

# **Metro**

*Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza  
3rd Floor Board Room  
Los Angeles, CA*



**Metro®**

## **Agenda - Final**

**Thursday, November 16, 2017**

**11:30 AM**

**One Gateway Plaza, Los Angeles, CA 90012,  
3rd Floor, Metro Board Room**

### **Executive Management Committee**

*Eric Garcetti, Chair*

*Sheila Kuehl, Vice Chair*

*James Butts, 2nd Vice Chair*

*Jacquelyn Dupont-Walker*

*John Fasana*

*Mark Ridley-Thomas*

*Carrie Bowen, non-voting member*

*Phillip A. Washington, Chief Executive Officer*

## **METROPOLITAN TRANSPORTATION AUTHORITY BOARD RULES**

### **(ALSO APPLIES TO BOARD COMMITTEES)**

#### **PUBLIC INPUT**

A member of the public may address the Board on agenda items, before or during the Board or Committee's consideration of the item for one (1) minute per item, or at the discretion of the Chair. A request to address the Board should be submitted in person at the meeting to the Board Secretary. Individuals requesting to speak on more than three (3) agenda items will be allowed to speak up to a maximum of three (3) minutes per meeting. For individuals requiring translation service, time allowed will be doubled.

Notwithstanding the foregoing, and in accordance with the Brown Act, this agenda does not provide an opportunity for members of the public to address the Board on any Consent Calendar agenda item that has already been considered by a Committee, composed exclusively of members of the Board, at a public meeting wherein all interested members of the public were afforded the opportunity to address the Committee on the item, before or during the Committee's consideration of the item, and which has not been substantially changed since the Committee heard the item.

The public may also address the Board on non-agenda items within the subject matter jurisdiction of the Board during the public comment period, which will be held at the beginning and/or end of each meeting. Each person will be allowed to speak for up to three (3) minutes per meeting and may speak no more than once during the Public Comment period. Speakers will be called according to the order in which the speaker request forms are received. Elected officials, not their staff or deputies, may be called out of order and prior to the Board's consideration of the relevant item.

In accordance with State Law (Brown Act), all matters to be acted on by the MTA Board must be posted at least 72 hours prior to the Board meeting. In case of emergency, or when a subject matter arises subsequent to the posting of the agenda, upon making certain findings, the Board may act on an item that is not on the posted agenda.

**CONDUCT IN THE BOARD ROOM** - The following rules pertain to conduct at Metropolitan Transportation Authority meetings:

**REMOVAL FROM THE BOARD ROOM** The Chair shall order removed from the Board Room any person who commits the following acts with respect to any meeting of the MTA Board:

- a. Disorderly behavior toward the Board or any member of the staff thereof, tending to interrupt the due and orderly course of said meeting.
- b. A breach of the peace, boisterous conduct or violent disturbance, tending to interrupt the due and orderly course of said meeting.
- c. Disobedience of any lawful order of the Chair, which shall include an order to be seated or to refrain from addressing the Board; and
- d. Any other unlawful interference with the due and orderly course of said meeting.

#### **INFORMATION RELATING TO AGENDAS AND ACTIONS OF THE BOARD**

Agendas for the Regular MTA Board meetings are prepared by the Board Secretary and are available

## DISCLOSURE OF CONTRIBUTIONS

The State Political Reform Act (Government Code Section 84308) requires that a party to a proceeding before an agency involving a license, permit, or other entitlement for use, including all contracts (other than competitively bid, labor, or personal employment contracts), shall disclose on the record of the proceeding any contributions in an amount of more than \$250 made within the preceding 12 months by the party, or his or her agent, to any officer of the agency, additionally PUC Code Sec. 130051.20 requires that no member accept a contribution of over ten dollars (\$10) in value or amount from a construction company, engineering firm, consultant, legal firm, or any company, vendor, or business entity that has contracted with the authority in the preceding four years. Persons required to make this disclosure shall do so by filling out a "Disclosure of Contribution" form which is available at the LACMTA Board and Committee Meetings. Failure to comply with this requirement may result in the assessment of civil or criminal penalties.

## ADA REQUIREMENTS

Upon request, sign language interpretation, materials in alternative formats and other accommodations are available to the public for MTA-sponsored meetings and events. All requests for reasonable accommodations must be made at least three working days (72 hours) in advance of the scheduled meeting date. Please telephone (213) 922-4600 between 8 a.m. and 5 p.m., Monday through Friday. Our TDD line is (800) 252-9040.

## LIMITED ENGLISH PROFICIENCY

A Spanish language interpreter is available at all Board Meetings. Interpreters for Committee meetings and all other languages must be requested 72 hours in advance of the meeting by calling (213) 922-4600 or (323) 466-3876.



**323.466.3876 x2**

*Español*

**323.466.3876 x3**

한국어

日本語

中文

русский

ភាសាខ្មែរ

ภาษาไทย

Tiếng Việt

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## HELPFUL PHONE NUMBERS

Copies of Agendas/Record of Board Action/Recordings of Meetings - (213) 922-4880 (Records Management Department)

General Information/Rules of the Board - (213) 922-4600

Internet Access to Agendas - [www.metro.net](http://www.metro.net)

TDD line (800) 252-9040

**NOTE: ACTION MAY BE TAKEN ON ANY ITEM IDENTIFIED ON THE AGENDA**

**CALL TO ORDER****ROLL CALL****APPROVE Consent Calendar Item: 49.**

**Consent Calendar Items are approved by one motion unless held by a Director for discussion and/or separate action.**

**CONSENT CALENDAR****49. SUBJECT: DIGITAL MEDIA CONTRACTS**[2017-0744](#)**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute:

- A. Contract Ratification and Modification No. 1 to Contract No. PS71103378 with Steve Hymon (editor of The Source) for writing, editing and supervisory services for the Public Relations Digital Media group, to extend the contract term from July 1, 2016 to June 30, 2018 increasing the total authorized not-to-exceed amount by \$398,972.75 from \$145,000 to a new total of \$543,972.75; and
- B. Contract Ratification and Modification No. 1 to Contract No. PS71103377 with Maria Luisa Arredondo-Pagaza (editor of El Pasajero) for editing, writing and translation services for the Public Relations Digital Media group, to extend the Contract term from July 1, 2016 to June 30, 2018 increasing the total authorized not-to-exceed amount by \$156,201.25 from \$150,000 to a new total of \$306,201.25.

**Attachments:**    [Attachment A-1 - Procurement Summary PS71103377](#)  
[Attachment A-2 - Procurement Summary PS71103378](#)  
[Attachment B-1 - Contract Modification Change Order Log PS71103377](#)  
[Attachment B-2 - Contract Modification Change Order Log PS71103378](#)  
[Attachment C-1 - DEOD Summary PS-7110-3377 \(Pagaza\)](#)  
[Attachment C-2 - DEOD Summary PS-7110-3378 \(Hymon\)](#)

**NON-CONSENT****11. SUBJECT: CESAR E. CHAVEZ AND SOTO JOINT DEVELOPMENT**[2017-0630](#)**RECOMMENDATION**

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute and enter into a joint



development agreement ("JDA"), ground lease ("Ground Lease") and other related documents with La Veranda, L.P. (the "Developer"), an affiliate of Abode Communities, for the construction and operation of a mixed-use, affordable housing project (the "Project") on 85,378 square feet of Metro-owned property located near the corner of Cesar E. Chavez Avenue and Soto Street in Boyle Heights (the "Site") in accordance with the Summary of Key Terms and Conditions attached hereto as Attachment A;

- B. AUTHORIZING an exception to the Joint Development Policy, to allow for a 42% discount to the fair market rent for the Site under the Ground Lease (above the current policy limit of 30%) to allow the Project to be financially feasible while meeting the community's desire for deeper affordability of the housing units; and
- C. FINDING that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines in accordance with the Qualifying Criteria set forth on Attachment C and authorize the Chief Executive Officer to file a Notice of Exemption for the Project consistent with such exemption.

Attachments:     [Attachment A - Summary of Key Terms and Conditions](#)  
                         [Attachment B - Conceptual Site Plan and Renderings](#)  
                         [Attachment C - Qualifying Criteria for CEQA Exemption](#)

**12. SUBJECT:     EXPO/CRENSHAW STATION JOINT  
                         DEVELOPMENT PROJECT**

[2017-0476](#)

**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute a two phase, six-month Short Term Exclusive Negotiation Agreement and Planning Document (Short Term ENA) with Watt Companies, doing business as WIP-A, LLC (Developer) and the County of Los Angeles (County) for the development of 1.77 acres of Metro-owned property and 1.66 acres of County-owned property at the Expo/Crenshaw Station (Site), subject to resolution of protest(s), if any.

Attachments:     [Attachment A - Site Map](#)  
                         [Attachment B - Procurement Summary](#)  
                         [Attachment C - Site Plan and Renderings](#)  
                         [Presentation - Expo Crenshaw JD](#)

**37. SUBJECT:     STATE AND FEDERAL REPORT**

[2017-0734](#)

**RECOMMENDATION**

RECEIVE AND FILE State and Federal Legislative Report.

**38. SUBJECT: FEDERAL AUTONOMOUS VEHICLE LEGISLATION**[2017-0767](#)**RECOMMENDATION**

ADOPT staff recommended positions:

- A. **HOUSE RESOLUTION 3388 (Latta)** - Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act - **WORK WITH AUTHOR**
- B. **SENATE 1885 (Thune)** - American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act - **WORK WITH AUTHOR**

**Attachments:** [Attachment A - HR 3388 & S 1885 Legislative Analysis FINAL](#)

[Attachment B - HR 3388 \(Latta\).](#)

[Attachment C - S 1885 \(Thune\).](#)

**39. SUBJECT: COMMUNICATIONS SUPPORT SERVICES BENCH**[2017-0699](#)**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to:

- A. AWARD seven-year, task order based bench Contract Nos. PS44432001 through PS44432010, with the following firms: Arellano Associates, Celtis Ventures, Communications Lab, Community Connections, Consensus, Dakota Communications, ETA Agency, Lee Andrews Group, MBI Media, and the Robert Group, for Communications Support Services, for a not-to-exceed amount of \$9,505,568 for the base three-year term effective January 1, 2018 through December 31, 2020, plus \$5,393,760 for each of the two, two-year options, for a combined total amount not-to-exceed \$20,293,088, subject to resolution of protest(s), if any; and
- B. EXECUTE Task Orders under these Contracts for communications support services in a total amount not-to-exceed \$9,6505,568.

**Attachments:** [ATTACHMENT A - Procurement Summary](#)

[Attachment B - DEOD Summary](#)

**46. SUBJECT: U.S. DEPARTMENT OF TRANSPORTATION CIVIL RIGHTS INVESTIGATION**[2017-0761](#)**RECOMMENDATION**

RECEIVE AND FILE status report on the resolution of the U.S. Department of Transportation (USDOT) civil rights investigation.

**Attachments:** [Attachment A - Letter of Agreement with DOT](#)

**47. SUBJECT: MEASURE M EARLY PROJECT DELIVERY STRATEGY**[2017-0686](#)**RECOMMENDATION**

APPROVE the policy for a Measure M Early Project Delivery Strategy, outlined in Attachment A.

**Attachments:**    [Attachment A - Early Project Delivery Strategy](#)  
                          [Attachment B - FAQ](#)  
                          [Attachment C - PowerPoint Presentation](#)

**48. SUBJECT: METRO SYSTEM ADVERTISING (LICENSE TO  
SELL AND DISPLAY ADVERTISING ON BUS AND  
RAIL)**[2017-0718](#)**RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to:

- A. AWARD Contract No. PS41099B - License to Sell and Display Advertising on Metro Bus System to Outfront Media Group, LLC for 10 years, generating an aggregate minimum guarantee of \$262,250,000 revenue for Metro, subject to resolution of protest(s), if any;
- B. AWARD Contract No. PS41099R - License to Sell and Display Advertising on Metro Rail System to Intersection Parent, Inc. for 10 years, generating an aggregate minimum guarantee of \$42,902,200 revenue for Metro, subject to resolution of protest(s), if any; and
- C. AMEND the FY18 Budget to add three (3) Full Time Employees (FTEs) to support implementation of digital advertising and the new revenue contracts; FTEs will be funded by revenues generated from No. PS41099B and No. PS41099R.

**Attachments:**    [Attachment A - Procurement Summary](#)  
                          [Attachment B - Financial Summary](#)  
                          [Attachment C - DEOD Summary](#)

## Adjournment

### GENERAL PUBLIC COMMENT

Consideration of items not on the posted agenda, including: items to be presented and (if requested) referred to staff; items to be placed on the agenda for action at a future meeting of the Committee or Board; and/or items requiring immediate action because of an emergency situation or where the need to take immediate action came to the attention of the Committee subsequent to the posting of the agenda.



## Board Report

File #: 2017-0744, File Type: Contract

Agenda Number: 13.

### EXECUTIVE MANAGEMENT COMMITTEE NOVEMBER 16, 2017

**SUBJECT: DIGITAL MEDIA CONTRACTS**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute:

- A. Contract Ratification and Modification No. 1 to Contract No. PS71103378 with Steve Hymon (editor of The Source) for writing, editing and supervisory services for the Public Relations Digital Media group, to extend the contract term from July 1, 2016 to June 30, 2018 increasing the total authorized not-to-exceed amount by \$398,972.75 from \$145,000 to a new total of \$543,972.75; and
- B. Contract Ratification and Modification No. 1 to Contract No. PS71103377 with Maria Luisa Arredondo-Pagaza (editor of El Pasajero) for editing, writing and translation services for the Public Relations Digital Media group, to extend the Contract term from July 1, 2016 to June 30, 2018 increasing the total authorized not-to-exceed amount by \$156,201.25 from \$150,000 to a new total of \$306,201.25.

#### **ISSUE**

The Contracts to perform digital media services for Metro's two blogs continued beyond their completion period as a result of inadequate management of the contracts during staff transitions including a lack of documentation. Staff exceeded their authority by continuing to fund the two Contracts in order to pay for the services these two small businesses provided. Staff is requesting modifications in the amount of \$398,972.75 for Contract No. PS71103378, and \$156,201.25 for Contract No. PS71103377, which includes a ratification request of \$271,492.25 for Contract No. PS71103378, and \$93,856 for Contract No. PS71103377.

The Vendor/Contract Management Department and the Communications Department have proceeded to corrective action on these Contracts to ensure such incidents do not occur in the future.

#### **DISCUSSION**

##### **Contract with Steve Hymon**

Steve Hymon is contracted with Metro to perform editorial oversight and production of the agency's

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two blogs and digital media channels managed through the Public Relations Department. Mr. Hymon is an integral part of the Public Relations team as the founder and editor of *The Source*, Metro's award-winning blog. His additional duties include reviewing and editing documents, collaborating with the editor and writer of Metro's Spanish-language blog, *El Pasajero*, guiding the digital media team that handles Metro Service Alerts, and contributing to the agency's social media channels including Facebook, Twitter, Snapchat, YouTube and Instagram.

