaust muffler. Enclose pavement breaker and cutting activities with a noise barrier fence.
Vibratory rollers and packers	The use of vibratory rollers and packers will be avoided near vibration sensitive areas and structures. The vibration sensitive areas and structures shall be determined by a structural engineer as

part of the preconstruction surveys and subject to verification by the City.

Drilling for Piles	No impact pile driving will be used.
Prolonged idling of Equipment	No idling of heavy equipment or vehicles when not in use. Locate equipment away from noise sensitive areas to the extent practicable.
Construction Operations Planning	No truck traffic shall be permitted on residentially zoned streets, except for access to laydown yards when necessary and only by using a route approved by the City. Use modern equipment equipped with state of the art engine insulation and mufflers, in accordance with all applicable City, State, and Federal standards. 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 practical. All staging areas shall be enclosed with a 20' minimum sound wall. Place plywood or dirt beds on all trucks or any other mutually agreed to effective noise mitigations when loading concrete or steel on beds of trucks.

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 no more than 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.

- Employ targeted noise mitigation when Construction is proximate to historic structures and may exceed 5dBA (Leq 15 min) above pre-existing ambient noise levels during business hours at historic structures.

If any activity conducted between the hours of 10 PM and 7 AM causes an unreasonable noise impact to the surrounding neighborhood, reasonable mitigation, agreed to by both parties, shall be implemented to reduce the impact to a reasonable level. When determining whether an impact is unreasonable, the City shall take into account the hour of day, the proximity to the work site, and other similar factors.

Targeted Mitigation During Decking Operations

The LACMTA shall present to the City work plans for the deck installation and deck removal activities that will require full closures of Wilshire Boulevard over separate seventeen (17) weekend periods. The work plans shall include targeted mitigation to prevent Construction-related noise from having an impact on performances at the Saban Theatre. Such targeted mitigation shall include, but not be limited to, the installation of a temporary sound barrier when necessary to prevent impacts on performances whenever Construction is within one hundred (100) feet east or west of the Saban Theatre. The temporary sound barrier shall be at least twenty (20) feet high and sufficient to block the line of sight between Construction occurring at street level and the highest point of the Saban Theatre, except for that portion of the building constituting the office tower, and wide enough to reasonably protect the Saban from noise interference, but in no case less than fifty (50) feet wide. The sound barrier may not be in place between 7 AM Monday and 8 PM Friday.

The temporary sound barrier shall be designed and approved by a noise engineer selected by the LACMTA and reasonably acceptable to the City. It shall meet performance standards sufficient to prevent Construction-related noise from exceeding an instantaneous maximum of 5 dBA above pre-existing ambient noise levels within the Saban Theatre auditorium when HVAC equipment and stage fans are on and all interior and exterior doors are closed for the performance, using the level established in the August 13, 2015, Saban Theatre Ambient Noise and Facade Noise Reduction Measurement Results prepared by CSDA Design Group (42 dBA Lmin).

With consent from the Saban Theatre, the Independent Compliance Monitor shall monitor noise impacts within the theatre's auditorium during live performances when the temporary sound barrier is in place. Construction noise levels shall not exceed an instantaneous maximum of 5 dBA above ambient within the auditorium when HVAC equipment and stage fans are on and all interior and exterior doors are closed for the performance (ambient of 42 dBA Lmin). The Independent Compliance Monitor shall only monitor Construction-related noise in the same location as measured to establish the ambient (i.e., at the rear center of the theatre, ground floor, with the microphone suspended from the balcony) using equipment that allows for instantaneous readings from a remote location. The LACMTA shall not be responsible for noise exceedances caused by a performance or the audience. The Independent Compliance Monitor shall enforce

the performance standard in accordance with its enforcement authority outlined in Article XVII, except that no monetary contribution shall be imposed against the LACMTA until the Independent Compliance Monitor documents exceedances via a sound pressure level time history and synchronized audio recording: one-second sampling is required for the time history and construction noise must be clearly audible and discernible in the recording.

Noise Control Monitoring

The LACMTA, through its consultants, contractors, subcontractors or agents, shall develop specific Noise Control and Noise Monitoring Plans that include all requirements contained in this Agreement and Exhibit E, which shall be subject to City approval.

Construction noise levels at all times will be limited to no more than 5 dBA 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, Gale Drive, and Hamilton Drive that are closest to Wilshire Boulevard, as identified in Exhibit F, 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.

Operational Noise Control

At the time the Parties entered into this Agreement, the existing one-hour ambient octave-band noise levels (Leq) measured in the auditorium of the Saban Theatre are 54 dB @ 31.5 Hz, 49 dB @ 63 Hz, and 43 dB @ 125 Hz (for purposes of this Article, the “Baseline Levels”). Pursuant to the requirements of the Final EIR for the Project, Metro has directed that the Project be designed in such a manner so that one-hour groundborne noise and vibration levels (Leq) from operation of the Project (“Groundborne Noise”) will not exceed the Baseline Levels and therefore will not impact live performances in the auditorium of the Saban Theatre.

As part of its review of the Design and construction plans prepared for the Project, the City, at the expense of LACMTA, shall retain an acoustical engineer to review the proposed plans to ensure that the mitigation set forth in the Final EIR has been implemented and that Groundborne Noise is not expected to exceed the Baseline Levels.

LACMTA will require Groundborne Noise levels inside the Saban Theater be measured on a weekly basis during pre-revenue operations and systems testing. Thereafter, on a monthly basis during the first year of operation of the Station, the LACMTA will report readings of

Groundborne Noise. For the five years after the first year of operation, at the request of the Saban Theatre, but not more frequently than once a year, the LACMTA shall retest the existing noise levels in the Saban Theatre's auditorium by setting up a noise test using the same conditions and monitoring protocol used to determine the Baseline Levels. The LACMTA shall provide the results of such noise tests, if any, to the Saban Theatre within five (5) business days of the LACMTA's receipt of the test readings.

If the results of any monitoring reading indicate that the operation of the Purple Line subway has caused Groundborne Noise levels to exceed the Baseline Levels, then the LACMTA must, after consulting with the Saban Theatre, take available steps that the LACMTA determines in its sole discretion are reasonable, practical, feasible, and consistent with the LACMTA's ordinary practices to bring the Groundborne Noise at or below the Baseline Levels. The Parties recognize that any such remediation action that the LACMTA elects to undertake may be subject to LACMTA Board approval. If the Saban Theatre supports a different remedial action, the LACMTA staff will include in its staff report to the LACMTA Board an alternative to the LACMTA staff proposed action which describes the remedial action reasonably proposed by the Saban Theatre. If the LACMTA does not undertake any remedial action or the Saban Theatre is not satisfied with the remedial action taken by the LACMTA, the LACMTA recognizes that the Saban Theatre may pursue in a court of law claims for liability and damages that are independent of and do not arise from this Agreement or any breaches thereof.

The LACMTA shall meet with representatives of the Saban Theatre as necessary on a mutually agreed basis to implement the provisions set forth in this section.

The City may seek to enforce the terms of this section in accordance with Article XXVIII.

The Parties recognize that this section of Article XIV imposes obligations and rights that may come due or arise after this Agreement has expired. Accordingly, the Parties agree that this section shall survive any expiration or termination of this Agreement.

ARTICLE XV Light Plans And Mitigation Measures

Light plans and mitigation measures shall be in accordance with the standards set forth in: this Article; the PDD Permit 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 the PDD Permit. The conditions included in the PDD Permit shall control over other City-issued permits.

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.
- Light trespass shall not exceed one foot-candle above ambient light level as measured at any adjacent property.

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, all exhibits attached hereto and any conditions of approval included in the PDD Permit or other City-issued permits. 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 or the City 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. Unless otherwise agreed to by the Parties, a Compliance Monitor shall be employed and on site during all hours which the C1045 Contract Construction 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 PDD Permit for the work at issue or conditions and required mitigation measures covered under this Agreement and all exhibits attached hereto (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 two or more violations of the same Permit Condition with impacts on the same business, residence, or within a one hundred fifty (150) foot radius of the violation, within a ten (10) 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:

Violation 2: \$15,000 per violation

Violations 3 or more: \$25,000 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 or prohibit work that would imminently and obviously cause 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 or prohibited, the Compliance Monitor shall not allow resumption of the work causing the violation or that would imminently and obviously cause a violation until the violation is resolved and will not be repeated. The Compliance Monitor may only preemptively halt the work if the work would cause a violation of a specific Permit Condition that leaves no room for discretion, such as a failure to utilize proper noise mitigation equipment or conducting work at an unpermitted time.

The Compliance Monitor shall also 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. This paragraph shall not be construed to limit the authority of any authorized safety engineer, inspector, or other person to halt any work that poses a threat to public safety.

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 work covered by the scope of this Agreement.

ARTICLE XVIII
Tree Removal And Replacement

Tree removal will be avoided wherever possible. The LACMTA shall strictly comply with a tree removal and replacement plan that will ensure that any landscaping removed as a result of C1045 Contract Construction is eventually returned to its condition prior to removal. The tree removal and replacement plan shall substantially conform to the following requirements:

- New replacement trees shall be a 36” box of the same species and planted in the same location as the removed tree when not in conflict with new infrastructure, in which case the City’s arborist shall designate an alternative location and/or size;
- New replacement palm trees shall be a minimum 20’ in height;
- The LACMTA shall replace trees within six (6) months of restoration and completion of that portion of Wilshire Boulevard that may impact the tree. To the extent feasible, the LACMTA shall replace trees on an ongoing basis so long as doing so does not conflict with future C1045 Contract Construction; and
- The LACMTA shall mitigate the City’s lost value as a result of tree removal by compensating the City for the difference in lost value between removed trees and new replacement trees, with the difference in value determined using the TFM (Trunk Formula Method) as defined in “Guide for Plant Appraisal, 9th Edition”.

The LACMTA shall coordinate with the City’s arborist to ensure that the tree removal and replacement plan is executed to the satisfaction of the City’s arborist. The LACMTA or its contractor(s) shall maintain all trees landscaping installed by the LACMTA or its contractor(s) for a period of three (3) years from the date of planting and shall warranty the trees and landscaping for one (1) year after planting. Prior to the end of the one year warranty period, the City, LACMTA and its Contractors will conduct an inspection of all replacement trees and landscaping for general health as a condition of final acceptance by the City. If, in the City’s sole determination, a replacement tree or landscaping does not meet the health requirements of the City, then the LACMTA shall replace that tree within thirty (30) days. For any trees or landscaping that must then be removed, the original warranty shall be deemed renewed commencing from when the tree or landscaping is replaced.

ARTICLE XIX
Business Mitigation Assistance

The LACMTA shall implement business mitigation measures for the purpose of assisting those businesses financially affected by the C1045 Contract Construction performed under this Agreement. Business mitigation assistance will include, but is not limited to, the following:

- Advertising
 - Weekly advertisement in a local or regional newspaper
 - Social Media
 - Sign advertising in the event that the City Council authorizes the establishment of signs at the Project site
- Eat, Shop, Play (ESP) program
 - The ESP program allows businesses to advertise on Metro.net/purplelineext
 - ESP’s will be highlighted in The Source
 - ESP’s will be included in marketing materials
 - ESP’s will be included in local and regional publications
- Parking mitigation
 - Parking validation and other incentives for local businesses

- If the LACMTA's obligated replacement parking is unavailable, then the LACMTA shall participate in either a valet service or shuttle service to be provided by the City and reimbursed in part by Metro.
- Signage advertising where and when parking incentives have been made available and how to access the parking
- Social media shall be used to advise customers on alternate parking locations
- Communications and Outreach support
 - Provide an on-call public relations representative
 - Radio, print and social media advertising of detours during closures of Wilshire Boulevard
- Banners/signage
 - "Businesses Open During Construction" signage will be provided to all affected local business
 - The LACMTA will work directly with business owners to develop customized and appropriate signage
 - All LACMTA signage not related to traffic control or noise control placed in the City shall be mutually approved by the City and the LACMTA
 - Fund cost of production and installation of street banners promoting local businesses as approved by the City
 - Pedestrian-oriented wayfinding signage, including but not limited to, illustrations of parking areas and open businesses, will be provided in appropriate areas
- Marketing
 - The LACMTA will work directly with businesses to develop and procure marketing materials
- Public affairs representatives and consultants
- Additional lighting of the sidewalk can be provided during Construction to mitigate blight conditions caused by the Project or when not in compliance with the City Standard of no less than 1.2 foot candle
- Other urban design, mitigation, public outreach, lighting, and business assistance projects as mutually agreed upon by the Parties.

The LACMTA shall devote funding for such types of measures, in accordance with the following schedule:

- One hundred thirty-five thousand dollars (\$135,000) per month when piling or deck installation occur and one month prior to the start of each of these activities.
- Sixty thousand dollars (\$60,000) per month when other Construction activities occur.
- One hundred thirty-five thousand dollars (\$135,000) per month when deck removal or street restoration activities, including street restoration behind concrete barriers, utility restoration work, and final street restoration occur and one month prior to the start of each of these activities.

The LACMTA shall expend an additional five hundred thousand dollars (\$500,000) annually on business mitigation assistance if the C1045 Contract is not completed within one hundred twenty

(120) months from the date Construction begins, unless the delay is caused by a Permitted Delay as defined in Article XXVII.

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 the C1045 Contract:

- Clean worksite and adjacent areas, including street sweeping, at least once each work day and remove and paint over graffiti within 48 hours of discovery
- 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; the LACMTA's completed PDD Permit 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 the PDD Permit. The conditions included in the PDD Permit shall control over other City-issued permits.

The Project area is a sensitive area for residents, businesses, commuters, and visitors. The LACMTA and the C1045 Contractor 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. As soon as possible after executing 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 notification distribution area shall be reviewed and approved by the City. Project information and Construction notifications may be provided in multiple formats including, electronic mail, Project website, social media and on-street portable changeable message boards. All signage not related to traffic controls or noise control shall be mutually approved by the City and the LACMTA.