*The Source* is one of the most heavily visited local government blogs in the United States. Content includes articles, photographs, podcasts and video on agency services, projects and programs - much of which is used by national and local news outlets, on Metro's social media channels and outside websites. *The Source* receives nearly 170,000 views per month and responds to thousands of comments annually.

Steve writes about important and sensitive topics relating to the agency's services, projects and programs. He has excellent judgment as well as research and writing skills. His background in journalism is critical in order to gauge how reporters may react (positively and negatively) to information posted on the blog and Metro's social media channels. With Metro undergoing massive expansion, Steve's deep knowledge of a variety of projects and agency issues, as well as local politics and how they impact and shape Metro and the County is invaluable.

*The Source* editor must be cognizant that she/he has a voice and point-of-view that many readers will associate with the agency. The editor must have a nuanced understanding of tone and how best to communicate often complex and controversial topics with riders, stakeholders, potential Metro customers, media and agency critics.

Steve also oversees and contributes to the content creation of *El Pasajero* so that it complements articles on *The Source*. He is responsible for hosting monthly editorial meetings and creating the editorial calendar. He is available outside of regular business hours including early mornings, nights and weekends.

Steve moderates 5,000 to 6,000 comments left on the blog each year and to respond when appropriate. He is responsible for answering the approximately 100 emails received from readers each month and to help the social media team respond to comments left on Twitter, Facebook and Instagram.

Still imagery continues to be a critical part of the blog and the agency's PR efforts. Steve has a command of professional grade cameras, lenses and photo processing software - and is able to distribute pro-quality images to media and stakeholders and other websites, sometimes minutes after images are shot. He also helps to oversee video efforts and sometimes shoot and edit short videos.

Beginning in January 2016, Steve increased the level of work hours as part of Metro's rail line extension openings and Measure M public education effort.

As a former transportation reporter at the L.A. Times who covered Metro, and as the editor of Metro's *The Source* for nearly eight years, Steve has extensive knowledge of Metro, the agency's policies, the political environment in Los Angeles County, Measure R and Measure M, and other relevant agency matters. With Metro running around-the-clock operations, Steve is also available 24/7 to write and digitally publish important messages from Metro across a variety of digital platforms as well as

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respond to questions from customers and readers on the blog and other social media streams. His service and skillset add great value to Metro, and it would be difficult to replace that by ceasing his Contract.

Steve is in the midst of several important projects for the agency that would be disrupted by making a change at this time. These include a series of videos that we have begun to shoot for a variety of major capital projects, as well as a video to promote the expansion of the Metro system between now and the 2028 Olympics and Paralympics Games that will take place in our region.

### **Contract with Maria Luisa Arredondo-Pagaza**

Maria Luisa Arredondo-Pagaza heads a Metro certified Small Business Enterprise (SBE) that has editorial responsibility for the agency's Spanish language blog, *El Pasajero*, which is managed through the Public Relations Department. *El Pasajero* is designed to increase the awareness of Metro's programs, projects and services through the generation of original content aimed specifically to the Latino community in Los Angeles County.

Ms. Arredondo-Pagaza is an essential part of the Public Relations team. She is the founder, editor and regular contributor of *El Pasajero*. She has taken on additional duties including supervising a new part-time Spanish language writer.

*El Pasajero* views are measurable and are part of the KPI's reported on by Public Relations. The blog received nearly 40,000 unique page views in FY18 Q1. *El Pasajero* is one of the only Spanish language local government blogs in the United States. Content includes articles, photographs, podcasts and video on agency services, projects and programs - some of which is used by national and local news outlets, on Metro's social media channels and outside websites.

Ms. Arredondo-Pagaza is bi-lingual and able to write about important and sensitive topics relating to the agency's services, projects and programs. She exercises excellent judgment as well as strong research and writing skills. Her background in journalism is critical in order to gauge how reporters may react (positively and negatively) to information posted on *El Pasajero*. With Metro undergoing massive expansion, Maria Luisa's deep knowledge of a variety of projects and agency issues, as well as local politics and how they impact and shape Metro and the County is invaluable.

Maria Luisa Arredondo-Pagaza is an important asset for Metro because of her extensive and deep knowledge of the Latino community and Los Angeles politics. She has more than 30 years of experience in journalism and translation in Mexico and the United States. She worked 17 years for *La Opinion* newspaper as a reporter and editor of several sections including the front page.

As the editor for *El Pasajero*, Maria Luisa is cognizant that she has a voice and point-of-view that many readers will associate with the agency. She has a nuanced understanding of tone and how best to communicate often complex and controversial topics with riders, stakeholders, potential Metro customers, media and agency critics.

Ms. Arredondo-Pagaza works under the supervision of *The Source* editor, Steve Hyman, to ensure

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that the content creation of *El Pasajero* complements articles on *The Source*. She participates in monthly editorial meetings and assists in the creation of the editorial calendar. Additionally, she must frequently be available outside of regular business hours including early mornings, nights and weekends.

Finally, Ms. Arredondo-Pagaza is responsible for coordinating, editing and posting the work of the other writers. She must also moderate comments left on the blog and respond when appropriate. In addition, she also answers mail messages received from readers and helps the social media team respond to comments left on Twitter, Facebook and Instagram.

### **DETERMINATION OF SAFETY IMPACT**

The approval of this recommended action will not have any direct impact on the safety of our customers and employees.

### **FINANCIAL IMPACT**

The Public Relations Department has budgeted funds in the amount of: \$181,440 for The Source - Contract No. PS71103378, and \$93,170 for The El Pasajero - Contract No. PS71103377 in its FY18 budget to accommodate this ongoing work effort for Digital Media Services.

#### **Impact to Budget**

Funding for digital media services costs will parallel allocated project funding and may include sources like fares, transportation sales taxes, and federal and state funds. The impact will vary year-to-year based on project and digital media to support Metro programs and initiatives.

In FY18, Public Relations have allocated \$181,440 for The Source - Contract No. PS71103378, and \$93,170 for The El Pasajero - Contract No. PS71103377 for Digital Media Services within its digital media services budget (Public Relations: Project 306005 (Public Affairs Project), Task 01.001, Account 50316 Professional and Technical Services).

### **ALTERNATIVES CONSIDERED**

An alternative is ceasing the Contracts and performing these services using other Metro staff. This is not recommended because of the volume of work currently in process. A change at this time would disrupt the work load distribution in the department and create a backlog of writing and editorial assignments at a time when other staff are focused on communications for day-to-day operations, planning and construction projects, media requests, and other major policy matters or agency initiatives.

### **NEXT STEPS**

Upon Board approval of the requested recommendations, staff will execute the Contract ratifications



and modifications and staff will continue to monitor contract services.

**ATTACHMENTS**

Attachment A-1 - Procurement Summary Contract No. PS71103377

Attachment A-2 - Procurement Summary Contract No. PS71103378

Attachment B1 - Contract Modification/Change Order Log Contract No. PS71103377

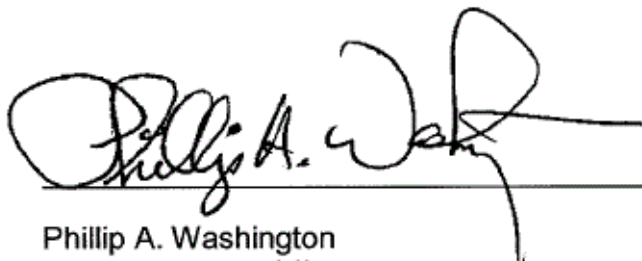
Attachment B-2 - Contract Modification/Change Order Log Contract No. PS71103378

Attachment C-1 - DEOD Summary Contract No. PS71103377

Attachment C-2 - DEOD Summary Contract No. PS71103378

Prepared by: Joni Goheen, Deputy Executive Officer Public Relations  
(213) 922-6931

Reviewed by: Pauletta Tonilas, Chief Communications Officer  
(213) 922-3777  
Debra Avila, Chief Vendor/Contract Management Officer  
(213) 418-3051



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Phillip A. Washington  
Chief Executive Officer

## PROCUREMENT SUMMARY

## WEB WRITER/REPORTER FOR EL PASAJERO / PS71103377

1.	<b>Contract Number:</b> PS71103377		
2.	<b>Contractor:</b> Maria Luisa Arredondo-Pagaza		
3.	<b>Mod. Work Description:</b> Modification No. 1 allows the Contractor to continue providing web writer/reporter services for Metro's Spanish language blog 'El Pasajero'		
4.	<b>Contract Work Description:</b> Web Writer/Reporter for Metro's Spanish language blog 'El Pasajero'		
5.	<b>The following data is current as of:</b> 11/1/2017		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Effective:</b>	July 1, 2014	<b>Contract Award Amount:</b> \$150,000.00
	<b>Notice to Proceed (NTP):</b>	July 15, 2014	<b>Pending Modifications (including this action):</b> \$156,201.25
	<b>Original Complete Date:</b>	June 30, 2016	
	<b>Current Est. Complete Date:</b>	June 30, 2018	<b>Current Contract Value (with this action):</b> \$306,201.25
7.	<b>Contract Administrator:</b> Greg Baker		<b>Telephone Number:</b> 213-922-7577
8.	<b>Project Manager:</b> Joni Goheen		<b>Telephone Number:</b> 213.922.6931

**A. Procurement Background**

This Board Action is to approve Modification No. 1 to Contract No. PS71103377 in order for the Contractor to continue to provide web writer/reporter services through June 30, 2018 for Metro's Spanish language blog 'El Pasajero'.

This Contract Modification will be processed in accordance with Metro's Acquisition Policy and the contract type is a firm fixed unit price. All other terms and conditions remain in effect.

On July 1, 2014, Contract No. PS71103377 was issued to Maria Luisa Pagaza in a not to exceed amount of \$150,000 to provide Web Writer/Reporter services for Metro's Spanish language blog 'El Pasajero'. A Limited Notice to Proceed letter was issued to the Contractor on July 15, 2014. The original Period of Performance (POP) was from July 1, 2014 through June 30, 2016.

(Refer to Attachment B – Contract Modification/Change Order Log)

**B. Price Analysis**

The recommended firm fixed hourly rate has been determined to be fair and reasonable based upon historical data. Maria Luisa Arredondo-Pagaza's current hourly rate reflects an annual increase of 3% since 2014.

## PROCUREMENT SUMMARY

WEB EDITOR-IN-CHIEF/PRIMARY WRITER/REPORTER FOR THE SOURCE /  
PS71103378

1.	<b>Contract Number:</b> PS71103378		
2.	<b>Contractor:</b> Steve Hymon		
3.	<b>Mod. Work Description:</b> Modification No. 1 allows the Contractor to continue providing web editor-in-chief/primary writer/reporter services for Metro's blog 'The Source'		
4.	<b>Contract Work Description:</b> Web Editor-In-Chief/Primary Writer/Reporter for Metro's blog 'The Source'		
5.	<b>The following data is current as of:</b> 11/1/2017		
6.	<b>Contract Completion Status</b>		<b>Financial Status</b>
	<b>Contract Effective:</b>	July 1, 2014	<b>Contract Award Amount:</b>
	<b>Notice to Proceed (NTP):</b>	July 15, 2014	
	<b>Original Complete Date:</b>	June 30, 2016	<b>Pending Modifications (including this action):</b>
			\$398,972.75
	<b>Current Est. Complete Date:</b>	June 30, 2018	<b>Current Contract Value (with this action):</b>
			\$543,972.75
7.	<b>Contract Administrator:</b> Greg Baker		<b>Telephone Number:</b> 213-922-7577
8.	<b>Project Manager:</b> Joni Goheen		<b>Telephone Number:</b> 213-922-6931

**A. Procurement Background**

This Board Action is to approve Modification No. 1 to Contract No. PS71103378 in order for the Contractor to continue to provide editor-in-chief/primary writer/reporter services through June 30, 2018 for Metro's blog 'The Source'.

This Contract Modification will be processed in accordance with Metro's Acquisition Policy and the contract type is a firm fixed unit rate. All other terms and conditions remain in effect.

In early 2014 Metro Procurement staff released a solicitation for a consultant to provide editor-in-chief/primary writer/reporter services for Metro's blog 'The Source'.

On July 1, 2014, Contract No. PS71103378 was issued to Steve Hymon in a not to exceed amount of \$145,000 to provide web editor in chief/primary writer/reporter services for The Source. On July 15, 2014, a Limited Notice to Proceed was issued to the Contractor. The original Period of Performance (POP) was from July 1, 2014 through June 30, 2016.

(Refer to Attachment B – Contract Modification/Change Order Log)

**B. Price Analysis**

The recommended firm fixed hourly rate has been determined to be fair and reasonable based upon historical data. Steve Hymon's current hourly rate reflects an annual increase of less than 2% since 2014.

## CONTRACT MODIFICATION/CHANGE ORDER LOG

## WEB WRITER/REPORTER FOR EL PASAJERO / PS71103377

<b>Mod. No.</b>	<b>Description</b>	<b>Status (approved or pending)</b>	<b>Date</b>	<b>\$ Amount</b>
<b>1</b>	<b>Continue to provide editor-in-chief/primary writer/reporter services for Metro's blog (The Source)</b>	<b>Pending</b>	<b>Pending</b>	<b>\$62,345.25</b>
	<b>Ratification amount for services provided July 1, 2016 through October 31, 2017</b>			<b>\$93,856.00</b>
	<b>Total Modification Amount</b>			<b>\$156,201.25</b>
	<b>Original Contract:</b>			<b>\$150,000.00</b>
	<b>Total:</b>			<b>\$306,201.25</b>

## CONTRACT MODIFICATION/CHANGE ORDER LOG

WEB EDITOR-IN-CHIEF/PRIMARY WRITER/REPORTER FOR THE SOURCE /  
PS71103378

Mod. no.	Description	Status (approved or pending)	Date	\$ Amount
1	Continue to provide editor-in-chief/primary writer/reporter services for Metro's blog The Source)	Pending	Pending	\$127,480.50
	Ratification amount for services provided July 1, 2016 through October 31, 2017			\$271,492.25
	Modification Total			\$398,972.75
	Original Contract:			\$145,000.00
	Total:			\$543,972.75

DEOD SUMMARY

WEB WRITER/REPORTER FOR EL PASAJERO / PS71103377

**A. Small Business Participation**

The Diversity and Economic Opportunity Department did not recommend a goal for this procurement for editing and translation services for Metro's Spanish language blog "El Pasajero." Maria Luisa Arredondo-Pagaza, an SBE certified Prime, made a 100% SBE commitment, performing the work with its own workforce.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

The Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) is not applicable to this Contract.