The LACMTA will continue to provide advance notification via mail or hand delivery for the following activities:

- a) Start of Each Major Construction Activity Listed in Article XIII (such as pile installation and street decking) and the Demolition of any Building
 - i) 21 calendar days – On street Changeable Message Signs (CMS)
 - ii) 14 calendar days (1st notice) – Mail or hand deliver
 - iii) 2 calendar days (2nd notice) – Mail or hand deliver

- iv) Updates via Eblast, website, Facebook and Twitter
- b) Utility Service Interruption
 - i) 30 calendar days – Mail or hand deliver
 - ii) 2 calendar days – Hand deliver
- c) Driveway Closure
 - i) 7 calendar days – Mail or hand deliver
 - ii) 2 calendar days – Mail or Hand deliver
- d) Sidewalk Closure
 - i) 7 calendar days – On-street signs
 - ii) 2 calendar days – Hand deliver to residents and businesses
 - iii) Updates via Eblast, website, Facebook and Twitter
- e) Lane Closure
 - i) 7 calendar days – On street Changeable Message Signs (CMS)
 - ii) Updates via Eblast, website, Facebook and Twitter
- f) No Parking
 - i) 7 calendar days – On street signs
 - ii) Updates via Eblast, website, Facebook and Twitter

On-street changeable message boards related to lane closures, driveway closures, sidewalk closures and parking restrictions will be located based on traffic engineering plans and documents. They shall be removed during periods when no changeable messages are required by this Agreement or the City of Beverly Hills. The requirements of this Article will be incorporated into traffic plans as they are submitted by the C1045 Contractor.

The LACMTA shall reimburse the City for the development and maintenance of a web application, which will include Project information for the duration of the Project. The website or web application may include information unrelated to LACMTA Construction.

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 immediately notify the City Representative and the Compliance Monitor.

At the City's own expense, the City may establish its own dedicated phone line, in addition to the LACMTA-established toll-free phone line. If the City establishes its own dedicated phone line, then all LACMTA notices and signs relating to Construction must include both the LACMTA's and City's phone numbers.

ARTICLE XXI

Inspection of City Facilities During Construction

The City and the LACMTA agree that all work on City Facilities will conform to standard policies and practices of the City 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 by LACMTA to the City for inspection. Reimbursement for 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 any relevant exhibits. 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.

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 City Facility Rearrangement (including if applicable, completion of any corrective work performed), the City shall furnish its written notice that Construction of the City Facility complies with Design submittals and City Standards. Notwithstanding the preceding, the City's final inspection and acceptance of any City Facility shall not occur until the portion of Wilshire Boulevard that may impact the City Facility is restored and completed and all punch list items are closed, except in those instances when beneficial and exclusive use of a City Facility or utility is transferred to the City by mutual agreement prior to the complete restoration of Wilshire Boulevard within City limits.

Interim inspection of those City Facilities that will be covered, buried and/or no longer visible due to some future construction activity will have the appropriate level of City inspection performed and punch-lists created prior to cover-up.

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-owned utilities is necessary to accommodate the Construction of the La Cienega Station. The LACMTA and the City further acknowledge that certain relocated/rearranged City-owned utilities 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-owned utilities 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-owned utilities 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.

LACMTA agrees to be responsible, at LACMTA's expense, for operation and maintenance of City-owned utilities in their temporary condition. The responsibility includes financial responsibility for any water quality or other regulatory violations that result from operation and maintenance problems while the utilities 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 utilities are modified in any way or if access to existing utilities is not available due to Project related construction. The responsibility for operation and maintenance ends when the City-owned utilities are relocated/rearranged to their permanent location (if required by the City) 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-owned utilities are in a temporary condition.

LACMTA and its contractors and consultants will be required to operate and maintain all utilities in accordance with City Standards and provide uninterrupted service to the maximum extent feasible by minimizing any utility service interruptions. 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-owned utilities 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 C1045 Contract.

ARTICLE XXIII Indemnity, Warranties And Insurance Requirements

The LACMTA shall defend, hold harmless, and indemnify the City and its directors, elected officials, officers, agents and employees against any and all loss, liability, damage, or expense for injury or death to persons, including employees of either Party, and damage to property, including property of either Party, arising out of or in connection with intentional, wilful, wanton, reckless or negligent conduct arising out of or relating to the C1045 Contract. However, the City shall not be indemnified hereunder for any loss, liability, damage, or expense resulting from its sole negligence or willful misconduct. The requirements of this paragraph shall survive the termination of this Agreement.

The City shall defend, hold harmless, and indemnify the LACMTA and its directors, elected officials, officers, agents and employees against any and all loss, liability, damage, or expense for injury or death to persons, including employees of either Party, and damage to property, including property of either Party, arising out of or in connection with intentional, wilful, wanton, reckless or negligent conduct arising out of or in connection with the City's actual proprietary Design or Construction performance for any work or Betterment undertaken by the City pursuant to this Agreement. However, the LACMTA shall not be indemnified hereunder for any loss, liability, damage, or expense resulting from its sole negligence or willful misconduct. The requirements of this paragraph shall survive the termination of this Agreement.

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 G. The City shall make copies of Exhibit G available upon request at City Hall and on its website to any persons or businesses claiming damage caused by the LACMTA. The LACMTA shall inform the City of any claims submitted through the administrative claims process.

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 hereby warrants that Project work will maintain the structural integrity of all City Rights-of-Way and buildings adjacent to the Project for a period of at least two (2) years following completion of the C1045 Contract. The LACMTA hereby warrants 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 for Project 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. If warranted work fails and is replaced, removed, or substantially rebuilt, then the original warranty on such work shall be deemed renewed commencing from when the warranted work was replaced, removed, or rebuilt and accepted by the City.

Promptly, but no later than thirty (30) Days after the execution of this Agreement, 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: \$2,000,000 in General Liability with an aggregate limit of \$4 million, \$2,000,000 in Workers' Compensation / Employer's Liability, \$10,000,000 in Combined Single Limit (CSL) in Auto Liability, and \$250,000,000 in excess liability coverage; 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: \$2,000,000 in General Liability with an aggregate limit of \$4 million, \$2,000,000 in Workers' Compensation / Employer's Liability, \$10,000,000 (CSL) in Auto Liability, \$2,000,000 in Professional Liability, and \$250,000,000 in excess liability coverage. 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 the C1045 Contract, from the date hereof through and until expiration of three (3) years after the accepted completion of the C1045 Contract, 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 XXVIII. The City and the LACMTA shall insert into any contracts entered into by the City or the LACMTA, respectively, for the performance of work 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 are accurate and complete. The City shall insert into any contracts it enters into for the performance of work hereunder the above requirements and also a clause requiring the contractors (or consultants) to include the above requirements in any subcontracts or purchase orders. In the case of such contractors, consultants, subcontractors and suppliers, the records subject to the above requirements shall include, without limitation, any relevant records as to which a tax privilege might otherwise be asserted.

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

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

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

LACMTA shall provide to the City for its review and, as authorized by this Agreement, approval all Design and Construction plans included in Exhibit H and all Design and Construction plans falling within the categories outlined in Exhibit H. The City shall have the authority to approve

any Design and Construction plan that impacts a City Facility. In addition, the LACMTA shall provide to the City for its review any other Design and Construction plans requested by the City following the City's review of the Contract Data Requirements List (CDRL). Any changes to the CDRL shall be provided to the City following execution of this Agreement. Exhibit H may be amended from time to time to reflect material changes to the CDRL.

City shall complete its review and take action on any Construction submittals that are consistent with the PDD permit approved by the City Council within twenty (20) Days from the date a complete application is submitted to the City. City staff shall transmit its comments in the form of a comment matrix and annotated plans (as appropriate) to the LACMTA. 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. If, in the City's sole discretion, the LACMTA or its contractor has submitted a construction submittal or series of submittals that cannot reasonably be completed within twenty (20) days due to the submittal's volume, complexity or other condition beyond the City's control, City staff shall provide notice within seven (7) Days of receipt of a submittal to the LACMTA of its inability to complete its review to the LACMTA. The City and the LACMTA shall thereafter mutually agree on a new deadline for the City to complete its review of any or all pending Construction submittals, provided that in no event shall the review period exceed 45 Days.

City shall complete its review and take action on any Requests for Information that are consistent with the PDD permit 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 responding to the Request for Information after receipt of the LACMTA notice.

City shall complete its review and take action on any Requests for Change that are consistent with the PDD permit 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 that is a direct result of the delays to the LACMTA's Construction contract's critical path work from the City's failure to meet the established deadlines, 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 any review deadline, then any affected time deadlines for the other Party or other activities under this Agreement or any Work Order shall be revised accordingly.

ARTICLE XXVII
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 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 C1045 Contract.

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.

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, except that the marquee may be temporarily obstructed from view during the installation of piles on the south side of Wilshire Boulevard between Gale Drive and Hamilton Drive and during deck installation and removal when the temporary sound barrier is in place.

The LACMTA shall meet and confer with representatives of the Saban Theatre as necessary to discuss coordination of Construction with Saban operations and events. This obligation shall include coordinating with representatives of the Saban Theatre prior to any utility service disruption to ensure that the utility disruption does not impact an event at the Saban Theatre.

The LACMTA has acquired property interests in several parcels within the City for use as Project staging areas and the Station portal. The LACMTA has acquired fee title to parcel number W-2307, located near the corner of Wilshire Boulevard and Gale Drive and more particularly described in Exhibit I (for purposes of this paragraph, the "Parcel"). Under the terms and provisions of the Contract of Sale and Escrow Instructions attached as Exhibit J, and the Temporary Construction Easement ("TCE") attached as Exhibit K, both of which will be contemporaneously executed by the Parties when they execute this Agreement, LACMTA will sell the Parcel to the City and the City will grant to LACMTA a temporary construction easement for the purposes set forth in Recital E of the TCE.

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 Project area, including LACMTA work sites, in order to conduct monitoring for compliance with this Agreement, mitigation measures, and C1045 Contract requirements. The City Representative, City Engineer, and Consultant(s) shall further be permitted to communicate any alleged

violations of this Agreement or mitigation measures or technical defects they independently identify to the LACMTA Representative and/or the Compliance Monitor.

The City has three lawsuits pending related to the Westside Subway Extension. These lawsuits include: *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.

Throughout the term of this Agreement, if the City plans to construct new facilities unrelated to C0145 work that would cross or otherwise occupy locations that might conflict with C1045 Construction, 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 a Party's reasonable control (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.

Throughout the term of this Agreement, if the City plans to construct new City Facilities or maintain existing City Facilities unrelated to the Project that would cross or otherwise occupy locations that might conflict with C1045 Construction, the City will coordinate with the LACMTA to the extent feasible to minimize any conflicts between the Parties.

In recognition of the City's interest in neighborhood identity, the LACMTA agrees that it will not name a rail/subway station in the City without the City Council's Consent. The requirements of this paragraph shall survive the termination of this Agreement.

ARTICLE XXVIII 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 the event that work is stopped and it is necessary to resolve a claim or dispute in order to resume work, 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 in accordance 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 XXIX Additional Terms

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, City of Beverly Hills Agreement No. 452-14 between the City and the LACMTA dealing with Advance Utilities

Relocation for the Project shall remain in full force and effect and 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, 17 th Floor Los Angeles, California 90012
With copy to:	Charles Safer Assistant County Counsel One Gateway Plaza, 24 th 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.

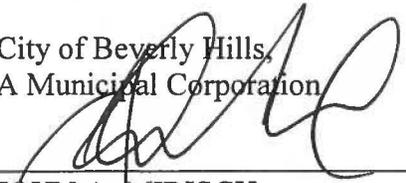
No waiver by any party of the rights, conditions, or the performance of any covenant or promise herein shall be effective unless contained in a writing signed by such party. No such written waiver shall reduce the rights or remedies of the Parties nor shall it invalidate this Agreement, nor shall it 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. No grant of a permit or extended hours shall be construed as a grant of any other permit or extended hours, nor shall it be construed as a commitment to grant additional permits or extended hours.

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.

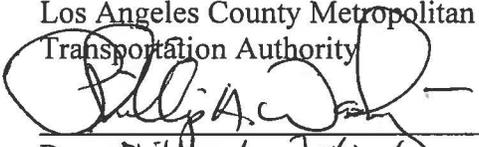
The Parties agree that specific performance and injunctive relief are available to enforce the rights of the Parties under this Agreement, including the provisions of any Construction Staging Plan or Worksite Traffic Control Plan or other measure developed pursuant to this Agreement.

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."

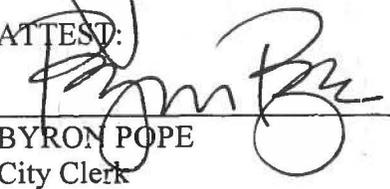
WHEREOF, the Parties have caused this Agreement to be executed as of the dates set forth above.

City of Beverly Hills,
A Municipal Corporation


JOHN A. MIRISCH
Mayor of the City of Beverly Hills, California

Los Angeles County Metropolitan
Transportation Authority


By: Phillip A. Washington
Its: CEO

ATTEST:


BYRON POPE
City Clerk (SEAL)

Approved as to Form:



LAURENCE S. WIENER
City Attorney

Approved as to Form:



RONALD W. STAMM
Principal Deputy County Counsel

Exhibit A
PDD Permit and City of Beverly Hills Conditions for Approval

CITY OF BEVERLY HILLS
CONDITIONS FOR APPROVAL OF
SUBWAY CONSTRUCTION PERMITS

The following permit conditions (the "Permit Conditions") shall constitute the terms of the Project Definition Documents ("PDD") permit for the C1045 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 Contract C1045 of the Purple Line Extension Project – Segment I" (the "Agreement"); all exhibits attached thereto; Worksite Traffic Control Plans, Traffic Management Plans, Construction Staging Plans, Noise Control and Noise Monitoring Plans, Tree Removal and Replacement Plans and other 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."

Pedestrian Access and Sidewalk Maintenance

- 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.”
- Unless work is otherwise permitted within the street during evening hours, full street access shall be restored at the end of each working day.
- The LACMTA shall comply with all conditions of any afterhours 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 E of the Agreement, “Metro 5-Step Noise Control Plan.”

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 1045 Contract Work.

Business Mitigation

- Clean worksite and adjacent areas at least once each work day and remove and paint over graffiti within 48 hours of discovery
- 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 and its Contractor shall also protect the structure and maintain the visibility of the Saban Theatre's marquee, except that the marquee may be temporarily obstructed from view during the installation of piles on the south side of Wilshire Boulevard between Gale Drive and Hamilton Drive and during deck installation and removal when the temporary sound barrier is in place.
- The LACMTA's Contractor shall comply with the City's Business License Tax Ordinance. No Construction within the City of Beverly Hills may commence until the Contractor has paid the City's Business License Tax in full.
- The LACMTA or its Contractor shall ensure that all dewatering complies with the City's Dewatering Ordinance found at Section 9-4-610 of the Beverly Hills Municipal Code
- Chain link fencing shall not be used to construct the proposed fence located on the north side of the Station plaza and depicted on PDD Sheet 146.
- The closed-circuit television (CCTV) system monitoring the Station plaza and the Station's interior public spaces shall include a live feed provided to the City's Police and Fire Departments for safety purposes.
- To the extent possible, the Station's emergency generator shall reduce diesel exhaust from intruding onto private property.
- To the extent possible, grates shall be constructed away from the sidewalk
- Methane vents shall be located in tree wells where possible, and designed to be isolated from tree roots.
- Streetscape along La Cienega Boulevard north of the Station plaza shall be screened with landscaping at a height of 4' or less; to the extent possible, sidewalk grate along this area shall be placed on Metro-owned property.
- Evaluate and coordinate with City on joint development potential of Metro property.
- The LACMTA will be responsible for reviewing and approving the support of excavation's structural design for compliance with the LACMTA's design criteria provided in the PDD. No later than thirty (30) Days prior to the support of excavation and decking work (not including implementation of the traffic control plans required to allow potholing and pile installation behind K-rail), the LACMTA or the Contractor shall submit to the City a comprehensive Support of Excavation Final Design Package for review and comment, which will include as a minimum the following:
 - a) Geotechnical Report for the La Cienega Station Area
 - b) SOE Design Drawings & Calculations for La Cienega Station
 - c) Dewatering Design Report & Drawings
 - d) Wastewater Management Plan

- e) Building Settlement Assessment Report including analyses related to the Contractor's impact assessment for predicted dewatering and ground movements
- f) Utility Settlement Assessment Report
- g) Geotechnical Instrumentation Drawings
- h) Geotechnical Monitoring Threshold Report that outlines the maximum allowable values for the installed instrumentation
- i) Contingency Plan(s) that explain what actions will be taken if monitoring threshold values are exceeded. The Contingency Plan entitled "C1045 Contract La Cienega Station Support of Excavation Contingency Plan and Monitoring Threshold Report" dated February 21, 2017, and on file with the City's Public Works Department, constitutes the Project's final and approved Contingency Plan. The Contingency Plan may be amended from time to time by the LACMTA without City approval, except that any change affecting the junctures where dewatering or excavation must stop or the City's role or approval authority with respect to the plan shall require the City's written consent.
- j) Completed preconstruction survey reports for adjacent structures, including historic structures (subject to the structure owners written consent)

The Support of Excavation Final Design Package may be submitted to the City for review and comment in discreet submittals as they are completed. The City shall provide comments, if any, to the LACMTA, in the time and manner prescribed under Article XXVI for Construction submittals. To the extent permitted by law, the LACMTA or the Contractor shall provide copies of pre-construction surveys of historic properties to property owners for record only prior to any support of excavation work.

- The Contractor shall conduct weekly monitoring of the ground, buildings and utilities adjacent to the work area during the excavation, shoring and dewatering work. If building or utility movements exceed the threshold values specified in the approved Geotechnical Monitoring Threshold Report then the Contractor will evaluate the movement per the Contingency Plan. If settlement-related building damage is observed, then the Contractor and its engineer of record shall immediately investigate the cause and severity of the damage in accordance with the approved Contingency Plan. If the observed damage and geotechnical instrumentation data indicate that the structural integrity of the building is at risk, excavation shall be temporarily halted in the affected area. The Contractor and its engineering staff shall propose appropriate mitigation measures to safely rectify the problem, if necessary. Excavation in the affected area shall not resume until an evaluation is performed, mitigations are implemented to prevent further damage to the affected building, and the City is in agreement.
- In the event that a building within the City is proven to be significantly damaged by the Project, then the LACMTA shall provide the City with a report identifying the cause of the damage and the steps the LACMTA will undertake to fix the damage or compensate the property owner. In addition, if the damaged building is a historic structure, then the LACMTA shall undertake all remediation and restoration measures required by law.

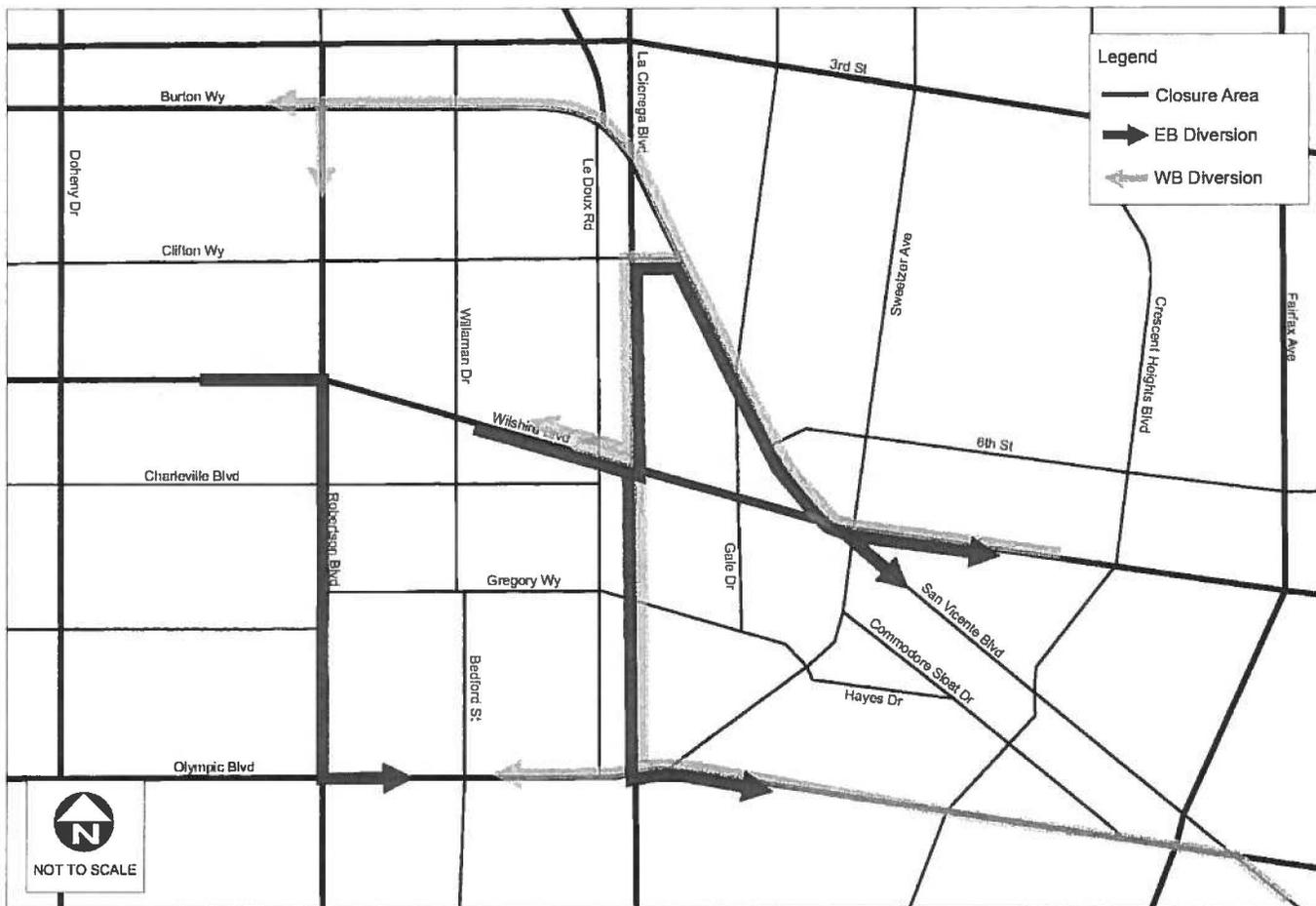
In addition to the Permit Conditions provided above, the following standard permit conditions of the City shall apply to the permit for the 1045 Contract work.

- Restoration of City facilities shall be per City Standards, as defined in the Agreement, City of Beverly Hills Standard Detail Drawings and approved plans.
- Trash collection service shall be maintained at all times. Applicant to coordinate work with appropriate trash collection service providers. Call Public Works Customer Service at (310) 285-2467 for service provider information.
- Contact Dig Alert prior to excavation.
- 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.
- Restore full street access at the end of each working day.
- Trench plates shall be recessed and secured per City standard drawings and requirements.
- Unsecured trench plates shall be re-secured within six (6) hours of notification from the City Representative, but in no case shall remain unsecured past the hours of 10 PM or during performances held at the Saban Theatre.
- 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 the City Representative.
- Contact parking enforcement to register parking restrictions 72 hours in advance of proposed restriction. Unregistered parking restrictions or parking restrictions with improperly maintained signage will not be enforced.
- 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.
- Damage to public improvements as a result of permitted transport shall be reported to the Police Department immediately.

Exhibit B
FORM 60

CONTRACT PRICING PROPOSAL (Professional Services) <i>Continuation Page</i>		LACMTA "FORM 60"	PAGE 2 of 2	
SUPPORTING SCHEDULE				
ITEM NO.	ITEM DESCRIPTION	Est. Cost (\$)	Total Est. Cost (\$)	
Travel:				
Other Direct Costs:	Reimbursables			
	Mileage			
		TOTAL		
Type Name and Title:		Signature:		
Name of Firm:		Date:		

EXHIBIT C
Detour Routes During Full Closures of Wilshire Boulevard



Detour Routes During Full Closures of Wilshire Boulevard

EXHIBIT D
Saban Theatre Pedestrian Access Plan

Restaurant and Theatre Circulation Plan

TYPICAL OPERATIONAL HOURS

Wilshire Vendor Delivery: 10 AM - 3 PM
 Matinee Show Sat: 2 PM - 5 PM
 Matinee Show Sun: 1 PM - 4 PM
 Evening Show: 7:30 PM - 10:30 PM
 Hamilton Load In: 7:00 AM - 12:00 midnight
 Hamilton Load Out Sun: 5 PM - 10 PM
 Red Medicine Restaurant: 6 PM - 2 AM
 Hill Bar & Grill: 11 AM - 11:30 PM
 Hamilton Trash: 7-10 AM

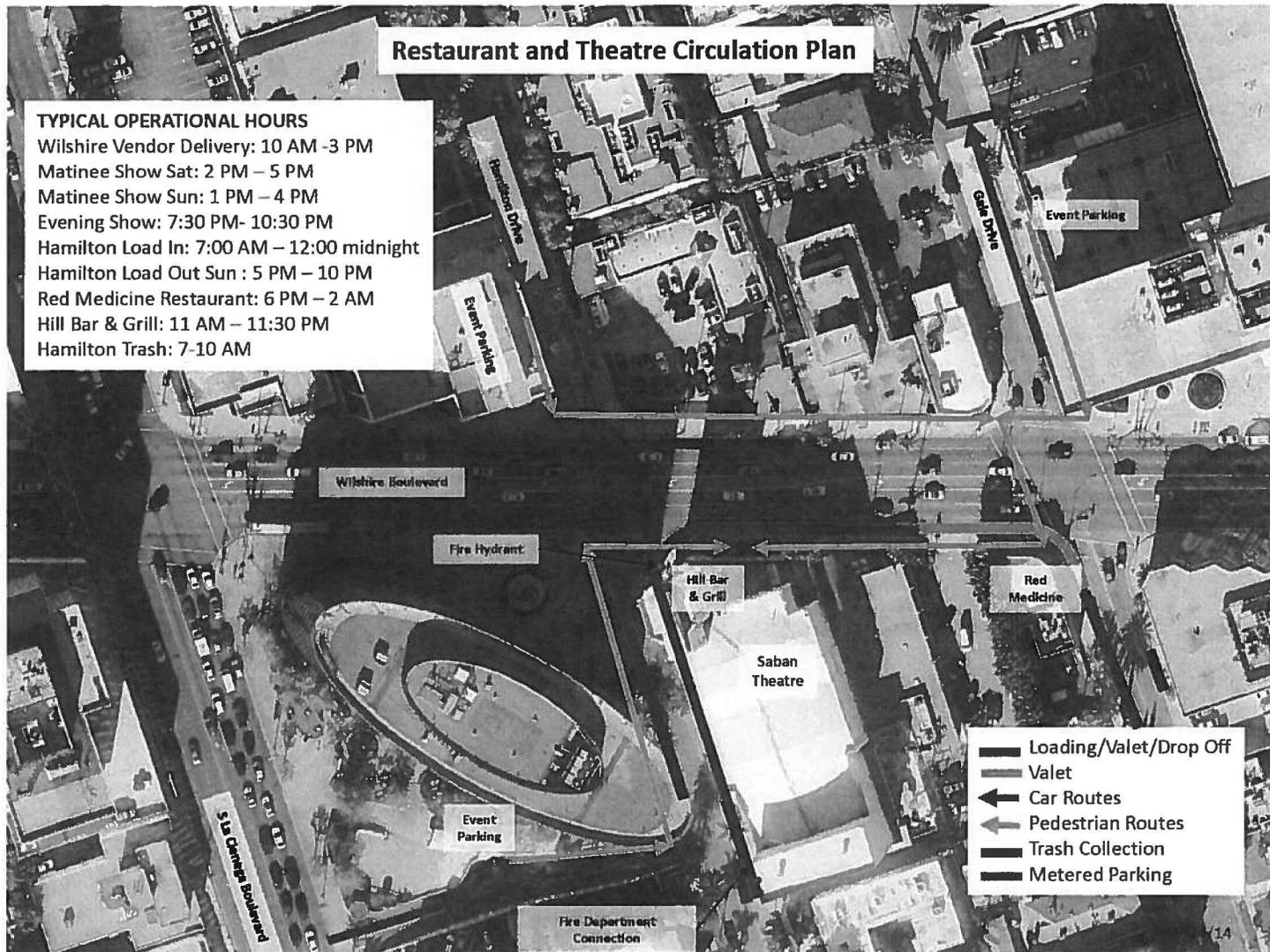


EXHIBIT E
Metro 5-Step Noise Control Plan

5-Step Noise Control Plan

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

The measures contained in this 5-Step Noise Control Plan (“Plan”) are for Contract C1045 of the Purple Line Extension Project – Segment 1 between the City and Metro (“Agreement”). To the extent that there is any conflict between the Plan and the Agreement, the standards set for in the Agreement shall control over the Plan. Any omission of a noise mitigation measure or standard provided for in the Agreement shall not be construed as a waiver of that measure or standard.