**C. Prevailing Wage Applicability**

Prevailing wage is not applicable to this Contract.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract.



**DEOD SUMMARY**

**WEB EDITOR-IN-CHIEF/PRIMARY WRITER/REPORTER FOR THE SOURCE /  
PS71103378**

**A. Small Business Participation**

The Diversity and Economic Opportunity Department did not recommend a goal for this procurement for editor-in-chief services for Metro's blog, "The Source." It is expected that Steve Hymon will perform this scope of work with its own workforce.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

The Living Wage and Service Contract Worker Retention Policy (LW/SCWRP) is not applicable to this Contract.

**C. Prevailing Wage Applicability**

Prevailing wage is not applicable to this Contract.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract.



## Board Report

File #: 2017-0630, File Type: Program

Agenda Number: 5.

### EXECUTIVE MANAGEMENT COMMITTEE NOVEMBER 16, 2017

**SUBJECT: CESAR E. CHAVEZ AND SOTO JOINT DEVELOPMENT**

**ACTION: AUTHORIZE EXECUTION OF A JOINT DEVELOPMENT AGREEMENT AND  
GROUND LEASE WITH LA VERANDA, L.P.**

#### **RECOMMENDATION**

CONSIDER:

- A. AUTHORIZING the Chief Executive Officer to execute and enter into a joint development agreement ("JDA"), ground lease ("Ground Lease") and other related documents with La Veranda, L.P. (the "Developer"), an affiliate of Abode Communities, for the construction and operation of a mixed-use, affordable housing project (the "Project") on 85,378 square feet of Metro-owned property located near the corner of Cesar E. Chavez Avenue and Soto Street in Boyle Heights (the "Site") in accordance with the Summary of Key Terms and Conditions attached hereto as Attachment A;
- B. AUTHORIZING an exception to the Joint Development Policy, to allow for a 42% discount to the fair market rent for the Site under the Ground Lease (above the current policy limit of 30%) to allow the Project to be financially feasible while meeting the community's desire for deeper affordability of the housing units; and
- C. FINDING that the Project is exempt from the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines in accordance with the Qualifying Criteria set forth on Attachment C and authorize the Chief Executive Officer to file a Notice of Exemption for the Project consistent with such exemption.

#### **ISSUE**

In November 2015, the Board authorized execution of an Exclusive Negotiation Agreement and Planning Document ("ENA") with Abode Communities for the Site. The ENA has allowed staff and Abode to explore the feasibility of the proposed Project, conduct additional, project-specific community outreach, undertake CEQA clearance for the Project and negotiate the key terms and conditions of the JDA and Ground Lease that will ultimately provide for the Project's construction and operation on the Site. Since all of these efforts have been concluded favorably, it is time to move to

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the next step of the development process, execution of the JDA. The Ground Lease will be executed thereafter upon satisfaction of the JDA's conditions. Attachment A summarizes the key terms and conditions of the proposed JDA and Ground Lease. Included in these terms is a negotiated capitalized rent under the Ground Lease that has been discounted 42% from the fair market capitalized rent for the Site. This discount is above the Joint Development Policy's discount cap of 30%.

## **DISCUSSION**

### **The Project and the Site**

The Site is comprised of approximately 85,378 square feet of Metro-owned property bounded by Cesar E. Chavez Avenue to the north, Soto Street to the west, Mathews Street to the east, and a residential neighborhood to the south. The Metro Gold Line Soto Station is located about one-quarter mile south of the Site. This property was originally purchased for extension of the Metro Red/Purple Line subway into Boyle Heights, but with the construction of the Metro Gold Line's Eastside Extension, it is no longer needed for this purpose.

The Project contemplates 76 affordable rental apartments, one unrestricted property manager's apartment, approximately 8,000 square feet of retail space, 40 residential parking spaces, and 16 commercial parking spaces. Attachment B provides a conceptual site plan and renderings for the Project. The affordable rental apartments are made up of two and three bedroom units with affordability levels ranging from 30% of area median income ("AMI") to 50% of AMI.

The Developer intends to include Affordable Housing and Sustainable Communities (AHSC) funding as part of its capital stack for the Project. The AHSC Program is a competitive funding program that uses State Cap and Trade funds to finance infill and compact development projects that reduce greenhouse gas emissions. In an effort to provide a competitive AHSC application, the Developer intends to allocate approximately \$3,000,000 of its award to transportation improvements that will further reduce such emissions. Metro and the Developer are currently scoping potential transportation improvements to include in the Developer's AHSC application.

### **Community Engagement**

The recommended actions follow extensive stakeholder outreach by Metro and Abode. This effort started under a Short Term ENA, which was executed by the parties in March 2015 for the sole purpose of conducting project-specific community outreach. Outreach continued throughout the term of the ENA, which was executed in December 2015. Thus far, these efforts have resulted in approval of the proposed Project by the Boyle Heights Neighborhood Council in October 2015, approval of the Project's conceptual plan by the Boyle Heights Design Review Advisory Committee in June 2016, and Metro and the Developer's agreement on the terms and conditions regarding deeper Project affordability noted above. Outreach efforts will continue throughout the term of the JDA to keep the community informed of the Project's progress through the development process.

### **The JDA and Ground Lease Terms**

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Attachment A provides the summary of key terms and conditions for the JDA and Ground Lease. The terms of the JDA are focused on the Developer bringing the Project through full financing and construction readiness. The JDA:

- Identifies specific rounds of affordable housing financing to which the Developer must apply;
- Provides Metro with a Holding Rent of \$7,690/month during the JDA term, which will be applied to the capitalized rent due under the Ground Lease in the event that the Ground Lease is executed;
- Provides Metro with the right to review and approve the design of the Project as it progresses to completion;
- Recovers Metro's transaction-related and other support costs, including the cost of in-house staff time (except for Joint Development staff) and fees related to consultants and other third parties (except for in-house and outside legal counsel with respect to negotiation and preparation of the JDA and Ground Lease); and
- Sets forth the conditions for execution of the Ground Lease.

The Ground Lease will be executed once the conditions set forth in the JDA are met. Key terms of the Ground Lease include:

- A term of 65 years;
- Metro's receipt of a one-time capitalized rent payment of \$3,691,277 upon execution of the Ground Lease, which provides the bulk of Metro's compensation; and
- Metro's receipt of 25% of all gross rent paid or credited to Developer for use of the Project's 8,000 square feet of commercial space.

#### Proposed Ground Lease Rent Discount

The Capitalized Rent under the Ground Lease has been discounted approximately 42% from the fair market capitalized rent for the Site. In exchange for the portion of the discount that exceeds 30%, the Developer has agreed to adjust the unit mix of the Project to include additional units with deeper affordability levels than were originally proposed. The agreed upon unit mix and the changes from the originally proposed unit mix are outlined in Exhibit C to the Key Terms and Conditions attached hereto as Attachment A.

The recommended discount is in excess of the maximum 30% discount for affordable housing projects allowed under the Joint Development Policy. The 42% discount was negotiated by staff after an extensive analysis of the Project's financial feasibility with the support of a financial consultant. This analysis uncovered two main drivers of the need for the 42% discount. They are:

- (1) Community stakeholder desire for deeper affordability. During the community engagement process for the Project, stakeholders expressed a strong desire for deeper Project affordability; specifically requesting that units targeting families earning 60% of AMI be eliminated and exchanged for more units serving families at 30% - 50% of AMI. Metro and the Developer analyzed the cost of deepening the Project's affordability, looking at both the resultant reduction of available loan financing for the Project and increased operational costs.

- (2) Increase in land values and static Project revenue. During the two years between staff's receipt of the Developer's original proposal in April 2014 and the completion of an appraisal for the Site in June 2016, land values (and, thus, ground lease rents) in Boyle Heights increased significantly. (Staff estimates that land values nearly doubled.) During this same period, Developer's revenue sources, such as HUD-specified rental income and available subsidies, stayed relatively constant. Metro worked with the Developer to identify cost savings that they could employ at the Project, but in the end found that a capitalized rent discount was needed for the Project to be financially feasible.

While this site is technically an "excess property" pursuant to the Federal Transit Administration ("FTA") definitions, Metro has submitted the terms of the JDA and Ground Lease to FTA through their Joint Development Preliminary Review process, in particular because we are offering the proposed rental discount for affordable housing for the first time.

### CEQA Actions

The City of Los Angeles, as the lead agency under CEQA, has determined that the Project is exempt from CEQA pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines because it is in compliance with all requirements for exemption thereunder. Staff is requesting that the Metro Board, as a potentially responsible agency, make a similar determination consistent with the requirements for exemption set forth on Attachment C. Staff is also requesting authorization to file a Notice of Exemption for the Project consistent with such determination.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no impact on safety. Staff will continue to oversee the development and construction of the Project on the Site to ensure that it does not adversely impact Metro property or the continued safety of staff, contractors and the public.

### **FINANCIAL IMPACT**

Funding for joint development activities related to this Project is included in the FY18 Budget under Project 401003, Task 01, Cost Center 2210. Metro's financial compensation under the JDA and the Ground Lease is fair and reasonable and is detailed in Attachment A.

### Impact to Budget

Metro costs related to the proposed Project that are not reimbursed by the Developer will be funded from General Fund local right-of-way lease revenues, which are eligible for bus and rail operating and capital expenses. Execution of the JDA and the Ground Lease will not impact the ongoing bus and rail operating or capital budgets, the Proposition A and C and TDA administration budgets or the Measure R administration budget. Revenues received under the Ground Lease and JDA must be used to fund eligible rail capital and operating expenses allowed under the original FTA grant providing funds to purchase the Site. Deposits from the Ground Lease and JDA will be used to offset

certain staff and consultant costs related to the Project.

### **ALTERNATIVES CONSIDERED**

The Board could choose not to authorize execution of the JDA and Ground Lease. Staff is not recommending this option because the proposed Project is the product of a competitive solicitation and extensive community engagement, and, except as noted above, is consistent with the goals of Metro's Joint Development Policy. Further, the terms of the proposed JDA and Ground Lease are fair and reasonable. Electing not to authorize execution of the JDA and Ground Lease would unnecessarily delay development of the Site.

### **NEXT STEPS**

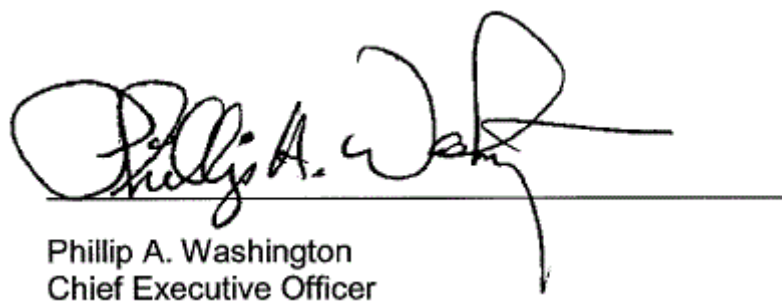
Upon approval of the recommended actions, staff will complete and execute the JDA in substantial accordance with the terms and conditions set forth in Attachment A. Upon execution of the JDA, staff and the Developer will work to satisfy the conditions under the JDA necessary to execute the Ground Lease and commence construction of the Project. The Ground Lease and related documents will be executed thereafter in substantial accordance with the terms and conditions set forth in the JDA and Attachment A. In particular, the Developer will diligently attempt to secure all financing necessary for construction of the Project in accordance with Attachment A and staff and the Developer will work to advance the design of the Project to completion.

### **ATTACHMENTS**

Attachment A - Summary of Key Terms and Conditions  
Attachment B - Conceptual Site Plan and Renderings  
Attachment C - Qualifying Criteria for CEQA Exemption

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Reviewed by: Therese W. McMillan, Chief Planning Officer, (213) 922-7077



Phillip A. Washington  
Chief Executive Officer

# ATTACHMENT A

## SUMMARY OF KEY TERMS AND CONDITIONS OF JOINT DEVELOPMENT AGREEMENT AND GROUND LEASE FOR THE LA VERANDA PROJECT AT LACMTA'S CHAVEZ/SOTO JOINT DEVELOPMENT SITE (DATED: NOVEMBER 15, 2017)

### GENERAL DESCRIPTION

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<b>DEVELOPER:</b>	La Veranda, L.P. (" <b>Developer</b> "), a California Limited Partnership, which is a development entity controlled by Abode Communities and was created for purposes of the La Veranda Project.
<b>DEVELOPMENT SITE:</b>	The Los Angeles County Metropolitan Transportation Authority (" <b>LACMTA</b> ") is the fee owner of approximately 85,378 <sup>1</sup> square feet of real property situated in the City of Los Angeles and depicted on <u>Exhibit A</u> (the " <b>LACMTA Property</b> "). The LACMTA Property is bounded by Cesar E. Chavez Avenue to the north, Soto Street to the west, Mathews Street to the east and a residential neighborhood to the south. The proposed development site (the " <b>Site</b> ") comprises the entirety of the LACMTA Property.
<b>PROPOSED PROJECT:</b>	The proposed development project (the " <b>Project</b> ") will be constructed on the Premises (defined below) by Developer at Developer's sole cost and expense in accordance with the plans and specifications generally known as the JDA Package, dated October 16, 2017, as detailed and referenced in <u>Exhibit B</u> (the " <b>Conceptual Plan</b> "), as such Conceptual Plan logically evolves and is modified and revised as set forth herein. The Project will include, without limitation, seventy six (76) affordable rental apartments and one (1) unrestricted property manager's apartment at the affordability levels detailed on <u>Exhibit C</u> , 8,000 square feet of retail space, 40 residential parking spaces and 16

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<sup>1</sup> As calculated from information provided on that certain ALTA/NSPS Land Title and Design Survey of the Site prepared by Psomas, dated April 4, 2016 and included as part of the Conceptual Plan.

commercial parking spaces. Additional Project details are set forth on the Project Summary attached as Exhibit D.

**PHASED DEVELOPMENT:** The Project will be constructed in a single phase.

## **GENERAL CONDITIONS**

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**DEDICATIONS:** LACMTA will consider any dedications and grants of LACMTA real property rights to the City of Los Angeles or other public or quasi-public entities as are reasonably necessary to support the development, construction, and operation of the Project, subject to acceptable compensation to LACMTA. Developer has informed LACMTA that, as of the date of this Summary of Key Terms and Conditions: (a) the City of Los Angeles is contemplating a dedication for public right-of-way purposes at the corner of Cesar E. Chavez Avenue and Mathews Street, at the Site's northeast corner; (b) the subject dedication will be either a 15 foot by 15 foot corner cut or a 20 foot curved corner; and (c) Developer does not know of any other dedications that will be required for purposes of the Project. Subject to LACMTA Board approval, LACMTA does not take exception to the subject dedication at the corner of Cesar E. Chavez Avenue and Mathews Street; provided that LACMTA receives the full amount of Capitalized Rent under the Ground Lease in the manner specified in the Capitalized Rent section of this Summary of Key Terms and Conditions, which payment shall be deemed acceptable compensation to LACMTA for such dedication. Dedications and grants approved by LACMTA shall be referred to herein as ("**Dedications**").

**FEDERAL TRANSIT  
ADMINISTRATION, STATE  
AND LOCAL FUNDING  
SOURCE APPROVAL:**

The parcels comprising the Site were acquired by LACMTA using Federal Transit Administration ("**FTA**"), State and local funds. Therefore, the construction and operation of the Project, and the Ground Lease transaction, Dedications and other development-related matters contemplated in this Summary of Key Terms and Conditions are subject to: (a) applicable FTA, State and bond holder approval/concurrence, and (b) LACMTA confirmation that such actions will not violate any bond funding related requirements or restrictions imposed on LACMTA or the LACMTA Property.



**DEVELOPMENT****ENTITLEMENTS AND OTHER****LEGAL REQUIREMENTS:**

Developer has or will have, at its sole cost and expense obtained all required entitlements for the Project, including adoption of California Environmental Quality Act (“**CEQA**”) findings, and shall comply with all applicable City of Los Angeles zoning and planning requirements and other legal requirements related to the development, construction and operation of the Project. Prior to entering into the JDA, the Ground Lease or any other transaction documents, the LACMTA Board will need to make the requisite findings as a responsible agency pursuant to CEQA requirements.

**AS-IS CONDITION:**

The Site is being offered to Developer in its as-is condition, without any warranty by LACMTA.

**SITE REMEDIATION:**

None needed per Developer’s due diligence performed under that certain Exclusive Negotiation Agreement and Planning Document between LACMTA and Developer’s affiliate, Abode Communities, dated December 3, 2015, as amended (the “**ENA**”).

**KEY JOINT DEVELOPMENT AGREEMENT (“JDA”) TERMS:**

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**JDA - GENERALLY:**

After (i) the LACMTA Board has approved and Developer has accepted this Summary of Key Terms and Conditions, (ii) Developer has met all CEQA requirements for the Project (as further described below in the Closing Conditions), and (iii) the LACMTA Board has made the requisite findings as a responsible agency pursuant to the CEQA requirements for the Project, then LACMTA and Developer will enter into a Joint Development Agreement (“**JDA**”) containing terms and conditions that are substantially consistent with those set forth in this Summary of Key Terms and Conditions, subject to any modifications as directed by the LACMTA Board. The JDA will address matters between Developer and LACMTA regarding the Project and the Site during the JDA term (defined below).

**ESCROW:**

Within fifteen (15) days after the JDA Effective Date (defined below), Developer and LACMTA shall enter into an escrow

(“**Escrow**”) with Commonwealth Land Title (“**Escrow Holder**”) to complete the Ground Lease transaction contemplated in the JDA.

**JDA TERM:**

The JDA shall be effective upon execution by LACMTA and Developer (the “**JDA Effective Date**”), and will expire on January 31, 2021. During the term of the JDA, LACMTA and Developer shall endeavor to close Escrow (the “**Closing**”), subject to satisfaction or waiver of certain conditions precedent to execution of the Ground Lease, as set forth in the JDA (the “**Closing Conditions**”). Notwithstanding the forgoing, LACMTA shall have the right to terminate the JDA upon 30 days written notice to Developer:

- A. If Developer fails to timely submit full, complete and reasonable applications (as reasonably determined by LACMTA) to the appropriate agencies in accordance with the schedule attached as Exhibit E, as necessary to adequately fund construction and operation of the Project pursuant to a pro forma budget prepared by Developer, and reasonably approved in writing by LACMTA (“**Approved Budget**”) using the following permanent funding (the “**4% LIHTC Sources**”): (1) 4% low income housing tax credit equity (“**4% LIHTC Equity**”); (2) Affordable Housing and Sustainable Communities funds (“**AHSC Funds**”); (3) funds to be provided by or through the Housing & Community Investment Department of Los Angeles (“**HCID**”) and (4) other funding sources, including tax exempt bond funds. As of the date of this Summary of Key Terms and Conditions, the Approved Budget for the Project using 4% LIHTC Sources indicates a total Project cost of \$44,098,644 and breaks down as follows:
  1. 4% LIHTC Equity totaling \$14,715,012;
  2. AHSC Funds totaling \$17,037,969;
  3. Funds to be provided by or through HCID totaling \$3,000,000;
  4. Other funding totaling \$5,885,263, including tax exempt bond funds totaling \$3,460,400.
- B. Or, if Developer does not receive total 4% LIHTC Sources that are adequate to construct and operate the Project, including 4% LIHTC Equity, AHSC Funds or funds through HCID in the approximate amounts noted in Subsection A, above (or such other amounts as set forth on a

subsequent Approved Budget), by the dates noted in the schedule attached as Exhibit E, and fails to timely submit full, complete and reasonable applications (as reasonably determined by LACMTA) to the appropriate agencies in accordance with the schedule attached as Exhibit F, as necessary to adequately fund construction and operation of the Project pursuant to an Approved Budget using the following permanent funding (the “**9% LIHTC Sources**”): (1) 9% low income housing tax credit equity (“**9% LIHTC Equity**”); (2) Federal Home Loan Bank – Affordable Housing Program funds (“**AHP Funds**”); (3) funds to be provided by or through HCID and (4) other funding sources, including a conventional bank loan. As of the date of this Summary of Key Terms and Conditions, the Approved Budget for the Project using 9% LIHTC Sources indicates a total Project cost of \$42,457,453 and breaks down as follows:

1. 9% LIHTC Equity totaling \$27,497,250;
2. AHP Funds totaling \$1,155,000;
3. Funds to be provided by or through HCID via the managed pipeline totaling \$7,611,720; and
4. Other sources totaling \$6,193,483, including a conventional bank loan totaling \$3,484,600.

- C. Or, if Developer does not receive total 4% LIHTC Sources that are adequate to construct and operate the Project, including the 4% LIHTC Equity, the AHSC Funds or funds through HCID in the approximate amounts noted in Subsection A, above (or such other amounts as set forth on a subsequent Approved Budget), by the dates noted in the schedule attached as Exhibit E, and subsequently does not receive total 9% LIHTC Sources that are adequate to construct and operate the Project, including the 9% LIHTC Equity, AHP Funds and funds through the HCID pipeline in the approximate amounts noted in Subsection B, above (or such other amounts as set forth on a subsequent Approved Budget), by the dates noted in the schedule attached as Exhibit F.

**JDA CONSIDERATION/  
HOLDING RENT:**

As consideration for the rights granted to Developer during the JDA term, commencing with the JDA Effective Date and continuing throughout the JDA term, Developer will pay LACMTA

a monthly, non-refundable holding rent (“**Holding Rent**”) at the commencement of each month of the JDA term in an amount equal to \$7,690. The Holding Rent has been discounted from the \$13,333 Holding Rent that would be indicated (i.e.; 25% of the fair market monthly rent that would be due under the Ground Lease, if Capitalized Rent were not being paid thereunder) based on the fair market value of the Site, which has been determined to be \$6,400,000 as of June 20, 2016 pursuant to that certain June 22, 2016 appraisal of the Site performed by Riggs & Riggs, Inc. The discount is 42.32% and is consistent with the discount of the Capitalized Rent under the Ground Lease. All Holding Rent due LACMTA shall be non-refundable, but all Holding Rent received by LACMTA shall be applied at Closing as a credit to the Capitalized Rent due under the Ground Lease, in the event the Ground Lease is executed by the parties.

**CONDITIONS TO CLOSING:**

The Closing Conditions will require, among other things, that Developer has (a) obtained financing sufficient to fund the construction and operation of the Project; (b) delivered to LACMTA evidence and assurances demonstrating that Developer has the financial resources in place to construct and operate the Project and that such resources are fully committed without reservation to the reasonable satisfaction of LACMTA; (c) applied for and received all governmental approvals necessary (including all LACMTA and City of Los Angeles approvals and entitlements) for the development, construction, and operation of the Project (including LACMTA approval of the final construction documents for the Project (the “**Approved Construction Documents**”)); (d) received all approvals/certifications in accordance with CEQA of all CEQA documents for the Project from the applicable governmental authorities, and all applicable statutes of limitation have run without a lawsuit having been timely filed or, if such a lawsuit has been filed, then such lawsuit has been finally adjudicated or dismissed with prejudice, upholding such approvals/certifications; (e) received a “ready to issue” letter from the City of Los Angeles for all building permits necessary for the construction of the Project; (f) executed and delivered all Closing Documents to Escrow; and (g) provided LACMTA with Payment and Performance Bonds and a Completion Guaranty from Abode Communities guaranteeing and securing completion of the Project, each in a form satisfactory to LACMTA.

**DESIGN REVIEW/SEQUENCE:**

During the JDA term and the Construction Period (defined below) under the Ground Lease, LACMTA will review and have the right

to approve the design of the Project, including: (1) any design elements of the Project that affect (a) the operations of LACMTA, (b) LACMTA's exercise of its Retained Rights (defined below), and (c) public health and safety (collectively, the "**LACMTA Development-Related Concerns**"). LACMTA's approval of Project plans that **are not** related to LACMTA Development-Related Concerns will be at LACMTA's reasonable discretion, except to the extent that the design of the Project depicted, described and specified on such plans does not represent a logical evolution of the design depicted, described and specified on plans approved by LACMTA at the preceding level of design development (a "**Logical Evolution**"). Approval of Project's plans that **are** related to LACMTA Development-Related Concerns or **are not** a Logical Evolution will be at LACMTA's sole and absolute discretion. LACMTA's design approval rights as set forth herein are, in part, intended to ensure that the Project meets LACMTA's Satisfactory Continuing Control Requirement (as defined in the *Retained Rights* subsection of the *Ground Lease – Other Terms and Conditions* section of this Summary of Key Terms and Conditions).

Except as otherwise approved in writing by LACMTA, Developer shall not proceed with preparation of: (a) the Project's Design Development Drawings until it has received LACMTA's written approval of the Project's Schematic Design Drawings; or (b) the Project's Final Construction Documents until it has received LACMTA's written approval of the Project's Design Development Drawings and Schematic Design Drawings.

**JDA/GROUND LEASE  
CLOSING:**

The Closing will occur when Developer and LACMTA have entered into the Ground Lease and other transaction documents necessary to complete the Closing as contemplated in the JDA (the "**Closing Documents**") after the Closing Conditions have been satisfied or waived by the applicable party. The JDA will contemplate a single Closing. At Closing, LACMTA will lease the Premises (defined below) to Developer, subject to the Retained Rights (defined below), in exchange for the payment of the Capitalized Rent and initial Deposit to be paid under the Ground Lease. The Closing Documents, including, without limitation, the Ground Lease, will be executed by the parties as is necessary to properly effectuate the Closing.

**TRANSFERS, ASSIGNMENT  
AND SUBLETTING:**

Except as otherwise approved in writing by LACMTA in its sole and absolute discretion, Developer shall not transfer or assign its rights or obligations under the JDA or any portion thereof.

**KEY GROUND LEASE TERMS:**

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**GROUND LESSEE:**

La Veranda, L.P. ("**Ground Lessee**"), a California Limited Partnership, which is a development entity controlled by Abode Communities and was created for purposes of the La Veranda Project.

**GROUND LEASE –  
GENERALLY:**

At Closing, LACMTA, as ground lessor, and Ground Lessee, as ground lessee, will enter into a ground lease (the "**Ground Lease**"), which will provide for the construction and operation of the Project on the Premises (defined below). The Ground Lease will contain terms and conditions that are substantially consistent with those set forth in this Summary of Key Terms and Conditions, subject to any modifications as directed by the LACMTA Board.

**UNSUBORDINATED  
GROUND LEASE:**

Neither LACMTA's interests under the Ground Lease (including the FTA's interest as a provider of funds for the Site's initial acquisition) nor LACMTA's Satisfactory Continuing Control Requirement (as defined in the *Retained Rights* subsection of the *Ground Lease – Other Terms and Conditions* section of this Summary of Key Terms and Conditions) shall be subordinated to any interest that Ground Lessee or its lenders or investors will have in the Premises.

**GROUND LEASE  
PREMISES:**

The premises under the Ground Lease (the "**Premises**") will consist of the Site, less any Dedications.

**GROUND LEASE TERM:**

The Ground Lease will commence on the date of the Closing in accordance with the terms of the JDA (such date being the "**Commencement Date**"). The term of the Ground Lease will be 65 years (the "**Ground Lease Term**"), expiring on the day prior to the 65<sup>th</sup> anniversary of the Commencement Date.

## GROUND LEASE RENT & OTHER COMPENSATION

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<b>CAPITALIZED RENT:</b>	<p>Upon execution of the Ground Lease, Ground Lessee shall pay LACMTA a capitalized rent payment (the "Capitalized Rent") of \$3,691,277 for the entire Ground Lease Term. The Capitalized Rent has been discounted 42.31% from the fair market value of the Site, which has been determined to be \$6,400,000 as of June 20, 2016 pursuant to that certain June 22, 2016 appraisal of the Site performed by Riggs &amp; Riggs, Inc. The discount is in exchange for Developer agreeing to adjust the unit mix of the Project to include deeper affordability levels than were originally proposed. The agreed upon unit mix and the changes from the originally proposed unit mix are outlined in <u>Exhibit C</u>. Notwithstanding the forgoing, all Holding Rent received by LACMTA under the JDA shall be applied as a credit to the Capitalized Rent due under the Ground Lease upon execution of the Ground Lease by the parties.</p>
<b>PERCENTAGE RENT:</b>	<p>Ground Lessee shall pay LACMTA percentage rent in an amount equal to 25% of all gross rent paid or credited to Ground Lessee for commercial uses of the Project or the Premises ("<b>Percentage Rent</b>"), including without limitation, commercial uses in the Project's 8,000 square feet of commercial space. Percentage Rent shall be calculated on a calendar year basis and shall be due to LACMTA from Ground Lessee annually, in arrears, on March 1<sup>st</sup> of the calendar year following the subject calendar year, with a full accounting of the amount due.</p>
<b>SALE/REFINANCING PROCEEDS:</b>	<p>Ground Lessee shall pay LACMTA an amount equal to 20% of all Net Proceeds received by Ground Lessee for the sale or refinancing of the Project, where "<b>Net Proceeds</b>" shall mean the gross sales price or the gross principal amount of the refinancing (as applicable), less the following transaction costs and expenses paid by Ground Lessee to any non-affiliate of Ground Lessee in connection with the consummation of any such sale or refinancing, to the extent such costs are commercially reasonable: escrow fees, title charges, lender fees or charges, recording costs, brokerage commissions and attorneys' fees.</p>

## GROUND LEASE – OTHER TERMS AND CONDITIONS

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### DESIGN REVIEW:

Developer shall not make any changes to the Approved Construction Documents without the prior consent of LACMTA. During the Construction Period, LACMTA will have design review rights with respect to any changes to the Approved Construction Documents desired by Ground Lessee as set forth in the *Design Review/Sequence* subsection of the *Key Joint Development Agreement (“JDA”) Terms* section of this Summary of Key Terms and Conditions. Approval of such changes that represent Logical Evolutions of the design and are not related to LACMTA Development-Related Concerns will be at LACMTA’s reasonable discretion. Approval of such changes that are related to LACMTA Development-Related Concerns or are not a Logical Evolution of the design will be at LACMTA’s sole and absolute discretion. LACMTA will retain the same design approval rights for any substantive Project changes or improvements later sought by Ground Lessee at any time during the Ground Lease Term. LACMTA’s design approval rights as set forth herein are, in part, intended to ensure that the Project meets LACMTA’s Satisfactory Continuing Control Requirement (as defined in the Retained Rights subsection of the Ground Lease – Other Terms and Conditions section of this Summary of Key Terms and Conditions).