Part 1 - Training

- 1.1 Employees must take Noise Awareness Training
- 1.2 Metro shall provide mandatory training to all construction personnel.
- 1.3 Emphasizes the importance of noise control
- 1.4 Inform workers that Metro is working under an agreement with Beverly Hills that governs work hours and noise mitigation standards and an After Hours Construction Permit with Beverly Hills
- 1.5 Discusses methods of limiting noise on the construction site:
 - (a) No yelling or loud music.
 - (b) No idling of equipment
 - (c) Avoid staging equipment in front of residences or other noise sensitive areas.
 - (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 daytime hours (however traffic and Theatre restrictions may require that some of this work occur at night). Examples of noisy activities include:
 - (a) Saw-cutting
 - (b) Pile-drilling
 - (c) Jack-hammering

2.2 When traffic conditions and work hours allow, schedule work between Gale and Hamilton so that the work has the least impact on restaurants and theatres.

2.3 Comply with all work hour restrictions contained in Article XIII of the Memorandum of Agreement for Contract C1045 of the Purple Line Extension Project – Segment 1 (“Agreement”).

Part 3 - Noise Control Measures

Noise Control Measures include:

Equipment

3.1 When a backup alarm must be used, use low impact backup alarms on equipment, which include manually-adjustable alarms, self-adjusting alarms, and broadband alarms. 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, in accordance with all applicable City, State, and Federal standards.

3.3 No generators larger than 950 KVA shall be used and, when a generator is necessary, it shall be equipped with the best available technology to minimize noise, including a sound attenuated enclosure with a silencer. Operate equipment at the lowest possible power levels.

3.4 Use solar-powered, battery-powered, or hybrid equipment, including generators and light stands (not engine powered) whenever practical.

3.5 Fit pavement breakers with manufacturer approved exhaust muffler

3.6 Use solar-powered or battery powered arrow boards to the extent practical.

3.7 Use nylon slings for lifting in lieu of chain fall, when permissible by CALOSHA.

Hauling/Staging

3.8 Configure traffic patterns to minimize backing movement.

3.9 Use Approved Haul Routes on Major Streets.

3.10 No truck traffic permitted on residentially zoned streets, except for access to laydown yards when necessary and only by using a route approved by the City.

Work Areas

3.11 Enclose pavement breaker and sawcutting activities with a noise barrier fence. Noise barrier fence shall include a STC rating of 25 or greater.

3.12 Provide noise muffling enclosures for fixed equipment.

3.13 To minimize slamming tailgates use rubber gaskets or equivalent or decrease speed of closure.

3.14 Place plywood or dirt beds on all trucks or any other mutually agreed to effective noise mitigations when loading concrete or steel on beds of trucks.

3.15 No slamming tailgates.

3.16 Establish truck cleanout staging areas as needed.

- 3.17 No impact pile driving will be used.
- 3.18 Locate equipment away from noise sensitive areas to the extent practicable.
- 3.19 Use noise control signage in work zone that states "Noise Control Zone."
- 3.20 Stage equipment away from residences, where possible.
- 3.21 No idling of heavy equipment or vehicles, when not in use.
- 3.22 The use of vibratory rollers and packers will be avoided near vibration sensitive areas and structures. The vibration sensitive areas and structures shall be determined by a structural engineer as part of the preconstruction surveys and subject to verification by the City.
- 3.23 No parking by construction staff on city streets.

Staging Areas

- 3.24 Noise barrier walls at all staging areas/lay-down yards to have a wall assembly of STC-25 or greater, and the ability to reduce noise by 5 dBA. Noise barrier walls shall be at least 20 feet in height.
- 3.25 Noise control signage in staging areas that state "Noise Control Zone" and "Slow Down."

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 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 Unless otherwise agreed to by the parties, a trained Independent Compliance Monitor shall be present on-site at all times when construction activities are being performed to verify compliance with all terms of this Plan and the Agreement, including verification 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 The Independent Compliance Monitor shall exercise all of the powers conferred upon it by Article XVII of the Agreement.

4.5 Acoustical engineer interprets results, prepares monthly compliance reports, provides input/comments. 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 5 dB above the ambient noise levels jointly agreed to by the City and Metro. In addition, if any activity conducted between the hours of 10 p.m. and 7 a.m. causes an unreasonable noise impact to the surrounding neighborhood, reasonable mitigation, agreed to by the City and Metro, shall be implemented to reduce the impact to a reasonable level. When determining whether an impact is unreasonable, the City shall take into account the hour of day, the established ambient level at the closest receptor, the proximity to the work site, noise sources not related to the project, and other similar factors.

4.7 Metro and the City shall jointly establish the preexisting ambient hourly noise levels at residential property lines in accordance with Article XIV of the Agreement.

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 F
Ambient Noise Testing Sites

Ambient Noise Testing Sites



Notes:

- M – Multi-family Residence, S – Single-family Residence
- INT – Institutional
- C, COM – Commercial

EXHIBIT G
LACMTA Claims Form



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.

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 _____

FOR OFFICE USE ONLY
Claim number & Receipt date

INCIDENT INFORMATION

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

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

OWNER OF PRIVATE VEHICLE PLEASE COMPLETE THIS SECTION:

- 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 90012-2952



Metro

EXHIBIT H
Design and Construction Plans Provided to City of Beverly Hills

Los Angeles County Metropolitan Transportation Authority
Westside Subway Extension, Section 1

SECTION	DESCRIPTION	COBH	
		FRO	APPROVAL
08 33 26	OVERHEAD COILING STAINLESS STEEL GRILLES		
08 33 26-1.05.B	Shop and erection drawings	X	
08 34 92	EMERGENCY EXIT HATCHES		
08 34 92-1.05.B	Shop Drawings	X	
10 77 00	BICYCLE METAL LOCKERS AND RACKS		
10 77 00-1.05.C	Shop Drawings	X	
14 24 23	HYDRAULIC PASSENGER ELEVATORS	X	
14 24 23-1.05.B.4	Hall, Car and Firefighters' Control Fixtures: Cuts, shop drawings	X	
21 00 00	FIRE PROTECTION SYSTEMS		
21 00 00-1.05.B	Manufacturer's Literature and Product Data	X	
21 00 00-1.05.C	Shop Drawings	X	
21 30 00	FIRE PUMPS		
21 30 00-1.05.B	Manufacturer's Product Data	X	
21 30 00-1.05.C	Shop Drawings showing complete system	X	
21 30 00-1.05.D	Calculations to confirm capacity and pressure rating	X	
23 32 40	EMERGENCY VENTILATION ASSEMBLY		
23 32 40-1.05.A	Pre-Construction	X	
28 31 00	COMMUNICATIONS FIRE DETECTION SYSTEM		
28 31 00-1.05.B	Floor plans showing locations of all devices	X	
28 31 00-1.05.E	Sequence of operations	X	
28 31 00-1.05.F	Single-line system architecture drawings	X	
28 31 00-1.05.J	Manufacturer's technical product data	X	
28 31 00-1.05.L	Detailed test plans and procedures	X	
31 23 19	DEWATERING		
31 23 19-1.05.B	Pre-Construction		X
31 23 19-1.05.C	Post-Construction		X
31 23 43	SHAFT AND STATION EXCAVATION		
31 23 43-1.05.A.1	Method Statements	X	
31 23 43-1.05.B	Working Drawings	X	
31 50 00	EXCAVATION SUPPORT SYSTEMS		
31 50 00-1.05.B	Working Drawings	X	
31 50 00-1.05.E	Method Statements	X	
31 50 00-1.05.F	Test and Evaluation Reports	X	
31 50 00-1.05.H	Final Survey and As-Built	X	
31 51 00	TIEBACK ANCHORS		
31 51 00-1.05.B	Working Drawings & Calculations	X	
31 71 16	MINED CROSS PASSAGES		
31 71 16-1.05.D	Working Drawings	X	
31 71 16-1.05.F	Method Statements	X	
31 71 16-1.05.H	Deformation Measurement Data	X	
31 71 19	EXCAVATION BY TUNNEL BORING MACHINE		
31 71 19-1.4.B.2	Construction schedule	X	
31 71 19-1.4.D	Work Plans, means and methods	X	
31 71 19-1.4.F	Continuous monitoring data of TBM performance	X	
31 71 19-1.4.G	Daily reports	X	
31 71 19-1.4.H	Action Level Plan workshop	X	
31 71 19-1.4.I	As-built survey of the tunnel bore	X	
31 71 19-1.4.J	Notification to MTA of any tunnel misalignments or lining non-planarity	X	
31 71 19-1.4.K	Plan for non-emergency remedial measures	X	
31 73 00	TUNNEL GROUTING		
31 73 00-1.05.B.2.a	General grouting procedures	X	
32 11 00	(AGGREGATE) BASE COURSE		
32 11 23-1.05.B	Product Data		X
32 11 23-1.05.D	Test and Evaluation Reports		X
31 82 00	PERMEATION GROUTING		

Los Angeles County Metropolitan Transportation Authority
Westside Subway Extension, Section 1

SECTION	DESCRIPTION	COBH	
		FRO	APPROVAL
31 82 00-1.05.B	Method Statements	X	
31 82 00-1.05.C	Working Drawings	X	
31 82 00-1.05.F	Test and Evaluation Reports	X	
31 82 00-1.05.H	Water Quality Monitoring	X	
31 82 00-1.05.J	Schedule of Operations	X	
31 82 00-1.05.M	3-Day Notice to MTA of Intended Meetings with the Facility Owners	X	
31 82 00-1.05.N	Records of Coordination with the Facility Owners	X	
31 82 00-1.05.O	Records of Grouting Operations	X	
31 82 00-1.05.P	Ground and Facility Monitoring Records	X	
31 82 00-1.05.Q	Schedule of Locations and Results of Leakage Monitoring Program	X	
31 82 00-1.05.R	Contingency plan for TBM excavation operations	X	
32 12 00	FLEXIBLE PAVING (ASPHALT PAVING)		
32 12 00-1.05.B	Test and Evaluation Reports		X
32 12 00-1.05.C	List of Equipment		X
32 12 00-1.05.D	AC Mix Design		X
32 12 00-1.05.E	Product Data		X
32 12 00-1.05.F	Site Quality Control		X
32 12 36	SEAL COATS		
32 12 36-1.05.B	Materials Test Reports		X
32 12 36-1.05.C.1	Material Qualification Data		X
32 12 36-1.05.C.2	Job Control Test Results		X
32 12 36-1.05.D.1	Product Data		X
32 12 36-1.05.D.2	Certifications		X
32 13 00	RIGID PAVING (CONCRETE PAVING)		
32 13 13-1.05.B	Product Data		X
32 13 13-1.05.C	Drawings for Structural Concrete and Concrete Slabs		X
32 13 13-1.05.D	Drawings for Reinforcing Steel, Tie Bars, and Connecting Dowels	X	
32 13 13-1.05.E	Mix Designs	X	
32 13 13-1.05.F.1	Samples	X	
32 14 00	UNIT PAVING		
32 14 00-1.05.B	Product Data	X	
32 14 00-1.05.C	Shop Drawings	X	
32 14 00-1.05.E	Test and Evaluation Reports	X	
32 14 00-1.05.F	Qualifications	X	
32 14 00-1.05.G	Operation And Maintenance Data	X	
32 16 00	CURBS, GUTTERS, SIDEWALKS AND DRIVEWAYS		
32 16 14-1.05.B	Product Data		X
32 16 14-1.05.D	Test and Evaluation Reports		X
32 16 14-1.05.E	Shop Drawings		X
32 17 23	PAVEMENT STRIPING AND MARKING		
32 17 23-1.05.B	Product Data		X
32 17 23-1.05.C	Shop Drawings		X
32 17 23-1.05.D	As Built Plans		X
32 17 23-1.05.E	Test Reports and Certifications		X
32 17 26	TACTILE WARNING SURFACING		
32 17 26-1.05.B	Shop Drawings		X
32 17 26-1.05.C	Product Data		X
32 17 26-1.05.D	Test Reports	X	
32 17 26-1.05.E	Samples of test casings	X	
32 80 00	IRRIGATION SYSTEMS		
32 80 00-1.05.B	Specifications		X
32 80 00-1.05.C	Shop Drawings		X
32 80 00-1.05.D	Record Prints		X
32 80 00-1.05.E	Operation and Maintenance Manuals		X
32 80 00-1.05.F	Material Safety Data Sheets (MSDS)		X

Los Angeles County Metropolitan Transpiration Authority
 Westside Subway Extension, Section 1