### CONSTRUCTION

#### COMPLETION:

The Ground Lease will require commencement of construction within 30 days after the Commencement Date. The Project’s construction period (“**Construction Period**”) will commence on the Commencement Date and terminate upon the earlier of: (1) substantial completion of construction of the Project improvements as described in the Ground Lease, which shall be evidenced by a temporary certificate of occupancy for substantially all of the Project improvements described in the Ground Lease or (b) the day preceding the second (2nd) anniversary of the Commencement Date.

### MAINTENANCE AND

#### OPERATIONS:

During the Ground Lease Term, Ground Lessee shall maintain and operate all portions of the Project and the Premises at its sole cost and expense pursuant to maintenance and operations standards that shall be mutually agreed between the parties and set forth in the Ground Lease.



**DEMOLITION/DEMOLITION  
SECURITY:**

At the expiration or earlier termination of the Ground Lease (“**Expiration Date**”), at LACMTA’s option as specified in writing by LACMTA up to 90 days after the Expiration Date, Developer shall (a) demolish and remove the Project and any improvements then located on the Premises (or such portion thereof as indicated by LACMTA in writing), exclusive of any LACMTA improvements and/or transportation-related amenities and facilities then located on the Premises, and (b) return the Premises to LACMTA in its otherwise original condition (the “**Demolition**”). The Demolition shall be performed at Ground Lessee’s sole cost and expense. Ground Lessee shall have no right to demolish or remove any portion of the Project or any improvements that LACMTA does not instruct Ground Lessee to demolish or remove in writing.

On the 55th anniversary of the Commencement Date, Ground Lessee shall deliver to LACMTA a report for LACMTA’s review and approval prepared by a construction and demolition expert reasonably approved by LACMTA that details the means and methods needed/desired to complete the full Demolition of the Project (“**Demolition Report**”). The Demolition Report shall be prepared at Ground Lessee’s sole cost and expense and shall include a detailed cost estimate for such full Demolition. The Demolition Report shall detail (a) a form of security proposed by Ground Lessee to secure, for the benefit of LACMTA, the funding necessary to complete the full Demolition (the “**Demolition Security**”), and (b) a schedule reasonably satisfactory to LACMTA for the funding of the Demolition Security by Ground Lessee, which schedule shall in all events provide for a full funding of the Demolition and delivery of the Demolition Security to LACMTA no later than five (5) years prior to the Expiration Date. The Demolition Report shall be subject to LACMTA’s reasonable approval. The form of Demolition Security can be a deposit of funds, a letter of credit, a bond or other form of security, each in form and amount, and from an issuer, reasonably satisfactory to LACMTA in accordance with the LACMTA-approved Demolition Report. Upon the completion of the Demolition, if any, by Ground Lessee and performance of any other obligations of Ground Lessee under the Ground Lease, subject to set off by LACMTA for any amounts payable by Ground Lessee to LACMTA pursuant to the Ground Lease, LACMTA shall return/release the Demolition Security to Ground Lessee.

The Ground Lease shall set forth further details regarding the specifics and procedures related to the Demolition, the Demolition Report and the Demolition Security.

**FINANCING AND  
ENCUMBRANCES:**

Subject to LACMTA's reasonable approval, Ground Lessee may encumber its leasehold estate with mortgages, deeds of trust or other financing instruments; provided, however, in no event shall LACMTA's Satisfactory Continuing Control Requirement (as defined in the *Retained Rights* subsection of the *Ground Lease – Other Terms and Conditions* section of this Summary of Key Terms and Conditions), LACMTA's fee title interest or rent payable to LACMTA under the Ground Lease be subordinated or subject to Ground Lessee's financing or other claims or liens (except as set forth below for certain affordable housing and other covenants). Such encumbrances and financings shall be subject to LACMTA's reasonable approval, except with respect to certain "permitted financing events" meeting specific criteria to be set forth in the Ground Lease, which shall not require LACMTA's approval.

**COVENANTS:**

Ground Lessee may encumber its leasehold estate with affordable housing and other covenants reasonably required by Ground Lessee's affordable housing funding sources or the City of Los Angeles as a condition to granting Project approvals, entitlements and building permits, which covenants shall be subject to LACMTA's review and reasonable approval. LACMTA will reasonably consider the encumbrance of its fee title interest with certain restrictive covenants, if required by Ground Lessee's affordable housing funding sources or the City of Los Angeles as a condition to granting Project approvals, entitlements and building permits; provided that Ground Lessee agrees to perform all obligations under said covenants during the Ground Lease Term and to indemnify LACMTA for all claims and losses resulting from Ground Lessee's failure to do the same.

**FEDERAL CIVIL RIGHTS  
COVENANTS:**

Ground Lessee shall comply with all applicable Federal nondiscrimination requirements, including applicable sections of Title 49 of the Code of Federal Regulations.

**TRANSFERS, ASSIGNMENT,  
AND SUBLETTING:**

Except for limited permitted exceptions to be set forth in the Ground Lease, Ground Lessee shall not transfer, assign or sublet

(except for the typical subleasing of the apartments and retail space within the Project) its rights or obligations under the Ground Lease, or beneficial interests in Ground Lessee (each, a **“Transfer”**):

- a. Prior to completion of construction of the Project; and
- b. After completion of construction of the Project, other than in accordance with reasonable transfer criteria to be set forth in the Ground Lease, including, without limitation, criteria regarding (a) applicable FTA approval, (b) the creditworthiness, history and experience of any proposed transferee and its affiliates, and (c) FTA and State requirements, as applicable, concerning debarment, suspension, etc. stemming from FTA and State funding related to acquisition of the LACMTA Property.

**RETAINED RIGHTS:**

LACMTA shall retain from the Ground Lease and the Premises certain rights as shall be further described in detail in the Ground Lease, relating to the following: (1) the right to install, construct, inspect, operate, maintain, repair, expand and replace public transit facilities under and adjacent to the Premises as LACMTA may deem necessary, provided that such installation, construction, inspection, operation, maintenance, repair, expansion and replacement does not interfere with the quiet use and enjoyment of the Project or its construction by Ground Lessee or its subtenants; (2) the right to enter upon and inspect the Premises, with reasonable notice to Ground Lessee, and anytime during normal business hours, for purposes of conducting normal and periodic inspections of the Premises and the Project and to confirm Ground Lessee's compliance with the terms and conditions of the Ground Lease; (3) the right to install, use, repair, maintain, and replace along the perimeter of the Premises abutting the public streets, sidewalks or rights-of-way (including, without limitation, on the exterior of the Project) informational, directional and way-finding signs for the purpose of directing the public to, from and between LACMTA and other public transit options in the area; provided, however, LACMTA shall not install any such signage on the Premises or the Project without Ground Lessee's prior written approval, which shall not be unreasonably withheld, conditioned or delayed; and (4) all rights not explicitly granted to Ground Lessee in the Ground Lease (the **“Retained Rights”**). The Retained Rights shall, among other things, ensure that the Site remains available for the transit purposes originally

authorized by the FTA (“**LACMTA’s Satisfactory Continuing Control Requirement**”).

- SUPERSEDURE:** This Summary of Key Terms and Conditions supersedes and replaces any and all term sheets or summaries of key terms and conditions relating to the Site, the Project or any joint development agreement or ground lease dated prior to November 15, 2017.
- OTHER:** Other provisions will be included in the Ground Lease, including, without limitation, provisions relating to (a) Ground Lessee’s assumption of risk related to the Project’s proximity to transit operations, (b) insurance, and (c) indemnity.

## **LACMTA TRANSACTION COSTS**

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### **LACMTA TRANSACTION COSTS:**

Developer and Ground Lessee acknowledge and agree that LACMTA will incur certain actual costs (the “**LACMTA Transaction Costs**”) related to (a) the design, development, planning, and construction of the Project (including costs related to construction methods and logistics), and (b) negotiation of the terms and conditions of the transactions contemplated under the JDA and the Ground Lease. The LACMTA Transaction Costs shall include, without limitation, the actual cost of in-house staff time (including LACMTA overhead and administrative costs) and third party consultation fees (including, but not limited to, fees related to consultants, engineers, architects, and advisors) for financial analyses, design review (including reviewing plans and specifications for the Project), negotiations, appraisals, document preparation, services related to development, planning, engineering, construction safety, construction management, construction support, and construction logistics and inspection, and other reasonable services related to the Project and the transactions contemplated under the JDA and Ground Lease, but shall exclude the cost of LACMTA Joint Development staff, and LACMTA’s in-house and outside legal counsel with respect to negotiation and preparation of the JDA, Ground Lease and related transaction documents.

- JDA DEPOSIT:** Developer shall provide a deposit to LACMTA for LACMTA to apply to LACMTA Transaction Costs (whether accruing prior to or after the JDA Effective Date) (the “**Deposit**”). Developer shall pay LACMTA an initial Deposit amount of \$50,000 on the JDA

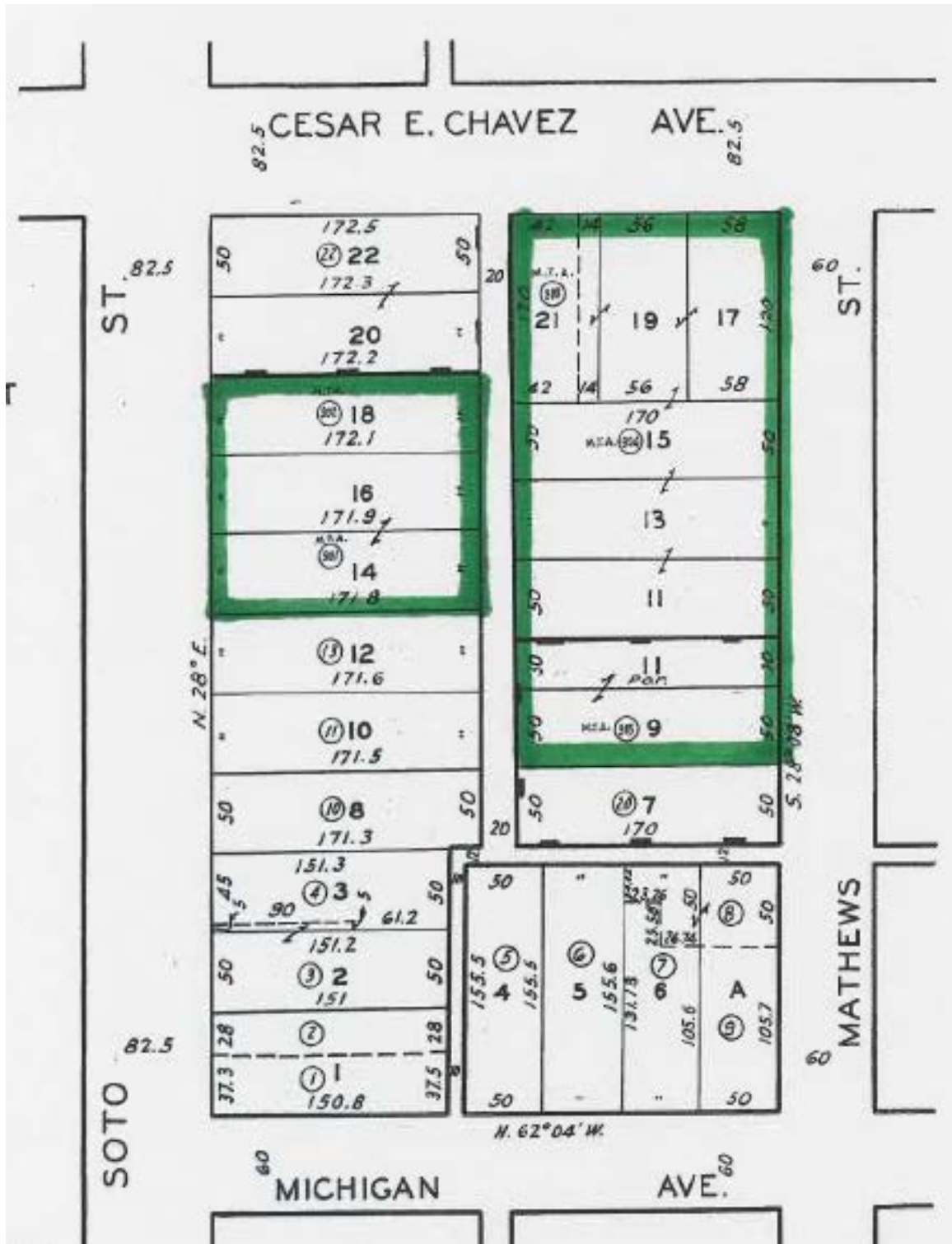
Effective Date. Any unspent Deposit funds provided by Developer under the ENA shall be carried over and applied towards the \$50,000 initial Deposit due under the JDA. If the Deposit is not fully utilized by LACMTA in connection with the Project during the term of the JDA, then the remaining balance of the Deposit shall be allocated as follows: (a) all amounts up to \$25,000 will be carried over and credited towards the Deposit due under the Ground Lease; and (b) all amounts in excess of \$25,000 will be returned to Developer. LACMTA shall provide documentation of LACMTA Transaction Costs to Developer upon Developer's request, provided that the form of documentation will be such that is available to LACMTA and in its possession.