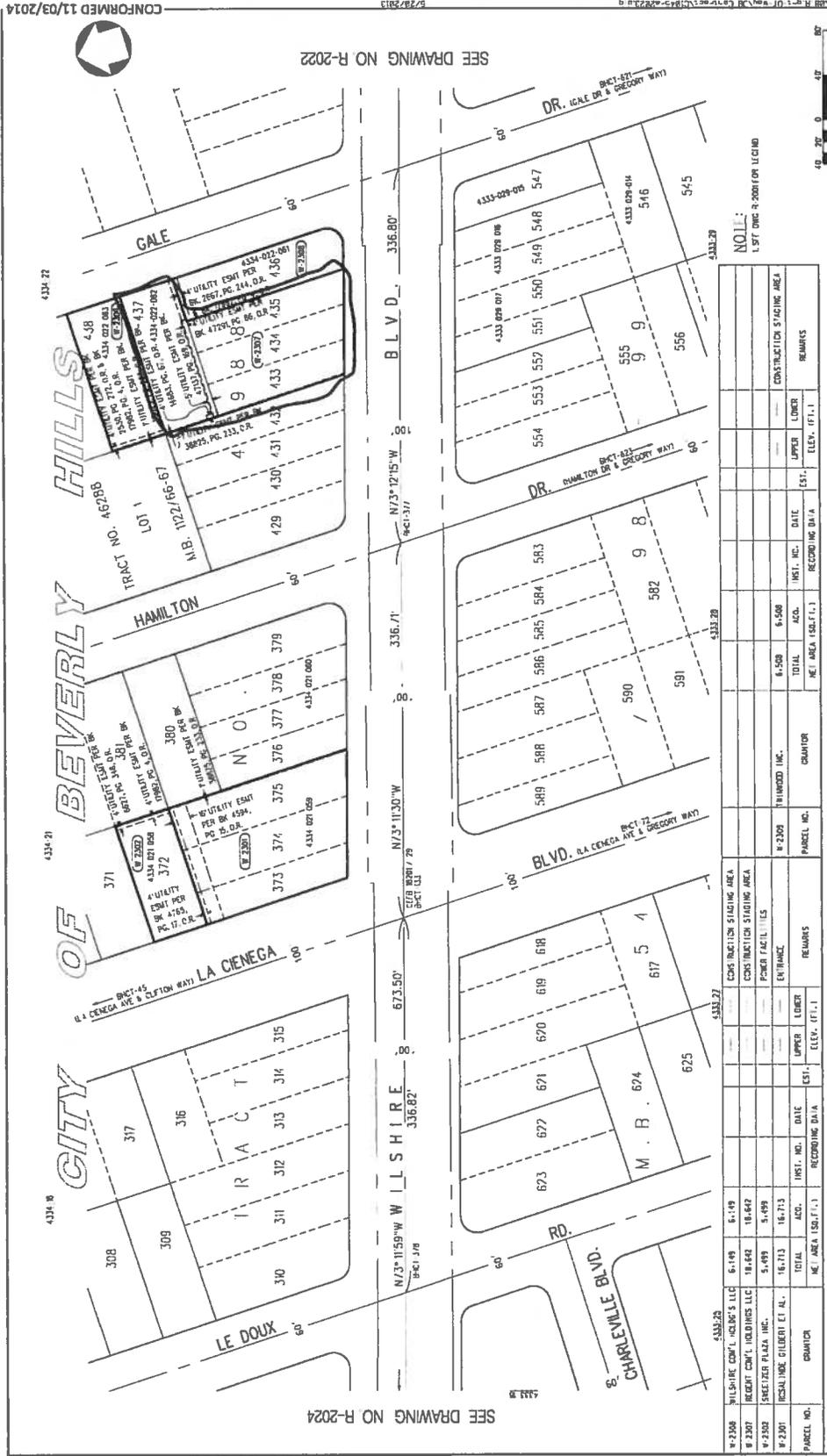
SECTION	DESCRIPTION	COBH	
		FRO	APPROVAL
32 80 00-1.05.G	Inventory/Equipment List		X
32 80 00-1.05.H	Backflow Prevention Assembly Device Test/Certification Reports		X
32 93 00	PLANTING		
32 93 00-1.05.B.2	Product Data		X
32 93 00-1.05.C	Shop Drawings		X
32 93 00-1.05.D	Soil Reports		X
32 93 00-1.05.E	Photographs		X
32 93 00-1.05.F	Inspection Certificates		X
33 00 01	PIPED UTILITIES		
33 00 01-1.05.C	Product Data		X
33 00 01-1.05.D	Shop Drawings		X
33 00 01-1.05.E	List of Pipe, Fittings, and Appurtenances		X
33 00 01-1.05.F	Certificate of Compliance		X
33 00 01-1.05.G	As-Built Drawings		X
33 00 01-1.05.H	Welder Certification and Qualified Welding Procedures		X
33 00 01- 1.05.I	Test Reports		X
33 00 01-1.05.J	Product Data for corrosion control materials		X
33 01 00	OPERATION AND MAINTENANCE OF UTILITIES		
33 01 00-1.05.B	Product Data		X
33 01 00-1.05.C	Working Drawings and Calculations of support of Facilities		X
33 01 00-1.05.D	Qualification Statements		X
33 11 00	WATER DISTRIBUTION SYSTEM		
33 11 00-1.05.B	Product Data		X
33 11 00-1.05.C	Shop Drawings		X
33 11 00-1.05.D	Welder Certification and Qualified Welding Procedures		X
33 11 00-1.05.E	Delegated Designs		X
33 11 00-1.05.F	Test and Evaluation Reports		X
33 30 00	SANITARY SEWAGE UTILITIES		
33 30 00-1.05.B	Product Data		X
33 30 00-1.05.C	Shop Drawings		X
33 30 00-1.05.D	Test and Evaluation Report		X
33 30 00-1.05.E	Bypass and Spill Prevention Plans		X
33 30 00-1.05.F	Pre and Post Installation CCTV Reports		X
33 40 00	STORM DRAINAGE SYSTEM		
33 40 00-1.05.B	Shop Drawings		X
33 40 00-1.05.C	Reports		X
33 71 19	ELECTRICAL UNDERGROUND DUCTS AND VAULTS		
33 71 19-1.05.B	Materials list	X	
33 71 19-1.05.C	Manufacturer's Specifications and Product Data	X	
33 71 19-1.05.D	Catalog Cuts	X	
33 71 19-1.05.E	Shop Drawings	X	
33 71 19-1.05.I	Copy of Submittals to DWPPS	X	
34 41 00	ROADWAY SIGNALING AND CONTROL EQUIPMENT		
34 41 00-1.05.B	Manufacturer's Product Data		X
34 41 00-1.05.C	Working Drawings		X
34 41 00-1.05.D	Site Test Results		X
34 41 00-1.05.E	As Built Plans		X
34 42 13.56	TC&C ROOM LAYOUTS		
34 42 13.56-1.05.B	Wilshire/La Cienega TC&C Room Layout (Part of Book of Plans)	X	
34 42 13.59	POWER DISTRIBUTION		
34 42 13.59-1.05.B	Typical Power Distribution Schematic	X	
34 42 13.59-1.05.C	Wilshire/La Cienega TC&C Room Power Distribution Schematic (Part of Book of Plans)	X	
34 42 13.98	DRAWINGS		

Los Angeles County Metropolitan Transportation Authority
 Westside Subway Extension, Section 1

SECTION	DESCRIPTION	COBH	
		FRO	APPROVAL
34 42 13.98-1.05C	Wilshire/La Cienega Books of Plans (including wayside installation drawings up to the control limits)	X	
34 42 13.99	SYSTEM TEST PROGRAM		
34 42 13.99-1.05.E	Factory Acceptance Test Procedures for Wilshire/La Cienega TC&C Room Equipment (complete in-situ assembly)	X	
34 42 13.99-1.05.G	Field Acceptance Test Procedures for Wilshire/La Cienega TC&C Room Equipment	X	
34 42 13.99-1.05.M	Factory Test Reports for Wilshire/La Cienega TC&C Room Equipment	X	

EXHIBIT I
Identification of Parcel W-2307

CONFORMED 11/03/2014



PARCEL NO.	GRANTOR	TOTAL ACQ.	INST. NO.	DATE	RECORDING DATA	REMARKS
W 2308	WILSHIRE CON'L HOLDING'S LLC	6.149	6-149	6-149	6-149	CONSTRUCTION STAGING AREA
W 2307	REGENT COMM' HOLDINGS LLC	18.642	18-642	18-642	18-642	CONSTRUCTION STAGING AREA
W 2300	SKEETER PLAZA, INC.	5.499	5-499	5-499	5-499	POWER FACILITIES
W 2301	RESALINDA GILBERT ET AL.	16.713	16-713	16-713	16-713	ENTRANCE
		TOTAL ACQ.	INST. NO.	DATE	RECORDING DATA	REMARKS
		6.508	6-508	6-508	6-508	UPPER LIDER
		6.508	6-508	6-508	6-508	LOWER LIDER
		6.508	6-508	6-508	6-508	ELEV. (FT.)
		NET AREA (SQ.FT.)	RECORDING DATA			

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

WESTSIDE SUBWAY EXTENSION SECTION 1

RIGHT OF WAY MAP

SHEET NO. 23

Scale: 1" = 40'

DATE: 05/22/2013

PROJECT NO: R-2023

CONTRACT NO: C1045

PREPARED BY: R-2023

DATE: 05/22/2013

SCALE: 1" = 40'

SHEET NO: 85

EXHIBIT J
Contract of Sale and Escrow Instructions for W-2307

CONTRACT OF SALE AND ESCROW INSTRUCTIONS

SELLER: LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY

BUYER: CITY OF BEVERLY HILLS

PROPERTY: 8421 Wilshire Boulevard, Beverly Hills, CA
APN 4334-022-062
LACMTA Parcel No. W-2307

This CONTRACT OF SALE AND ESCROW INSTRUCTIONS ("Agreement") is dated as of _____, 2017, and made and entered into by and between the **LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY**, a public agency ("LACMTA") and the **CITY OF BEVERLY HILLS**, a public agency (hereinafter referred to as "Buyer").

RECITALS

A. LACMTA owns the Property as defined in Section 1.

B. Subject to the terms and conditions of this Agreement, LACMTA desires to sell the Property and Buyer desires to buy the Property.

In consideration of the mutual covenants contained herein, and other valuable consideration, the adequacy of which is hereby acknowledged, the LACMTA and Buyer agree as follows:

1. Property Included in Sale. LACMTA hereby agrees to sell and convey to Buyer and Buyer agrees to purchase from LACMTA, subject to terms and conditions set forth herein, the following:

(a) that certain real property ("Real Property") located at 8421 Wilshire Boulevard in the City of Beverly Hills, County of Los Angeles, State of California (APN 4334-022-062) as more particularly described and shown on Exhibit "A" attached hereto; and

(b) all rights, privileges and easements appurtenant to the Real Property, including, without limitation, all of LACMTA's right, title and interest, if any, in all minerals, oil, gas and other hydrocarbon substances on and under the Real Property, as well as all development rights, air rights, water, water rights and water stock relating to the Real Property and any other easements, rights of way or appurtenances used in

connection with the beneficial use and enjoyment of the Property (all of which are collectively referred to as the "Appurtenances").

All of the items referred to in subparagraphs (a) and (b) of this Paragraph 1 are hereinafter collectively referred to as the "Property".

2. Purchase Price. Buyer shall pay LACMTA the sum of Fifteen Million Eight Hundred Thousand Dollars (\$15,845,000.00) ("Purchase Price").

3. Escrow. Within five (5) days after execution of this Agreement, LACMTA and Buyer shall deliver a copy of this Agreement to, and open an escrow ("Opening of Escrow") with, Stewart Title to consummate the sale of the Property in accordance with the terms of this Agreement. Stewart Title Escrow Department ("Escrow Holder") is located at 525 North Brand Boulevard, Glendale, California 91203. Escrow officer is Jeanine Weld whose phone number is 818-539-2430. Buyer and LACMTA shall execute such instructions as Escrow Holder may request which are not inconsistent with the provisions of this Agreement. Said Escrow shall close on or before one hundred and twenty (120) days from the Opening of Escrow, unless extended by a mutual written agreement executed by the LACMTA and Buyer ("the Closing Date").

Escrow Holder is authorized to act pursuant to this Agreement. The parties hereto agree that:

(a) At least three (3) business days prior to the Closing Date, Buyer shall deposit into Escrow (i) the Purchase Price, and the amount necessary to pay Escrow Holder's estimate of all costs and fees associated with the transaction contemplated by this Agreement; (ii) a Certificate of Acceptance for the Grant Deed, duly executed and acknowledged; (iii) a counterpart original, duly executed and acknowledged, of a temporary construction easement in the form attached hereto as Exhibit "B"; and (iii) all documents or instruments necessary to complete the purchase of the Property from LACMTA.

(b) At least three (3) business days prior to the Closing Date, LACMTA shall execute and deliver to Escrow Holder (i) a grant deed giving good and marketable title in fee simple absolute to Buyer; (ii) Two Million Three Hundred Forty-Five Thousand Dollars (\$2,345,000.00) as consideration for a temporary construction easement; (iii) a counterpart original, duly executed and acknowledged, of a temporary construction easement in the form attached hereto as Exhibit "B"; and (iv) any other information or instruments necessary to convey the Property to the Buyer.

(c) If applicable, all real property taxes, any penalties and interest thereon, and any delinquent or non-delinquent assessments or bonds against the Property which are liens and due as of the close of escrow shall be paid by LACMTA. Any assessments shall be prorated as of the Closing Date.

Escrow Holder is authorized to:

(a) Obtain from LACMTA documentation to place title in the condition necessary to enable conveyance pursuant to this Agreement.

(b) Pay and charge Buyer and LACMTA, equally, for any escrow charges and costs incurred in this transaction.

(c) Pay and charge Seller for CLTA title insurance costs incurred in this transaction. Buyer will pay for a survey and any costs for extended title insurance if Buyer elects to obtain extended coverage.

(d) Pay and charge Seller for any recording fees and documentary transfer tax (if applicable) incurred in this transaction.

(e) Disburse funds and record documents of conveyance when conditions of the escrow have been fulfilled by LACMTA and the Buyer.

(f) All disbursements shall be made in readily available funds by cashier's check issued by Escrow Holder or wire transfer.

(g) All funds received in the Escrow shall be deposited with other escrow funds in a general escrow account(s) of Escrow Holder with a State or National bank or savings and loan doing business in the State of California and approved by the LACMTA and Buyer, and may be transferred to any other general escrow account(s) meeting the foregoing requirements.

(h) All adjustments, except for taxes and assessments, are to be made on the basis of a 30-day month.

(i) Recording of any instrument delivered through the Escrow is authorized, including any required quitclaim deeds, if such action is necessary to place record title in condition to comply with the terms of the Agreement.

(j) Any amendments of, or supplements to, any instructions must be in writing executed by the LACMTA and Buyer.

(k) Provided the conditions in Section 4 are satisfied or waived, record the grant deed, followed by the temporary construction easement.

4. Conditions to Closing. The following conditions are conditions precedent to Buyer's obligation to purchase the property and to LACMTA's obligation to sell the property.

(a) Escrow Holder will obtain a Preliminary Title Report ("PTR") for the Real Property, and provide Buyer with a copy of said PTR together with copies of all documents referenced therein. Buyer shall have ten (10) business days from receipt of

said PTR to notify LACMTA and Escrow Holder in writing of Buyer's approval or disapproval of any such exceptions contained in the PTR. Failure of Buyer to expressly approve the PTR or disapprove any such exceptions within the aforementioned time limit shall be deemed to be an approval of the PTR. In the event Buyer disapproves any exception(s) in the PTR, LACMTA shall have until the date of closing to eliminate any disapproved exceptions from the policy of title insurance to be issued in favor of Buyer. If such exceptions are not eliminated, Buyer shall have the option to terminate the escrow or to waive the disapproval of the exception.

(b) Title to the Property shall be evidenced by a California Land Title Association (CLTA) standard policy of title insurance, or an American Land Title Association (ALTA) extended coverage policy if Buyer elects such coverage pursuant to Section 3(b), issued by a Title Company of Buyer's choice in the full amount of the Purchase Price, insuring fee simple title to the Real Property vested in the Buyer.

(c) Buyer shall have the right to inspect the Property for any and all reasons at its cost. Such inspection may include, without limitation, any environmental investigation (including, without limitation, surface borings and sampling). Said inspection shall be completed within five (5) business days before the Escrow Closing Date. Any environmental information that LACMTA may have shall be available for Buyer's review during normal working hours. In the event LACMTA is notified by the Environmental Protection Agency, or any other federal, state, or local governmental or quasi-governmental entity (collectively, "Environmental Agency") prior to Closing that the Property contains any toxic material, hazardous waste, hazardous substance, contaminant, pollutant, dangerous chemicals, or other environmental defects, LACMTA shall notify Buyer of said notice from an Environmental Agency, and Buyer may elect to terminate this Agreement by delivering written notice to the LACMTA and to Escrow Holder of such election to terminate within ten (10) calendar days of such party's receipt of the environmental consultant's report or notice from any Environmental Agency, and thereafter neither LACMTA or Buyer shall have any further liability hereunder, except escrow cancellation fees and costs and title company charges, if applicable. Buyer may elect to close this Escrow and agree to perform at its sole cost the corrective actions required based on the environmental assessment reports.

(d) Buyer shall have the right to investigate the Property, its value, zoning, building matters affecting the Property, its condition, and its suitability for Buyer's intended use. If Buyer gives written notice to LACMTA within ten (10) business days prior before the Escrow Closing Date of dissatisfaction with any of the referenced matters, and LACMTA and Buyer have not entered into a mutually agreeable resolution of the matter by five (5) days thereafter, this Agreement shall be deemed canceled unless Buyer elects to waive its prior dissatisfaction. If Buyer fails to give written notice of dissatisfaction within the above referenced ten (10) day period, the Buyer's right to object to such matters shall be deemed waived.

(e) The physical condition of the property shall be substantially the same at the Closing as on the date of execution of this Agreement, reasonable wear

and tear and loss by casualty excepted. The Property is being sold in its "As Is" condition.

(f) If any condition stated in this Agreement has not been eliminated or satisfied within the time limits and pursuant to the provisions of this Agreement, then the Buyer, as its sole and exclusive remedy, shall have the right to either waive the condition in question and proceed with the purchase or, in the alternative, terminate this Agreement. In the event, the Buyer elects to terminate this Agreement pursuant to this Section, all documents and funds shall be returned to the party providing them, and neither party shall have any further rights or obligations under this Agreement, except escrow and title cancellation fees.

5. Representations and Warranties

5.1 LACMTA hereby represents and warrants to Buyer that as of the date hereof the following are true and correct and LACMTA shall promptly notify Buyer if it becomes aware, prior to the Close of Escrow, that any of the following are no longer true and correct, whereupon Buyer may terminate this Agreement by written notification LACMTA.

(a) LACMTA has not received, nor is it aware of any notification from the Department of Building and Safety, Health Department, or other such City, County or State authority having jurisdiction, requiring any work to be done on or affecting the Property.

(b) LACMTA has not received notice of any litigation, arbitrations, claims, and violations from any agency, proceedings or other action pending or threatened against LACMTA that arises out of the ownership or operation of the Property or indicating an intent to condemn the Property or any portion thereof.

(c) LACMTA warrants that in the event any such notice or notices are received by LACMTA prior to the close of escrow and LACMTA is unable to or does not elect to perform the work required in said notice as LACMTA's sole cost and expense on or before the close of escrow, said notices shall be submitted to Buyer for its examination and written approval. Within ten (10) days after receipt thereof, Buyer must elect and notify Escrow Holder of its election to either (i) proceed with the escrow closing or (ii) terminate this Agreement.

(d) LACMTA has the power, right and authority to enter into this Agreement and the instruments referenced herein, and to take all actions necessary to consummate the transaction contemplated by this Agreement.

(e) The execution and delivery of this Agreement and the documents referenced herein, the incurrence of the obligation, the consummation of the transaction and the compliance with this Agreement and the documents referenced herein do not conflict with or result in the material breach of any term or condition of or constitute a

default under any bond, note, or other evidence of indebtedness or any agreement, indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument affecting the Property to which LACMTA is a party;

(f) The person(s) executing this Agreement and the instruments referenced herein on behalf of LACMTA have the power, right, and actual authority to bind the LACMTA to the terms and conditions of this Agreement;

(g) No attachments, executions proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other similar proceedings involving the Property are pending nor has it received notice that such proceedings are threatened against the LACMTA or involving the Property.

(h) LACMTA is the fee simple owner of the Property and has good, marketable and insurable title to the Property, free and clear of all liens, encumbrances, claims, covenants, conditions, restrictions, easements, rights of way, options, judgments or other matters, except as disclosed by the Preliminary Title Report.

(i) LACMTA has not entered into any other agreement for the sale or transfer of the Property, and there are no rights of first refusal or option to purchase the Property.

(j) There are no leases, subleases, occupancies or tenancies pertaining to the Property, and LACMTA has no knowledge of any oral agreements with anyone with respect to the occupancy of the Property.

(k) There are no service or maintenance agreements (oral or written) which affect the Property.

5.2 Buyer hereby represents and warrants to LACMTA that as of the date hereof the following are true and correct:

(a) Buyer has the power, right and authority to enter this Agreement and the instruments referenced herein, and to take all actions necessary to consummate the transaction contemplated by this Agreement.

(b) The person(s) executing this Agreement and the instruments referenced herein on behalf of the Buyer has the power, right, and actual authority to bind the Buyer to the terms and conditions of this Agreement;

(c) The execution and delivery of this Agreement and the documents referenced herein, the incurrance of the obligation, the consummation of the transaction and the compliance with this Agreement and the documents referenced herein do not conflict with or result in the material breach of any term or condition of or constitute a default under any bond, note, or other evidence of indebtedness or any agreement,

indenture, mortgage, deed of trust, loan, partnership agreement, lease or other agreement or instrument to which Buyer is a party.

6. Proration of Taxes. Real property taxes and operating expenses, if any, shall be prorated as of the date of recordation of the conveyance deed of the Property to Buyer. Buyer shall be responsible for any taxes due following the date of recordation of the conveyance deed.

7. Assignment. Neither this Agreement nor any interest therein shall be assignable by Buyer without LACMTA's prior written consent. While the TCE is in effect, Buyer shall not sell, lease, transfer or otherwise dispose of the Property or any portion thereof. After the TCE expires, Buyer can sell, lease, transfer or dispose of the Property to another party.

8. Loss by Fire or Other Casualty. In the event that, prior to Closing, the Property, or any part thereof, is destroyed or materially damaged, the Buyer shall have the right, exercisable by giving notice of such decision to LACMTA within fifteen (15) days after receiving written notice of such damage or destruction to terminate this Agreement. Buyer shall have the right to elect to accept the Property in its then condition by notifying Escrow Holder of same within the above referenced fifteen (15) day period of time with no reduction in the Purchase Price.

9. Time of the Essence. Time is of the essence of this Agreement.

10. Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been delivered, if hand delivered or deposited with a reputable overnight courier marked for "next day" delivery, postage prepaid, return receipt required, or three business days after deposit into U. S. Mail, certified or registered, postage prepaid and return receipt requested, and shall be addressed as followed:

To LACMTA: Metropolitan Transportation Authority
Real Estate Department
One Gateway Plaza, 13th Floor
Los Angeles, CA 90012
Attn: Velma C. Marshall
Deputy Executive Officer - Real Estate
(213) 922-2415
(213) 922-2440 (FAX)

To Buyer: City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210
Attn: Mahdi Aluzri
City Manager
(310) 285-1000

11. FIRPTA. The Foreign Investment in Real Property Tax Act (FIRPTA), IRC 1445, requires that every purchaser of U.S. real property must, unless an exemption applies, deduct and withhold from escrow proceeds ten percent (10%) of the gross sales price due the property seller. The Buyer will provide LACMTA through Escrow with an affidavit under penalty of perjury or "qualifying statement" as defined in FIRPTA that Buyer is not a "foreign person" as defined in FIRPTA. LACMTA and Buyer agree to execute and deliver as appropriate, any instrument, affidavit and statement, and to perform any acts reasonably necessary to carry out the provisions of FIRPTA and regulations promulgated thereunder.

12. Brokers. LACMTA represents to City that LACTMA has not engaged a Broker, and City represents to LACMTA that City has not engaged a broker.

13. Governing Laws. The parties hereto agree to comply with all applicable federal, state and local laws, regulations, codes, ordinances and administrative orders having jurisdiction over the parties, property or the subject matter of this Agreement, including, but not limited to, the 1964 Civil Rights Act and all amendments thereto, the Foreign Investment in Real Property Tax Act, the comprehensive Environmental Response Compensation and Liability Act, and The Americans With Disabilities Act. The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California.

14. Indemnification.

Each of the parties to this Agreement is a public entity. In contemplation of the provision 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 Section 895.4 and 895.6 of said Code, will each assume the full liability imposed upon it or upon any of its officers, agents, or employees by law, for injury caused by its negligent or wrongful act or omission occurring in its performance of this Agreement, to the same extent that such liability would be imposed in the absence of Section 895.2 of said Code. To achieve the above-stated purpose, the parties agree as follows:

a. LACMTA agrees to and shall defend, indemnify and hold harmless the Buyer from all loss, liability, demands, claims, proceedings, penalties, fines, causes of action, damage, costs and expenses, including attorney's fees and court costs, relating to the Property which arise from acts or occurrences that took place during

LACMTA's ownership of the Property prior to the Closing Date, acts or occurrences that arise directly or indirectly from LACMTA's use of the Property pursuant to the TCE attached as Exhibit "B", or from acts or occurrences which constitute a violation of one or more representations, warranties or covenants of LACMTA in this Agreement.

b. Buyer agrees to and shall defend, indemnify and hold harmless the LACMTA from all loss, liability, demands, claims, proceedings, penalties, fines, causes of action, damage, costs and expenses, including attorney's fees and court costs, relating to the Property which arise from acts or occurrences that take place after Buyer's ownership of the Property after the Closing Date, except for acts or occurrences of LACMTA, or from acts or occurrences which constitute a violation of one or more representations, warranties or covenants of Buyer in this Agreement.

The provision of Section 2778 of the California Civil Code is made a part hereto as if fully set forth herein. Each Party certifies that it has adequate self-insured retention of funds to meet any obligation arising from this Agreement.

15. Required Actions. LACMTA and Buyer agree to and shall execute all instruments and documents and take all actions necessary to consummate the transaction contemplated by this Agreement and use its good faith efforts to accomplish the Closing in accordance with this Agreement.

16. Covenants. LACMTA covenants and agrees as follows; (a) after the date of execution of this Agreement through the TCE termination, LACMTA shall comply with all laws, rules, regulations and ordinances relating in any way to the Property; and (b) LACMTA shall not subject the Property to any liens, encumbrances, covenants, conditions, restrictions, easements (except the TCE), rights of way or similar matters.

17. Property "As Is," "Where Is". Buyer understands and agrees that, except as expressly set forth in this Agreement, (i) the sale of the Property is without warranties, representations or guarantees made by LACMTA of any kind or nature, express or implied; and (ii) the Property is purchased by Buyer on an "AS-IS," "WHERE IS," "WITH ALL FAULTS" basis with regard to all matters, including without limitation, the physical condition of the Property and improvements, the seismic condition of the Property, or any economic aspects of the Property (including without limitation its value, desirability, developability and/or economic incentive, if any).

18. Miscellaneous.

18.1 If any term, covenant or condition of this Agreement shall be held by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this Agreement shall not be affected and each remaining term, covenant and condition shall be valid and enforceable to the fullest extent permitted by law unless any of the stated purposes of this Agreement would be defeated.

18.2 No waiver of any breach of any term, covenant or condition of this Agreement shall be deemed a waiver of any preceding or succeeding breach of that same of any other term, covenant or condition.

18.3 This Agreement shall be binding on and inure to the benefit of the successors and assigns of the parties.

18.4 Headings at the beginning of each Section are solely for the convenience of the parties and are not a part of this Agreement. Whenever the context requires, the singular shall include the plural and the masculine shall include the feminine, and vice versa.