**GROUND LEASE DEPOSIT:** Developer shall pay LACMTA an initial Deposit amount of \$25,000 under the Ground Lease on the Commencement Date. To the extent that the Deposit under the Ground Lease is not utilized by LACMTA in connection with the Project, any remaining balance will be returned to Ground Lessee upon completion of the Project. Ground Lessee will provide LACMTA with additional Deposit funds, in an amount to be determined at the time, for LACMTA Transaction Costs accruing during the Ground Lease Term in connection with future Ground Lessee improvements requiring LACMTA review/approval.

**DEPOSIT  
REPLENISHMENT:** During the term of the JDA and the Ground Lease Term, whenever the Deposit balance reaches Ten Thousand Dollars (\$10,000.00) or less, Developer or Ground Lessee (as applicable) will replenish the Deposit to \$50,000 (under the JDA) and \$25,000 (under the Ground Lease), upon written notice from LACMTA. If Developer or Ground Lessee (as applicable) does not replenish the Deposit at the applicable times as set forth herein, LACMTA may decline to provide the services that are to be covered by the Deposit and/or terminate the JDA or Ground Lease (as applicable).

# Exhibit A

## Depiction of the Site



## Exhibit B

### List of Plans and Specifications Comprising the Conceptual Plan

<u>Sheet No.</u>	<u>Sheet Title</u>	<u>Initial Date</u>	<u>Latest Revision Date</u>
G0.00	Cover Sheet	06-30-2016	10-16-2017
A1.01	Plot Plan	06-30-2016	10-16-2017
A1.01B	Plot Plan Information	06-30-2016	10-16-2017
A1.02	Open Area Diagram	06-30-2016	10-16-2017
1 of 2	ALTA/NSPS Land Title and Design Survey for Abode Communities La Veranda Apartments	04-04-2016	N/A
2 of 2	ALTA/NSPS Land Title and Design Survey for Abode Communities La Veranda Apartments	04-04-2016	N/A
C-2.01	Horizontal Control Plan	12-06-2016	10-16-2017
L1.00	Landscape Concept Diagrams	12-05-2016	10-16-2017
L1.01	First Floor Landscape Plan	12-05-2016	10-16-2017
L1.02	Second Floor Landscape Plan	12-05-2016	10-16-2017
L1.11	Reference Images	12-05-2016	10-16-2017
L3.00	Planting Legend & Notes	12-05-2016	10-16-2017
L3.01	Tree Removal Plan	12-05-2016	10-16-2017
L3.51	Planting Images	12-05-2016	10-16-2017
A2.01	First Floor Plan	06-30-2016	10-16-2017
A2.02	Second Floor Plan	06-30-2016	10-16-2017
A2.03	Third Floor Plan	06-30-2016	10-16-2017
A2.04	Fourth Floor Plan	06-30-2016	10-16-2017
A2.05	Roof Plan	06-30-2016	10-16-2017
A3.01	Elevations North	06-30-2016	10-16-2017
A3.02	Elevations East	06-30-2016	10-16-2017
A3.03	Elevations West	06-30-2016	10-16-2017
A3.04	Elevations South	06-30-2016	10-16-2017
A3.05	Elevations Alley West	06-30-2016	10-16-2017
A3.06	Elevations Alley East	06-30-2016	10-16-2017
N/A	La Veranda Material Board	February 2017	N/A
A4.01	Section View East	06-30-2016	10-16-2017
A4.02	Section View North	06-30-2016	10-16-2017
A4.03	Section View West	06-30-2016	10-16-2017
E1.01	Parking Lot Photometric	06-30-2016	10-16-2017
E1.02	Bridge and Courtyard Photometric	06-30-2016	10-16-2017

## Exhibit C

### Affordability/Unit Mix Matrix

Bedrooms	Unit AMI	Originally Proposed # of Units	Agreed Upon # of Units	Change
2 BD	30% AMI	5	11	+6
3 BD	30% AMI	3	5	+2
2 BD	40% AMI	11	15	+4
3 BD	40% AMI	5	7	+2
2 BD	50% AMI	21	27	+6
3 BD	50% AMI	10	11	+1
2 BD	60% AMI	16	0	-16
3 BD	60% AMI	5	0	-5
2 BD	Manager	1	1	None



## Exhibit D

### Project Summary

Area Type	Square Feet
2 bedroom units	44,118
3 bedroom units	25,139
Circulation Space	20,269
Commercial Parking	8,455
Commercial Space	8,000
Residential Parking	13,731
Community Room	2,455
Laundry Room	810
Property Management Office	245
Resident Services Offices	245
Open Space	<u>21,062</u>
TOTAL	144,259

## Exhibit E

### Financing Schedule for 4% LIHTC/AHSC Funded Transaction

Apply to HCID	January 2018
HCID Award	March 2018
Apply for AHSC funding	January 2018
AHSC Award	March 2018
Apply for Tax Credits	May 2018
Tax Credits Award	July 2018
Secure Investor / Bank	October 2018
Execute Ground Lease / Close Construction Loan	January 2019

## Exhibit F

### Financing Schedule for 9% LIHTC/ AHP Funded Transaction

Apply for Managed Pipeline	January 2019
Managed Pipeline Award	March 2019
Additional funding source to increase tie breaker (State Housing and Community Development Infill Infrastructure Grant program funding or National Housing Trust Fund funding)	March 2019
Apply for 9% Tax Credits	March 2020
Tax Credit Award	June 2020
Apply for AHP funds	March 2020
AHP Award	June 2020
Secure Investor/Bank	August 2020
Execute Ground Lease / Close Construction Loan	November 2020





### **Qualifying Criteria for CEQA Exemption**

La Veranda L.P. ("Developer"), an affiliate of Abode Communities, desires to proceed with the La Veranda development project (the "Project") on approximately 85,378 square feet of Los Angeles County Metropolitan Transportation Authority ("LACMTA") owned property located near the corner of Cesar E. Chavez Avenue and Soto Street in Boyle Heights (the "Site"). The Site is bounded by Cesar E. Chavez Avenue to the north, Soto Street to the west, Mathews Street to the east, and a residential neighborhood to the south. The Project will include approximately 76 affordable apartments, one property manager's apartment, approximately 8,000 square feet of retail space and related parking.

Staff has determined that the Project qualifies for an exemption from the California Environmental Quality Act ("CEQA") pursuant to Section 21080(b)(9) of the California Public Resources Code and Section 15332 (In-Fill Development Projects) of the CEQA Guidelines, as follows:

#### **Section 15332 (In-Fill Development Projects)**

- (a) The Project is consistent with the City of Los Angeles General Plan designation for the Site and all applicable general plan policies, as well as with the applicable zoning designation and regulations applicable to the Site.
- (b) The Project is within Los Angeles city limits and the Site is less than five acres and is surrounded by urban uses.
- (c) The Site has no value as habitat for endangered, rare or threatened species.
- (d) Approval of the Project will not result in any significant effects relating to traffic, noise, air quality or water quality.
- (e) The Site can be adequately served by all required utilities and public services.

Staff has also determined that the Project is not included in any of the exceptions to the forgoing exemption under Section 15300.2 (Exceptions) of the CEQA Guidelines, which are as follows:

## **Section 15300.2 (Exceptions)**

- (a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located --- a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.
- (b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.
- (c) Significant Effect. A categorical exemption shall not be used for an activity where there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances.
- (d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway. This does not apply to improvements which are required as mitigation by an adopted negative declaration or certified EIR.
- (e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.
- (f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.

Staff's determinations are based on a review of a Categorical Exemption Analysis prepared by Developer's licensed environmental consultant, EcoTierra Consulting, which was included in its Findings Supporting a Categorical Exemption report, dated August 2017.



## Board Report

File #: 2017-0476, File Type: Agreement

Agenda Number: 1.

**REVISED**  
**EXECUTIVE MANAGEMENT COMMITTEE**  
**NOVEMBER 16, 2017**

**SUBJECT: EXPO/CRENSHAW STATION JOINT  
DEVELOPMENT PROJECT**

**ACTION: AUTHORIZE EXECUTION OF SHORT TERM EXCLUSIVE NEGOTIATION  
AGREEMENT AND PLANNING DOCUMENT**

### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to execute a two phase, six-month Short Term Exclusive Negotiation Agreement and Planning Document (Short Term ENA) with Watt Companies, doing business as WIP-A, LLC (Developer) and the County of Los Angeles (County) for the development of 1.77 acres of Metro-owned property and 1.66 acres of County-owned property at the Expo/Crenshaw Station (Site), subject to resolution of protest(s), if any.

### **ISSUE**

In January 2017, Metro and the County released a Request for Proposals (RFP) for joint development of Metro and County-owned parcels at the Expo/Crenshaw Station (see Attachment A - Site Map). On April 20, 2017, Metro and the County received four proposals (see Attachment B - Procurement Summary), and following evaluations, staff recommends entering into a Short Term ENA with Watt Companies, the highest scoring firm. The Short Term ENA will provide an interim period before executing a full term ENA during which community outreach can occur and the project can be further defined based upon community input. In addition, the Developer will be required in the initial three months to identify and enter into a letter of intent with a community-based organization for its participation in the development of the project, including the opportunity for an economic interest in furtherance of the goals of Metro's Joint Development Policy and the Expo/Crenshaw RFP and Development Guidelines (Development Guidelines).

### **DISCUSSION**

#### *Background*

On March 26, 2015, the Metro Board of Directors (Board) directed staff to develop a strategic plan for joint development activities along the Crenshaw/LAX Transit Corridor and to work with public sector partners to implement joint development activities on publicly-owned land along the corridor. Completed in June 2015, the Crenshaw/LAX Transit Corridor Joint Development Strategic Plan



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identified Metro and County-owned properties at the Expo/Crenshaw Station as a joint development opportunity site which was then included in Metro's Transit Oriented Communities (TOC) Demonstration Program.

Also per Board direction, Metro entered into a Memorandum of Understanding (MOU) with the County, acting through the Community Development Commission of the County of Los Angeles (CDC), to administer the joint development process leading to an integrated project across both the Metro and County properties at Expo/Crenshaw Station. Following extensive community input, Development Guidelines were adopted by the Board in June 2016 and integrated into the RFP.

#### *Expo/Crenshaw Station Opportunity Site*

The Site incorporates two properties in the City of Los Angeles: (1) a County Probation Department facility located at 3606 W. Exposition Boulevard (southwest corner of Exposition and Crenshaw Boulevards) which the County plans to vacate to repurpose for transit-oriented development; and (2) a Metro-owned property on the southeast corner of Exposition and Crenshaw Boulevards that currently serves as construction staging for the Crenshaw/LAX Transit Project. Located at the intersection of the Expo Line and the future Crenshaw/LAX Line, the Site has superior regional connectivity to employment and activity centers including Santa Monica, Culver City, USC, Downtown LA and Los Angeles International Airport. The community-driven Development Guidelines for the Site identify the opportunity for a culturally distinct gateway destination and pedestrian-scaled community serving residents and visitors with high quality and local-serving retail uses and a range of housing types, both market rate and affordable. It also identifies opportunities to foster job growth with attractive retail and/or business incubator space, among other goals.

#### *Developer Proposal*

The recommended firm's proposal was submitted by WIP-A, LLC, a wholly-owned subsidiary of Watt Companies, a Southern California-based owner/manager/developer with over 70 years of experience. The proposed team includes additional firms exceptionally accomplished in architecture, engineering, urban design, and community engagement. Team members have worked together in smaller combinations on several projects and bring a number of best practices from other notable transit-oriented development projects throughout Southern California.

The Developer's proposal articulates a project vision that fundamentally follows the objectives highlighted in previous community workshops and identified in the Development Guidelines. The proposal contemplates a total of 492 residential units dispersed over both sites, with 73 (15%) of those units restricted to households earning 50% or less of area median income (AMI). Approximately 47,500 square feet of commercial and retail space is envisioned with a grocery store and locally-owned and operated restaurants identified as potential tenants. In accordance with the Development Guidelines, the proposal includes specific strategies for achieving a variety of shared community, County and Metro goals for the Site, including a business incubator-type space aimed at generating economic development benefits and opportunities. Proposed public amenities include a multi-mobility hub with bike and car-share connections to increase transit ridership and support active transportation. The proposal effectively envisions activating public space around the Site by utilizing street vacations to create public plazas leading to ground floor community meeting spaces, and preserves the opportunity for an additional station entrance on the County property to facilitate safe connections between the Crenshaw/LAX and Expo Lines. The proposal has the potential to create an

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architecturally iconic gateway and vibrant transit hub to be enjoyed by both existing and future residents and visitors (see Attachment C - Site Plan and Renderings). The Developer's commitment to a robust stakeholder engagement process further aligns with community priorities expressed in the Development Guidelines.

The Metro Joint Development Policy has a number of objectives and goals, one of which is fiscal responsibility. Joint development projects are expected to generate value to Metro, and by extension to the County, based on maximizing ground rent revenues received for use of publicly-owned property. In addition to substantial ground lease rental payments to both Metro and the County, the Developer's proposal also includes a "look-back" provision that would provide a one-time payment to both property owners if the project proves to be more profitable than projected. The Developer also offers both Metro and the County a portion of proceeds derived from the sale or refinancing of the developer ground lease interest and site improvements. The overall proposed financial terms contemplated in the proposal are highly competitive and align with Joint Development Policy goals.

#### *Short Term ENA*

Typically, following the proposal solicitation process, a developer is selected to enter into an ENA with Metro for a base term of 18 months during which project refinement and entitlements occur and ground lease transaction terms are negotiated. After careful consideration, staff recommends a two phase, six-month Short Term ENA as an interim step to allow the parties the ability to directly communicate about project scope and team composition, and to have an open dialogue with community stakeholders before committing to a long term ENA. Within the first three months of the Short Term ENA, the Developer will be required to identify and enter into a letter of intent with a community-based organization for its participation in the development of the project, including the opportunity for an economic interest.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no impact on safety. The eventual implementation of this joint development project at the Expo/Crenshaw Station will offer opportunities to improve safety for transit riders through better pedestrian and bicycle connections.

### **FINANCIAL IMPACT**

A Short Term ENA does not require a Developer deposit as there will be no third party costs at this time. Funding for staff time related to the Short Term ENA and the proposed project is included in the FY18 budget in Cost Center 2210 (Joint Development) under Project 401045 (Expo/Crenshaw JD).

#### Impact to Budget

Metro project planning activities and related costs will be funded from local right-of-way lease revenues. Local right-of-way lease revenues are eligible for bus/rail operating and capital expenses. Execution of the Short Term ENA will not impact FY 2018 bus and rail operating and capital budget, Proposition A and C, TDA, Measure R or M administration budget.

### **ALTERNATIVES CONSIDERED**

The Board could choose not to proceed with the recommended action and could direct staff to (a) enter into a full long term ENA, (b) continue clarification talks with the Developer outside of an ENA, or (c) prepare and release a new RFP. Staff does not recommend proceeding with these alternatives because the recommended action will ensure the most transparent process with the community and other public sector stakeholders, and appropriately builds upon the significant community input and procurement process that has transpired thus far. A new RFP process would delay the development of the Site, and Metro and the County may fail to take advantage of currently favorable conditions in the real estate market. Further, if the outcome of the discussion during the Short Term ENA process does not create a project proposal suitable to the community, Metro, or the County, other options could still be considered.

### **NEXT STEPS**

Upon Board approval of the recommended action and corresponding authorization by the County, the Short Term ENA will be executed, and Metro staff, the County and the Developer will commence preliminary negotiations in parallel with community outreach to engage stakeholders in a dialogue about the development proposal. If successful, staff will return to the Board for the authority to execute a full term ENA.

### **ATTACHMENTS**

Attachment A - Site Map

Attachment B - Procurement Summary

Attachment C - Site Plan and Renderings - REVISED

Prepared by: Nicole Velasquez, Principal Transportation Planner, Countywide Planning & Development, (213) 922-7439

Nick Saponara, Deputy Executive Officer, Countywide Planning & Development, (213) 922-4313

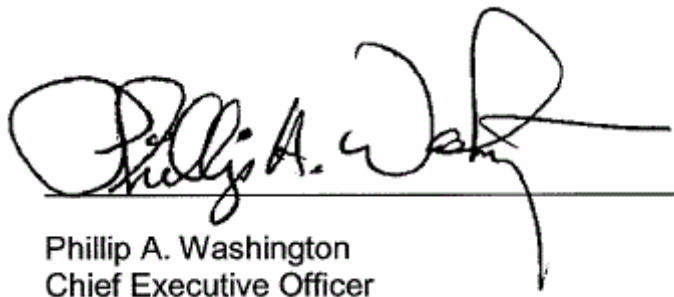
Jenna Hornstock, Executive Officer, Countywide Planning & Development, (213) 922-7437

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Therese W. McMillan, Chief Planning Officer, (213) 922-7077

Phillip A. Washington, CEO, (213) 922-7555



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Phillip A. Washington  
Chief Executive Officer

# ATTACHMENT A

## SITE MAP



## PROCUREMENT SUMMARY

## EXPO/CRENSHAW STATION JOINT DEVELOPMENT PROJECT/PS37025000

1.	<b>RFP Number:</b> PS37025000	
2.	<b>Recommended Vendor:</b> Watt Companies, dba WIP-A, LLC	
3.	<b>Type of Procurement (check one):</b> <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP- Joint Development <input type="checkbox"/> RFP-A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	<b>Procurement Dates:</b>	
	<b>A. Issued:</b> January 10, 2017	
	<b>B. Advertised/Publicized:</b> January 10, 2017	
	<b>C. Pre-proposal/Pre-Bid Conference:</b> January 25, 2017	
	<b>D. Proposals/Bids Due:</b> April 20, 2017	
	<b>E. Pre-Qualification Completed:</b> N/A	
	<b>F. Ethics Declaration Forms Received:</b> April 20, 2017	
	<b>G. Protest Period End Date:</b> October 23, 2017	
5.	<b>Solicitations Picked up/Downloaded:</b> 136	<b>Bids/Proposals Received:</b> 4
6.	<b>Contract Administrator:</b> Brian Selwyn	<b>Telephone Number:</b> (213) 922-4679
7.	<b>Project Manager:</b> Nicholas Saponara	<b>Telephone Number:</b> (213) 922-4313

**A. Procurement Background**

This Board Action is to approve a Short Term Exclusive Negotiation Agreement and Planning Document (Short Term ENA) with Watt Companies, doing business as WIP-A, LLC and the County of Los Angeles (County) for the development of 1.77 acres of Metro-owned property and 1.66 acres of County-owned property at the Expo/Crenshaw Station. Board approval of the Short Term ENA is subject to resolution of any properly submitted protest.

This project, if approved, will be administered by Metro per the terms of a Memorandum of Understanding entered into by the County and Metro on January 6, 2017.

The Request for Proposals (RFP) was issued in accordance with Metro's Acquisition Policy and will result in a Short Term ENA.

A pre-proposal conference for this RFP was conducted on January 25, 2017 and was attended by 50 people representing 47 firms. Twenty-three questions were asked at the pre-proposal conference and responses were released prior to the proposal due date.

A total of four proposals were received on April 20, 2017.

## **B. Evaluation of Proposals**

A Proposal Evaluation Team (PET), consisting of staff from Metro Joint Development (JD) and Community Relations, the City of Los Angeles, the County of Los Angeles, and a community-based organization was convened and conducted a comprehensive technical evaluation of the proposal received.

The proposal was evaluated based on the following evaluation criteria and weights:

- |  |            |
|--|------------|
| • Vision, Scope and Design                           | 35 percent |
| • Development Team Experience and Financial Capacity | 30 percent |
| • Financials   | 20 percent |
| • Implementation                                     | 15 percent |

The evaluation criteria are appropriate and consistent with criteria developed for other similar Joint Development procurements. Several factors were considered when developing these weights, giving the greatest importance to the vision, scope and design, and team experience and financial capacity to undertake the work of this project.

All four proposals were determined to be within the competitive range and are listed below in alphabetical order:

1. APPA Real Estate LLC
2. Crenshaw Corridor Ventures LP
3. NCNvision, LLC
4. Watt Companies, dba WIP-A, LLC

During the week of May 29, 2017, the PET met and interviewed the firms. The firms' project managers and key team members had an opportunity to present each teams' qualifications and respond to the PET's questions. In general, each team's presentation addressed the requirements of the RFP, experience with all aspects of the required tasks, and stressed each firm's commitment to the success of the project. Also highlighted were work plans and perceived project issues. Each team was asked questions relative to each firm's proposed alternatives and previous experience.

### **Qualifications Summary of Firms within the Competitive Range**

#### **WIP-A, LLC**

WIP-A, LLC is a wholly-owned subsidiary of Watt Companies, a privately-held, for-profit Southern California-based developer formed in 1947.

The development team also includes Belzberg Architects, RELM (landscape architecture), Nelson/Nygaard (transportation), Harley Ellis Devereaux (design),

Arup (engineering), BuroHappold (sustainability), Ross Group (outreach), and Allan Kotin & Associates (P3 and real estate).

The proposer has constructed and manages a number of large-scaled, mixed use projects in the Los Angeles area. The proposer has established long-term relationships with financial institutions and has demonstrated its ability to assemble financing for other similarly scaled real estate transactions.

### **APPA REAL ESTATE LLC**

APPA Real Estate LLC (APPA) is a privately-held, for-profit Santa Monica real estate investment and development company formed in 2013.

The development team for the proposal also includes Retirement Housing Foundation (RHF) (affordable senior housing developer), Ankrom Moisan Architects (architecture), and SWA Group (landscape architecture).

Although principals have experience on large, public-private partnerships, APPA as a firm has limited independent experience delivering projects of comparable scale and complexity to what is proposed. RHF has a demonstrated track record in developing and managing affordable housing projects.

### **CRENSHAW CORRIDOR VENTURES LP**

Crenshaw Corridor Ventures LP (Crenshaw Corridor LP) is a California Limited Partnership composed of West Angeles Community Development Corporation, a 501 (c)(3) non-profit community development corporation formed in 1994 in affiliation with the West Angeles Church of God in Christ, and Integral Development LLC, a privately-held, for-profit Atlanta-based developer formed in 1993.

The development team also includes Killefer Flammang Architects, AE3 Partners (design and construction administration), Duane Border (landscape architecture), e7 Architecture Studio (sustainability), Dan Rosenfeld (land use consulting), Charles Dunn (real estate leasing), Concord Group (market analysis), Curton Dunsmuir (building contracting), and T.R.U.S.T. South LA (mobility).

The development team has a track record of delivering both large-scale development (Integral) and local, community-based development (West Angeles CDC). The strength of the team was offset by relatively low scoring in proposed development program/vision and financial offer as highlighted later in this report.



## **NCNVISION, LLC**

NCNvision, LLC (NCNvision) is a Special Purpose Entity consisting of NVision Development Group, LLC, National CORE and Capri Investment Group. National CORE (affordable housing developer) and the Los Angeles-based private development firm NVision Development Group would serve as co-developers of the project.

The development team also includes Capri Investment Group (financial partner), Build Group (construction manager), QDG Architecture (design), Hart Realty Advisors (project management), and Nuvis Architecture (landscape architecture).

NVision Development Group, LLC has limited experience delivering projects of comparable scale and complexity to what is proposed. Co-developer National CORE has a demonstrated track record in developing and managing an extensive portfolio of affordable housing projects.

## **Summary of Proposed Development Programs<sup>1</sup>**

Each proposer was required to submit a table with gross square footage for each proposed use, including public and private open space, market rate and affordable housing units, retail or office space, parking, and any other information relevant to the development program. This information is summarized below.

### **Residential**

	WIP-A, LLC	APPA	CRENSHAW CORRIDOR LP	NCNvision
<b>Residential Units (#)</b>	<b>492</b>	<b>375</b>	<b>406</b>	<b>500</b>
# units 30% AMI	-	-	51	-
# units <50% AMI	73	-	-	-
# units <60% AMI	-	125	17	177
<b>% Affordable Units &lt;60% AMI<sup>2</sup></b>	<b>15%</b>	<b>33%</b>	<b>17%</b>	<b>35%</b>
# units <80% AMI	-	-	-	68
# units <120% AMI	-	-	22	-
# units <140% AMI	-	-	-	-
<b>% Moderate Units</b>	<b>-</b>	<b>-</b>	<b>5%</b>	<b>14%</b>

<sup>1</sup> The Development Program is based on proposal submissions. The recommended proposal is preliminary and subject to change during the transaction negotiation.

<sup>2</sup> Per Metro Joint Development Policy, units qualifying as "affordable" are restricted to households earning 60% or less of the Area Median Income (AMI) as defined by the California Tax Credit Allocation Committee (TCAC).

## Non-Residential Uses

	WIP-A, LLC	APPA	CRENSHAW CORRIDOR LP	NCNvision
Office (SF)	-	93,925	-	-
Retail/Dining (SF)	47,500	56,372	42,250	109,882
Community Facility (SF)	12,500	5,329	9,000	40,000
Parking (on-site spaces)	591	406	282	356
Bicycle Storage	542	1,340	420	120
Public Open Space (SF)	126,670	43,500	76,407	67,155

## Summary of Proposed Funding and Financial Terms<sup>3</sup>

Each proposer was required to submit the anticipated sources of proposed project funding. Proposers were also required to submit financial officers to Metro and the County which included key financial information such as ENA fee, lease period, rents at all stages of development, and any other terms proposers would like to offer. To further evaluate each proposal, financial projections were calculated to assess the value of each offer and are summarized below.

### Funding Sources Ratios

	WIP-A, LLC	APPA	CRENSHAW CORRIDOR LP	NCNvision
Equity	39.5%	33.3%	16.8%	18.3%
Conventional Debt	60.5%	50%	65.8%	44.6%
Competitive Grants	-	16.7%	14.8%	37.1%
Other	-	-	2.6%	-

### Site A Financial Terms (County)

	WIP-A, LLC	APPA	CRENSHAW CORRIDOR LP	NCNvision
Ground Lease Term and Options	66 years	65+17+17 years	66 years	99 years
ENA Fee	\$25,000	\$275,000 <sup>4</sup>	\$25,000	\$25,000
Holding/Construction/Lease-Up	\$641,070	\$500,000	\$ -	\$511,712
NPV of Ground Rent Over Term <sup>5</sup>	\$25,957,880	\$12,094,454	\$1,559,389	\$19,435,692
Potential Additional Rent	Yes <sup>6</sup>	No	No	Yes
Participation Sale/Refinance	Yes	Yes	Yes	No

<sup>3</sup> The Funding and Financial Terms are based on proposal submissions. The recommended proposal is preliminary and subject to change during the transaction negotiation. The Board will consider final terms as part of the proposed Ground Lease approval.

<sup>4</sup> Refundable under certain conditions.

<sup>5</sup> Projected net present value (in 2018 dollars) of ground rents to be received by the County over the lease duration, beginning with the first stabilized year of operation using a 4% discount rate.

<sup>6</sup> "Look-back" provision that would provide a one-time payment to the County in the event the project proves to be more profitable than projected.

## Site B Financial Terms (Metro)

	WIP-A, LLC	APPA	CRENSHAW CORRIDOR LP	NCNvision
Ground Lease Term and Options	65 years	65+17+17 years	66 years	60+39 years
ENA Fee	\$25,000	\$275,000 <sup>7</sup>	\$25,000	\$25,000
Holding/Construction/Lease-Up	\$641,070	\$500,000	\$325,000	\$609,113
NPV of Ground Rent Over Term <sup>8</sup>	\$24,676,819	\$12,094,454	\$6,665,086	\$20,696,740
Potential Additional Rent	Yes <sup>9</sup>	No	Yes	Yes
Participation Sale/Refinance	Yes	Yes	Yes	No

<sup>7</sup> Refundable under certain conditions.

<sup>8</sup> Projected net present value (in 2018 dollars) of ground rents to be received by Metro over the lease duration, beginning with the first stabilized year of operation, using a 4% discount rate.

<sup>9</sup> "Look-back" provision that would provide a one-time payment to Metro in the event the project proves to be more profitable than projected.

A summary of the PET's scores is below.