18.5 Nothing in this Agreement is intended to confer on any person or entity who is not a party to this Agreement any rights or remedies.

19. Entire Agreement. This Agreement constitutes the entire agreement between Buyer and LACMTA regarding the Property, and supersedes all prior discussions, negotiations and agreements between Buyer and LACMTA, whether oral or written. Neither Buyer nor LACMTA shall be bound by any understanding, agreement, promise, representation or stipulation concerning the Property, express or implied, not specified herein.

IN WITNESS WHEREOF, the Agreement of Sale and Escrow Instructions has been duly executed as of the date written below each respective signature.

SELLER:

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY

By: _____
VELMA C. MARSHALL
Deputy Executive Officer - Real Estate

BUYER:

CITY OF BEVERLY HILLS

By: _____
JOHN A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:

(SEAL)

BYRON POPE,
City Clerk

Approved as to content:

MAHDI ALUZRI,
City Manager

DON RHOADS,
Director of Administrative Services/CFO

Approved as to form:

LAURENCE WIENER,
City Attorney

EXHIBIT A
Legal Description

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 433, 434, 435 AND 437 OF TRACT NO. 4988, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 54, PAGES 98 AND 99 OF MAPS, IN THE COUNTY RECORDER OF SAID COUNTY.

APN: 4334-022-062

NOTE:

THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:



JAMES L. ELLIOTT, P.L.S. 6334



9-6-12
DATE

W-2307

EXHIBIT B
Temporary Construction Easement

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Beverly Hills City Attorney's Office
455 N. Rexford Drive, Room 230
Beverly Hills, CA 90210
Attn: Laurence S. Wiener

APN: 4334-022-062

[SPACE ABOVE FOR RECORDER'S USE ONLY]

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT ("TCE"), dated for reference purposes only, February 21, 2017 is made and entered into by and between **the CITY OF BEVERLY HILLS ("Owner")** and **the LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY**, a public agency created under the laws of the state of California ("Metro").

RECITALS

A. Owner is purchasing from Metro real property located at 8421 Wilshire Boulevard, Beverly Hills, California, also designated as Assessor's Parcel No. 4334-022-062 ("Property") and identified in Exhibit "A", attached hereto and incorporated herein by this reference. The property contains approximately 18,630 square feet, and is being used by Metro for construction staging purposes in connection with Metro's Purple Line Extension Project, Section 1 ("Project"), currently under construction.

B. Metro is responsible for the design and construction of the Project, which extends from the Wilshire/Western Metro Station to just west of the proposed Wilshire/La Cienega Metro Station.

C. Metro has contracted with Skanska, Traylor and Shea, a Joint Venture ("Contractor") for the design and construction of the Project.

D. In connection with the construction of the Project, Metro requires temporary exclusive access to the entire Property containing approximately 18,360 square feet ("TCE Area") and identified in Exhibit "B", attached hereto and incorporated herein by this reference.

E. Contemporaneously with the execution of a Purchase and Sale Agreement in which Metro agrees to sell and Owner agrees to buy the Property, Owner is willing to grant to Metro, its contractors, employees, agents, successors and assigns, and Metro is willing to accept, a Temporary Construction Easement for the following purposes:

- (1) Ingress and egress over, through, and across the TCE Area by persons on foot and/or by vehicles to perform the activities permitted herein;
- (2) To install temporary fencing and/or sound walls within or along the TCE Area during construction, if necessary;
- (3) To construct a muck shaft approximately 55'(W) x 55'(L) x 70'(D) with the steel support piles (only) extending an additional 20' below the bottom of the open shaft; and
- (4) Any other purposes which Metro in its sole discretion reasonably believes are necessary or appropriate to complete the construction of the Project.

In order to make the area suitable for temporary construction activities, Metro may remove existing structures, walls, fences, paving, trees, shrubbery and other ground cover and other improvements within the TCE Area.

NOW, THEREFORE, and in consideration of the above recitals which are incorporated herein and of the covenants contained herein, Owner hereby agrees to grant to Metro a TCE in and to the TCE Area upon the following conditions:

AGREEMENT

1. This TCE is granted to Metro for the purposes described in Recital "E" above. Owner has the power, right, and authority to grant this TCE. Metro's right to enter the TCE Area is exclusive and personal to Metro, Contractor and their respective agents, employees and subcontractors, and is not assignable by Metro or Owner. In connection with the TCE, Metro may allow its agents, employees, attorneys, consultants and contractors (collectively "Metro Parties") to enter the TCE Area for the purposes set forth herein.
2. Metro accepts the Property in its "as is" condition without representation or warranty, express or implied, and subject to all matters of record.
3. At least three (3) days prior to the close of escrow for the Contract of Sale between Metro and Owner for the Property ("Agreement"), Metro shall deposit into the Escrow opened to consummate the sale of the Property in accordance with the terms of the Agreement the total amount of Two Million Three Hundred Forty-Five Thousand Dollars (\$2,345,000.00) for full use of the TCE Area and for the right to perform the activities described in Recital "E" in accordance with this TCE. Metro and Owner shall execute such instructions as Escrow Holder may request which are not inconsistent with the provisions of this TCE.
4. While this TCE is in effect, notwithstanding that Metro holds the TCE and Owner holds the fee title to the Property, Owner shall treat Metro and its Contractor for

regulatory purposes as if Metro is the owner of the Property, subject to the provisions of any agreement between Metro and Owner in connection with the Project.

5. Metro and Metro Parties shall perform all of their activities on the TCE Area in compliance with all applicable laws, rules, and regulations at Metro's expense.

6. Metro shall cause its agents, employees and contractors to comply with all terms and conditions hereof including, without limitation, the indemnity and insurance provisions set forth in paragraphs 10 and 11 below.

7. Metro's and Metro Parties' Permission to enter the TCE Area for the purposes in Recital "E" above is granted to Metro until the Project is operational, Metro no longer needs the Property to construct the Project as determined in Metro's sole discretion, or fifteen years from execution of this TCE, whichever is sooner.

8. Upon thirty (30) calendar day notice to Owner, Metro may terminate this TCE, in which case Metro shall no longer have permission to enter the TCE Area without Owner's consent.

9. Owner shall not sell, lease, transfer or otherwise dispose of the Property during the period of this TCE.

10. Metro shall indemnify, defend (by counsel acceptable to Owner) and hold harmless Owner from and against any and all losses (including damage to property or injuries to or death of any person), claims (including mechanics' liens) liabilities, penalties, liens, suits, judgments, damages, costs and expenses, including without limitation reasonable attorneys fees and costs, (collectively ("Claims")) to the extent arising or resulting out of the activities of Metro and Metro Parties on or about the Property except to the extent such Claims are caused solely by the negligence or willful misconduct of Owner or its agents or employees. This indemnity shall also include all Claims arising out of hazardous materials stored, transported, or released on or about the Property.

11. While this TCE is in effect, Metro shall require that its Contractor and any other entity whose personnel will enter upon the TCE Area maintain in full force, at their sole cost and expense throughout the term of this TCE, and furnish evidence of the following insurance:

- i) Comprehensive General Liability Insurance having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence with an aggregate limit of Four Million Dollars (\$4,000,000) (including coverage against bodily injury or death, property damage and contractual liability); and
- ii) Automobile Liability Insurance in the amount of Ten Million Dollars (\$10,000,000) per accident for bodily injury or disease; and

- iii) Employer's Liability Insurance coverage in the amount of Two Million Dollars (\$2,000,000) per accident, and such additional coverages as may be required by any Employee Benefit Acts or other statutes applicable where the work is to be performed; and
- iv) Worker's Compensation coverage as provided by the State of California Labor Code

All such coverages shall be primary to any policy that may be maintained by Owner, and shall be maintained until all work on the Property has been completed and Contractor has withdrawn all equipment and personnel from the Property and restored the Property to its pre-existing condition. Contractor shall pay all premiums and assessments on the insurance coverage required by this paragraph when due and shall provide Owner certificates of insurance required to be maintained by Contractor prior to the date of the commencement of any activities on the TCE Area. The certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) calendar days' prior written notice to Owner. Owner shall be named as additional insured in each of the insurance policies except worker's compensation.

12. Metro shall return the Property to Owner as vacant property in the condition it was received and free of all hazardous materials. Metro shall completely remove the following from the Property: (1) sound wall piles; and (2) struts STA – 33C, STB – 33C, STC – 33C, STD – 33C, STB – 33B, STC – 33B, and STD – 33B, as identified in the Project's "Strut and Waler Plan" for the Wilshire/La Cienega Station ("Plan"). Metro may leave in place piles 232, 252, and 253, as identified in the Plan, provided that if Owner cannot install a new support of excavation due to piles 232, 252 and/or 253 without incurring additional construction costs, then Metro shall, at a cost not to exceed Five Hundred Thousand Dollars (\$500,000.00), remove the pile(s), reimburse Owner for removing the pile(s), or reimburse Owner for the difference between the City's construction costs to install a new support of excavation with the pile(s) in place and the City's construction costs to install a new support of excavation with the pile(s) removed. The remainder of the muck shaft steel and associated infrastructure will be removed to a depth of -6' on the Property and then the muck shaft will be backfilled with an appropriate material, satisfactory to Owner, to the ground surface.

13. Notices to **Owner** shall be given as follows:

Mahdi Aluzri
City Manager
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210
(310) 285-1000

Notices to **Metro** shall be given as follows:

LOS ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY
c/o Real Estate Department
1 Gateway Plaza, Mail Stop 99-18-4
Los Angeles, CA 90012-2952
Attn: Deputy Executive Officer – Real Estate
213 922-2415 (Telephone)
213 922-2440 (FAX)

All written notices shall be deposited in the United States mail, postage prepaid or delivered personally or by overnight courier.

15. Any amendment to this TCE must be made in writing and signed by Metro and the Owner.

16. Owner shall notify any future owners, of this temporary use of the Property, if the Property is made available for sale during the period of this TCE.

17. If any term, covenant or condition of this TCE shall be held by a court of competent jurisdiction to be invalid or unenforceable, then the remainder of this TCE shall not be affected and each remaining term, covenant and condition shall be valid and enforceable to the fullest extent permitted by law unless any of the stated purposes of this TCE would be defeated.

18. No waiver of any breach of any term, covenant or condition of this TCE shall be deemed a waiver of any preceding or succeeding breach of that same of any other term, covenant or condition.

19. This TCE shall be binding on and inure to the benefit of the successors and assigns of the parties.

20. Whenever the context requires, the singular shall include the plural and the masculine shall include the feminine, and vice versa.

21. Nothing in this TCE is intended to confer on any person or entity who is not a party to this TCE any rights or remedies.

22. This TCE constitutes the entire agreement between Owner and Metro regarding the Property, and supersedes all prior discussions, negotiations and agreements between Owner and Metro, whether oral or written. Neither Owner nor Metro shall be bound by any understanding, agreement, promise, representation or stipulation concerning the Property, express or implied, not specified herein.

23. The validity, interpretation, enforceability, and performance of this TCE shall be governed by and construed in accordance with the laws of the State of California.

24. Metro and Owner agree that any and all disputes arising out of the terms of this TCE, their interpretation, and any of the matters herein, shall be subject to the dispute resolution process contained in Article XXVIII of the Memorandum of Agreement for Contract C1045 of the Purple Line Extension Project – Segment 1 between Metro and Owner, into which this TCE is incorporated and attached.

CITY OF BEVERLY HILLS:

By: _____
JOHN A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:

(SEAL)

BYRON POPE,
City Clerk

Approved as to content:

MAHDI ALUZRI,
City Manager

DON RHOADS,
Director of Administrative Services/CFO

Approved as to form:

LAURENCE WIENER,
City Attorney

METRO:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____

Name: Velma C. Marshall

Title: Deputy Executive Officer

Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
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Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "A"
LEGAL DESCRIPTION

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 433, 434, 435 AND 437 OF TRACT NO. 4988, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 54, PAGES 98 AND 99 OF MAPS, IN THE COUNTY RECORDER OF SAID COUNTY.

APN: 4334-022-062

NOTE:

THIS LEGAL DESCRIPTION WAS NOT PREPARED FOR ANY PURPOSE THAT WOULD BE IN VIOLATION OF THE STATE OF CALIFORNIA SUBDIVISION MAP ACT OR LOCAL ORDINANCES OF THE GOVERNING BODY HAVING JURISDICTION.

PREPARED BY:



JAMES L. ELLIOTT, P.L.S. 6334

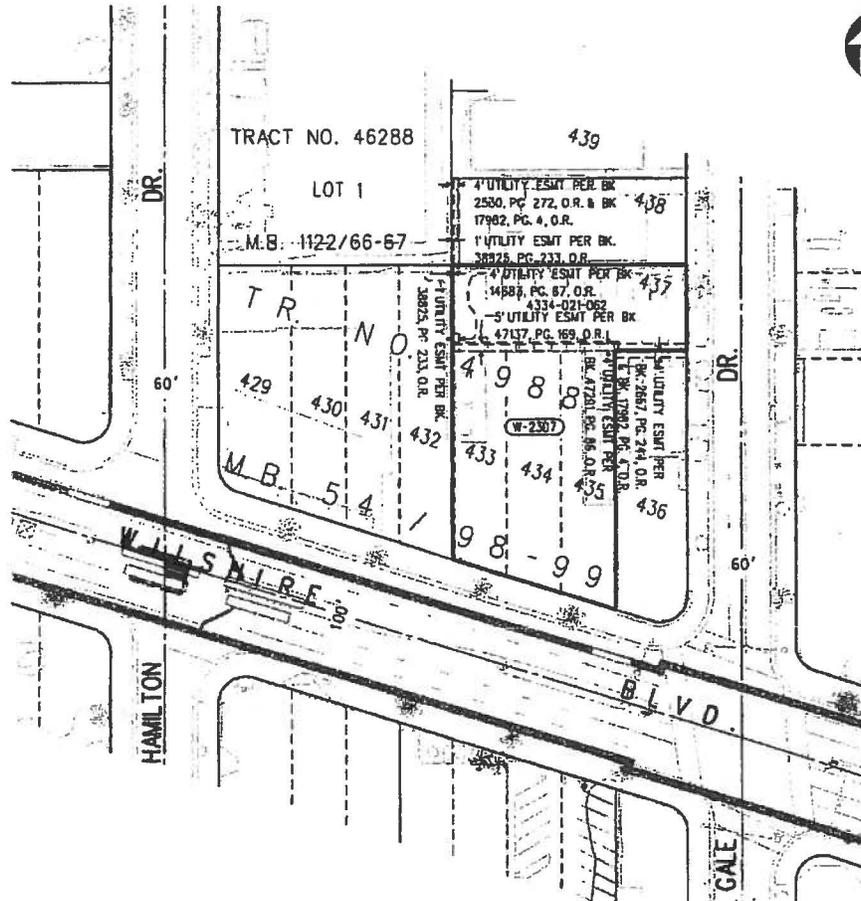


9-6-12
DATE

W-2307

EXHIBIT B
TEMPORARY CONSTRUCTION EASEMENT AREA

GRANTOR : REGENT COMMERCIAL HOLDINGS LLC		The data shown on this map and/or plat are compiled from public sources and are subject to field verification.	
DESCRIPTION : LOTS 433, 434, 435, & 437 OF TRACT NO. 4988, M.B. 54/98-99			
BENCH MARK : N/A			
TITLE REPORT : FIDELITY NATIONAL TITLE NO. 11-259928463-RH	ADDRESS : 8421 WILSHIRE BLVD. BEVERLY HILLS 90211		
ASSESSOR'S REF. : 4334-022-062	R.O.W. REFERENCE : R-0231 W-2307	NO.	DATE
		REVISION DESCRIPTION	



PARCEL	W-2307			
AREA - SQUARE FEET	18,642			
Metro LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY		PARCEL PLAT W-2307 SHEET 1 OF 1		CONTRACT NO./DESIGN UNIT
SUBMITTED BY: <i>Paul D. Wise</i> L.S. 4249				SCALE 1" = 80'
APPROVED BY: DENNIS NOWAK MTA PROJECT MANAGER				DATE 10/28/2011
				DRAWN BY R. NACION
				CHECKED BY P. WISE
				REV. DATE
				REV. NO.

EXHIBIT K
Temporary Construction Easement for Parcel W-2307

RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:

City of Beverly Hills City Attorney's Office
455 N. Rexford Drive, Room 230
Beverly Hills, CA 90210
Attn: Laurence S. Wiener

APN: 4334-022-062

[SPACE ABOVE FOR RECORDER'S USE ONLY]

TEMPORARY CONSTRUCTION EASEMENT

THIS TEMPORARY CONSTRUCTION EASEMENT AGREEMENT ("TCE"), dated for reference purposes only, February 21, 2017 is made and entered into by and between **the CITY OF BEVERLY HILLS ("Owner")** and **the LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY**, a public agency created under the laws of the state of California ("Metro").

1. RECITALS

A. Owner is purchasing from Metro real property located at 8421 Wilshire Boulevard, Beverly Hills, California, also designated as Assessor's Parcel No. 4334-022-062 ("Property") and identified in Exhibit "A", attached hereto and incorporated herein by this reference. The property contains approximately 18,630 square feet, and is being used by Metro for construction staging purposes in connection with Metro's Purple Line Extension Project, Section 1 ("Project"), currently under construction.

B. Metro is responsible for the design and construction of the Project, which extends from the Wilshire/Western Metro Station to just west of the proposed Wilshire/La Cienega Metro Station.

C. Metro has contracted with Skanska, Traylor and Shea, a Joint Venture ("Contractor") for the design and construction of the Project.

D. In connection with the construction of the Project, Metro requires temporary exclusive access to the entire Property containing approximately 18,360 square feet ("TCE Area") and identified in Exhibit "B", attached hereto and incorporated herein by this reference.

E. Contemporaneously with the execution of a Purchase and Sale Agreement in which Metro agrees to sell and Owner agrees to buy the Property, Owner is willing to grant to Metro, its contractors, employees, agents, successors and assigns, and Metro is willing to accept, a Temporary Construction Easement for the following purposes:

- (5) Ingress and egress over, through, and across the TCE Area by persons on foot and/or by vehicles to perform the activities permitted herein;
- (6) To install temporary fencing and/or sound walls within or along the TCE Area during construction, if necessary;
- (7) To construct a muck shaft approximately 55'(W) x 55'(L) x 70'(D) with the steel support piles (only) extending an additional 20' below the bottom of the open shaft; and
- (8) Any other purposes which Metro in its sole discretion reasonably believes are necessary or appropriate to complete the construction of the Project.

In order to make the area suitable for temporary construction activities, Metro may remove existing structures, walls, fences, paving, trees, shrubbery and other ground cover and other improvements within the TCE Area.

NOW, THEREFORE, and in consideration of the above recitals which are incorporated herein and of the covenants contained herein, Owner hereby agrees to grant to Metro a TCE in and to the TCE Area upon the following conditions:

2. AGREEMENT

1. This TCE is granted to Metro for the purposes described in Recital "E" above. Owner has the power, right, and authority to grant this TCE. Metro's right to enter the TCE Area is exclusive and personal to Metro, Contractor and their respective agents, employees and subcontractors, and is not assignable by Metro or Owner. In connection with the TCE, Metro may allow its agents, employees, attorneys, consultants and contractors (collectively "Metro Parties") to enter the TCE Area for the purposes set forth herein.

2. Metro accepts the Property in its "as is" condition without representation or warranty, express or implied, and subject to all matters of record.

3. At least three (3) days prior to the close of escrow for the Contract of Sale between Metro and Owner for the Property ("Agreement"), Metro shall deposit into the Escrow opened to consummate the sale of the Property in accordance with the terms of the Agreement the total amount of Two Million Three Hundred Forty-Five Thousand Dollars (\$2,345,000.00) for full use of the TCE Area and for the right to perform the activities described in Recital "E" in accordance with this TCE. Metro and Owner shall execute such instructions as Escrow Holder may request which are not inconsistent with the provisions of this TCE.

4. While this TCE is in effect, notwithstanding that Metro holds the TCE and Owner holds the fee title to the Property, Owner shall treat Metro and its Contractor for

regulatory purposes as if Metro is the owner of the Property, subject to the provisions of any agreement between Metro and Owner in connection with the Project.

5. Metro and Metro Parties shall perform all of their activities on the TCE Area in compliance with all applicable laws, rules, and regulations at Metro's expense.

6. Metro shall cause its agents, employees and contractors to comply with all terms and conditions hereof including, without limitation, the indemnity and insurance provisions set forth in paragraphs 10 and 11 below.

7. Metro's and Metro Parties' Permission to enter the TCE Area for the purposes in Recital "E" above is granted to Metro until the Project is operational, Metro no longer needs the Property to construct the Project as determined in Metro's sole discretion, or fifteen years from execution of this TCE, whichever is sooner.

8. Upon thirty (30) calendar day notice to Owner, Metro may terminate this TCE, in which case Metro shall no longer have permission to enter the TCE Area without Owner's consent.

9. Owner shall not sell, lease, transfer or otherwise dispose of the Property during the period of this TCE.

10. Metro shall indemnify, defend (by counsel acceptable to Owner) and hold harmless Owner from and against any and all losses (including damage to property or injuries to or death of any person), claims (including mechanics' liens) liabilities, penalties, liens, suits, judgments, damages, costs and expenses, including without limitation reasonable attorneys fees and costs, (collectively ("Claims")) to the extent arising or resulting out of the activities of Metro and Metro Parties on or about the Property except to the extent such Claims are caused solely by the negligence or willful misconduct of Owner or its agents or employees. This indemnity shall also include all Claims arising out of hazardous materials stored, transported, or released on or about the Property.

11. While this TCE is in effect, Metro shall require that its Contractor and any other entity whose personnel will enter upon the TCE Area maintain in full force, at their sole cost and expense throughout the term of this TCE, and furnish evidence of the following insurance:

- v) Comprehensive General Liability Insurance having a combined single limit of not less than Two Million Dollars (\$2,000,000) per occurrence with an aggregate limit of Four Million Dollars (\$4,000,000) (including coverage against bodily injury or death, property damage and contractual liability); and
- vi) Automobile Liability Insurance in the amount of Ten Million Dollars (\$10,000,000) per accident for bodily injury or disease; and

- vii) Employer's Liability Insurance coverage in the amount of Two Million Dollars (\$2,000,000) per accident, and such additional coverages as may be required by any Employee Benefit Acts or other statutes applicable where the work is to be performed; and
- viii) Worker's Compensation coverage as provided by the State of California Labor Code

All such coverages shall be primary to any policy that may be maintained by Owner, and shall be maintained until all work on the Property has been completed and Contractor has withdrawn all equipment and personnel from the Property and restored the Property to its pre-existing condition. Contractor shall pay all premiums and assessments on the insurance coverage required by this paragraph when due and shall provide Owner certificates of insurance required to be maintained by Contractor prior to the date of the commencement of any activities on the TCE Area. The certificate shall expressly provide that such policies shall not be cancelable or otherwise subject to modification except after thirty (30) calendar days' prior written notice to Owner. Owner shall be named as additional insured in each of the insurance policies except worker's compensation.

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City Manager
City of Beverly Hills
455 North Rexford Drive
Beverly Hills, CA 90210
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CITY OF BEVERLY HILLS:

By:

JOHN A. MIRISCH
Mayor of the City of Beverly Hills

ATTEST:

(SEAL)

BYRON POPE,
City Clerk

Approved as to content:

MAHDI ALUZRI,
City Manager

DON RHOADS,
Director of Administrative Services/CFO

Approved as to form:

LAURENCE WIENER,
City Attorney

METRO:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____

Name: Velma C. Marshall

Title: Deputy Executive Officer

Date: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Los Angeles)

On _____, before me, _____,
(insert name and title of the officer)

Notary Public, personally appeared _____,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

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Signature _____ (Seal)

EXHIBIT "A"
LEGAL DESCRIPTION

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

LOTS 433, 434, 435 AND 437 OF TRACT NO. 4988, IN THE CITY OF BEVERLY HILLS, COUNTY OF LOS ANGELES, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 54, PAGES 98 AND 99 OF MAPS, IN THE COUNTY RECORDER OF SAID COUNTY.

APN: 4334-022-062

NOTE:

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PREPARED BY:



JAMES L. ELLIOTT, P.L.S. 6334

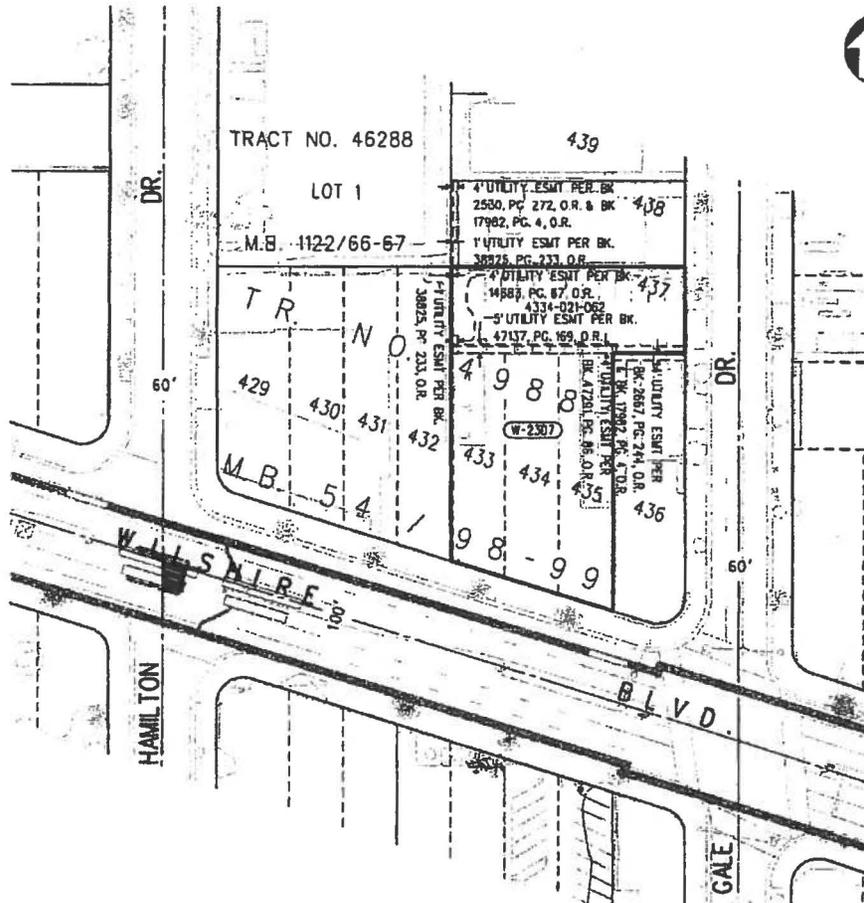


9-6-12
DATE

W-2307

EXHIBIT B
TEMPORARY CONSTRUCTION EASEMENT AREA

GRANTOR : REGENT COMMERCIAL HOLDINGS LLC		The data shown on this map and/or plot are compiled from public sources and are subject to field verification.	
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BENCH MARK : N/A			
TITLE REPORT : FIDELITY NATIONAL TITLE NO. 11-259928463-RH	ADDRESS : 8421 WILSHIRE BLVD. BEVERLY HILLS 90211		
ASSESSOR'S REF. : 4334-022-062	R.O.W. REFERENCE : R-023; W-2307	NO.	DATE
		REVISION DESCRIPTION	



PARCEL	W-2307		
AREA - SQUARE FEET	18,642		
LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY		PARCEL PLAT W-2307 SHEET 1 OF 1	
APPROVED BY: <i>Geminio Moratillo</i> MTA PROJECT MANAGER			
SUBMITTED BY: <i>Paul Wise</i> L.S. 4249		CONTRACT NO./DESIGN UNIT SCALE 1"=80' DATE 10/28/2011 DRAWN BY R. NACION CHECKED BY P. WISE REV. DATE REV. NO.	