<b>1</b>	<b>WIP-A, LLC</b>	<b>Average Score</b>	<b>Factor Weight</b>	<b>Weighted Average Score</b>	<b>Rank</b>
<b>2</b>	Vision, Scope and Design	78.67	35.00%	27.53	
<b>3</b>	Development Team Experience and Financial Capacity	78.33	30.00%	23.50	
<b>4</b>	Financials	79.44	20.00%	15.89	
<b>5</b>	Implementation	77.92	15.00%	11.69	
<b>6</b>	<b>Total</b>		<b>100.00%</b>	<b>78.61</b>	<b>1</b>
<b>7</b>	<b>APPA</b>				
<b>8</b>	Vision, Scope and Design	76.50	35.00%	26.78	
<b>9</b>	Development Team Experience and Financial Capacity	66.94	30.00%	20.08	
<b>10</b>	Financials	66.39	20.00%	13.28	
<b>11</b>	Implementation	71.25	15.00%	10.69	
<b>12</b>	<b>Total</b>		<b>100.00%</b>	<b>70.83</b>	<b>2</b>
<b>13</b>	<b>Crenshaw Corridor LP</b>				
<b>14</b>	Vision, Scope and Design	70.33	35.00%	24.62	
<b>15</b>	Development Team Experience and Financial Capacity	76.67	30.00%	23.00	
<b>16</b>	Financials	66.67	20.00%	13.33	
<b>17</b>	Implementation	63.33	15.00%	9.50	
<b>18</b>	<b>Total</b>		<b>100.00%</b>	<b>70.45</b>	<b>3</b>
<b>19</b>	<b>NCNvision</b>				
<b>20</b>	Vision, Scope and Design	65.00	35.00%	22.75	
<b>21</b>	Development Team Experience and Financial Capacity	60.56	30.00%	18.17	
<b>22</b>	Financials	63.33	20.00%	12.67	
<b>23</b>	Implementation	56.67	15.00%	8.50	
<b>24</b>	<b>Total</b>		<b>100.00%</b>	<b>62.09</b>	<b>4</b>

### **C. Background on Recommended Developer**

The recommended firm, WIP-A, LLC, is a wholly owned subsidiary of the Watt Companies (Watt). Watt was established in 1947 and has grown into one of the largest owners, managers, and developers of commercial and residential real estate on the West Coast. Watt offers a broad range of services and solutions, including building and development, investment, advisory and asset management. Throughout its history, it has successfully developed properties in partnership with land owners and institutional partners. The senior members at Watt Companies have more than 150 collective years of industry experience. The firm owns and manages a real estate portfolio of \$1.5 billion. Two examples of local projects in which Watt played a major role are Crenshaw Plaza, a 139,000 square foot neighborhood retail center located at the southeast corner of Crenshaw Blvd. and Slauson Ave. in Los Angeles, and Renaissance at Inglewood, a master planned community in the City of Inglewood featuring 375 single family detached homes.

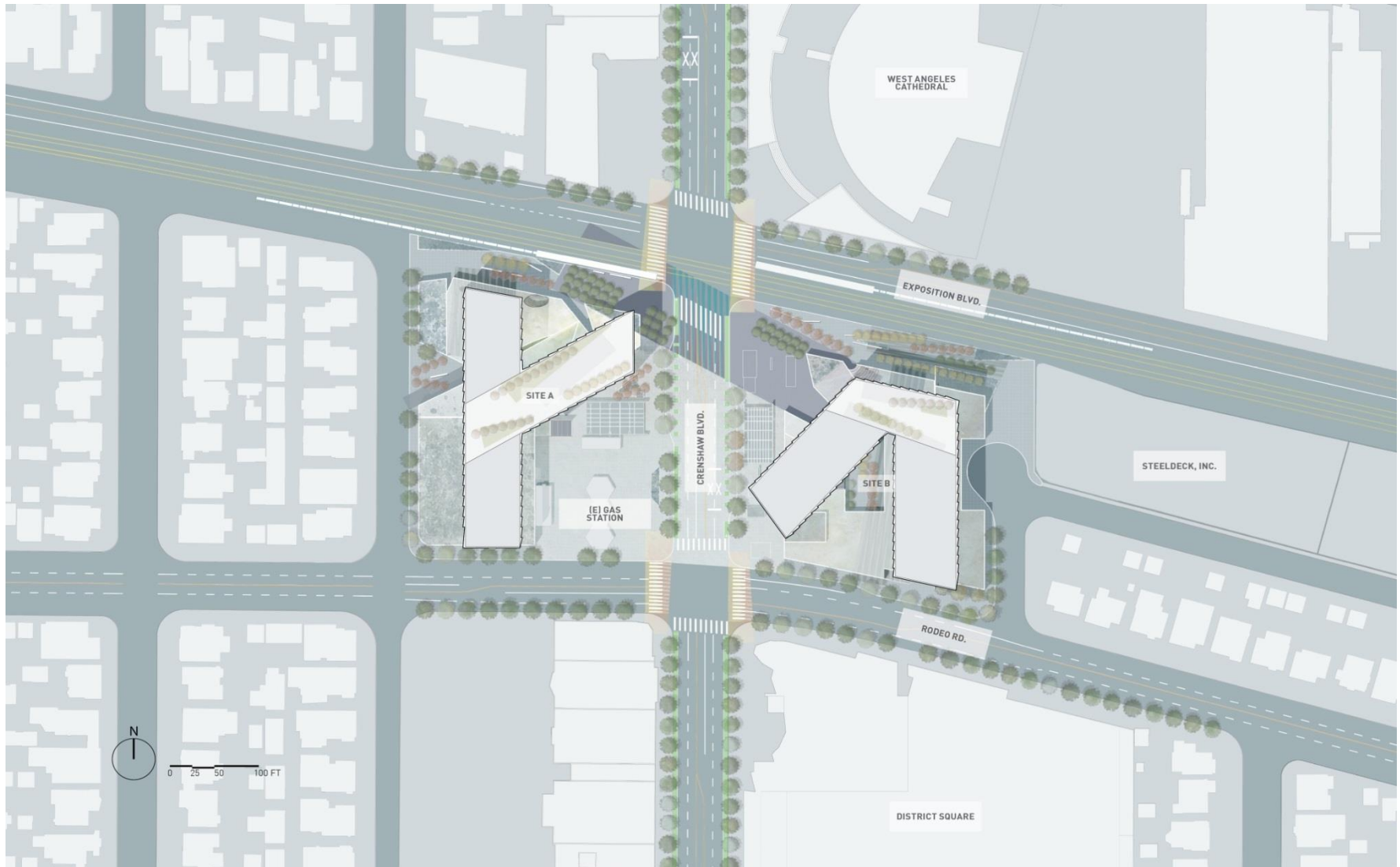
The proposed team assembled by WIP-A includes firms with experience in architecture, engineering, urban design, community outreach, and public/private partnerships. Belzberg Architects has a diverse portfolio of design projects in the USA, Canada, and Mexico. RELM (formerly Melendrez) is a landscape architecture and urban design firm responsible for notable projects such as Blossom Plaza adjacent to the Gold Line Chinatown Station. Nelson/Nygaard Consulting Associates, Inc., founded in 1987, is an internationally recognized firm committed to developing comprehensive transportation systems. Harley Ellis Devereaux (HED) was founded in 1908, and has a large portfolio of mixed-use urban infill developments. Arup is a global design and business consulting firm with technical engineering expertise. BuroHappold Engineering delivers design solutions for environmentally friendly buildings, communities and organizations. Allan Kotin has over 50 years in public/private joint ventures. The Ross Group provides strategic planning and public meeting coordination services, and staff members have held prominent leadership positions in the Crenshaw Chamber of Commerce and the Crenshaw Family YMCA. Team members have worked together in smaller combinations on several projects, and bring a number of best practices from other notable transit-oriented development projects throughout Southern California.

### **D. DEOD Summary**

Metro encourages Development Teams to create opportunities to include Small Business Enterprise (SBE), Disadvantaged Business Enterprise (DBE) and Disabled Veteran Business Enterprise (DVBE) firms in their projects, through professional or construction services.

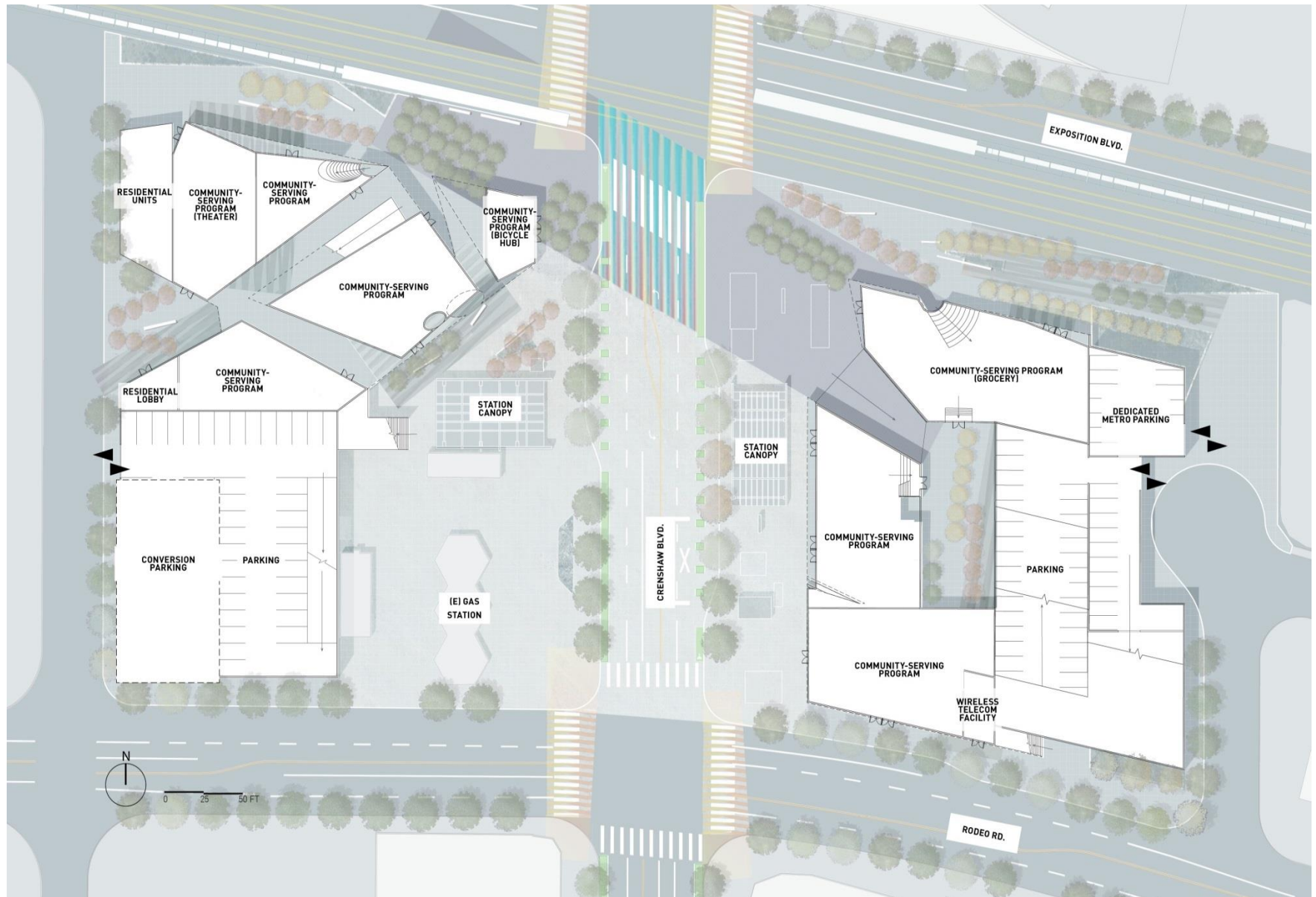
WIP-A, LLC, the developer and manager of the project, is a majority woman-owned business enterprise. The team also includes RELM, a Metro-certified SBE firm which specializes in landscape architectural services.

**ATTACHMENT C - REVISED**  
**SITE PLAN AND RENDERINGS**



*Site Plan*

## ATTACHMENT C (CONT.)



Ground Level Floor Plan



**ATTACHMENT C (CONT.)**



*Perspective looking south*



ATTACHMENT C (CONT.)



*View of ground floor retail, Site B*

# Expo/Crenshaw Joint Development Project



**Executive Management Committee**

**November 16, 2017**

**Agenda Item 12**



**Metro**

# Recommendations

- **Enter into a two-phase, six-month Short Term ENA with Watt Companies, dba WIP-A, LLC**
  - Perform community outreach
  - Refine project based on community input
  - Identify additional community based partnerships
    - Letter of Intent with a CBO for participation in Project required within first three months



# Expo/Crenshaw Joint Development Site

## SITE A

**Owner:** Los Angeles County  
**Site:** 1.66 acres  
**Use:** County Probation  
Department

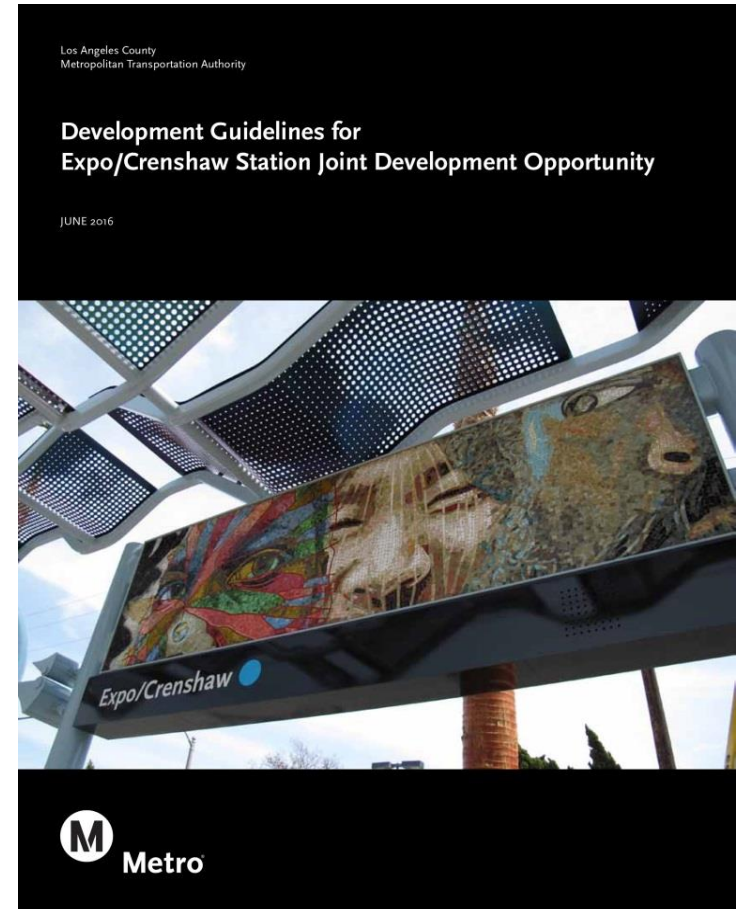
## SITE B

**Owner:** Metro  
**Site:** 1.77 acres  
**Use:** Construction  
Staging



# Expo/Crenshaw Development Guidelines

1. A culturally distinct and iconic gateway
2. Walkable, safe community with open space
3. High-quality and local-serving uses/retail
4. Mixed-income housing
5. Foster community job growth
6. Sufficient parking
7. Ongoing community input



# Evaluation

## Process

- January 2017 – RFP Issued
- April 2017 – Four proposals received
- May/June 2017 – interviews, requests for clarifications
- July 2017 – invitation to submit final offer (top three firms only)
- August – final offers received, scoring completed

## Watt Companies - Proposal Strengths

- Most responsive to Development Guidelines
- 70 years of experience including 25 year presence along Crenshaw Corridor
- Team members have worked on other notable TOD and urban infill sites
- Demonstrated capacity to deliver project
- Strongest financial offer

# Proposed Project

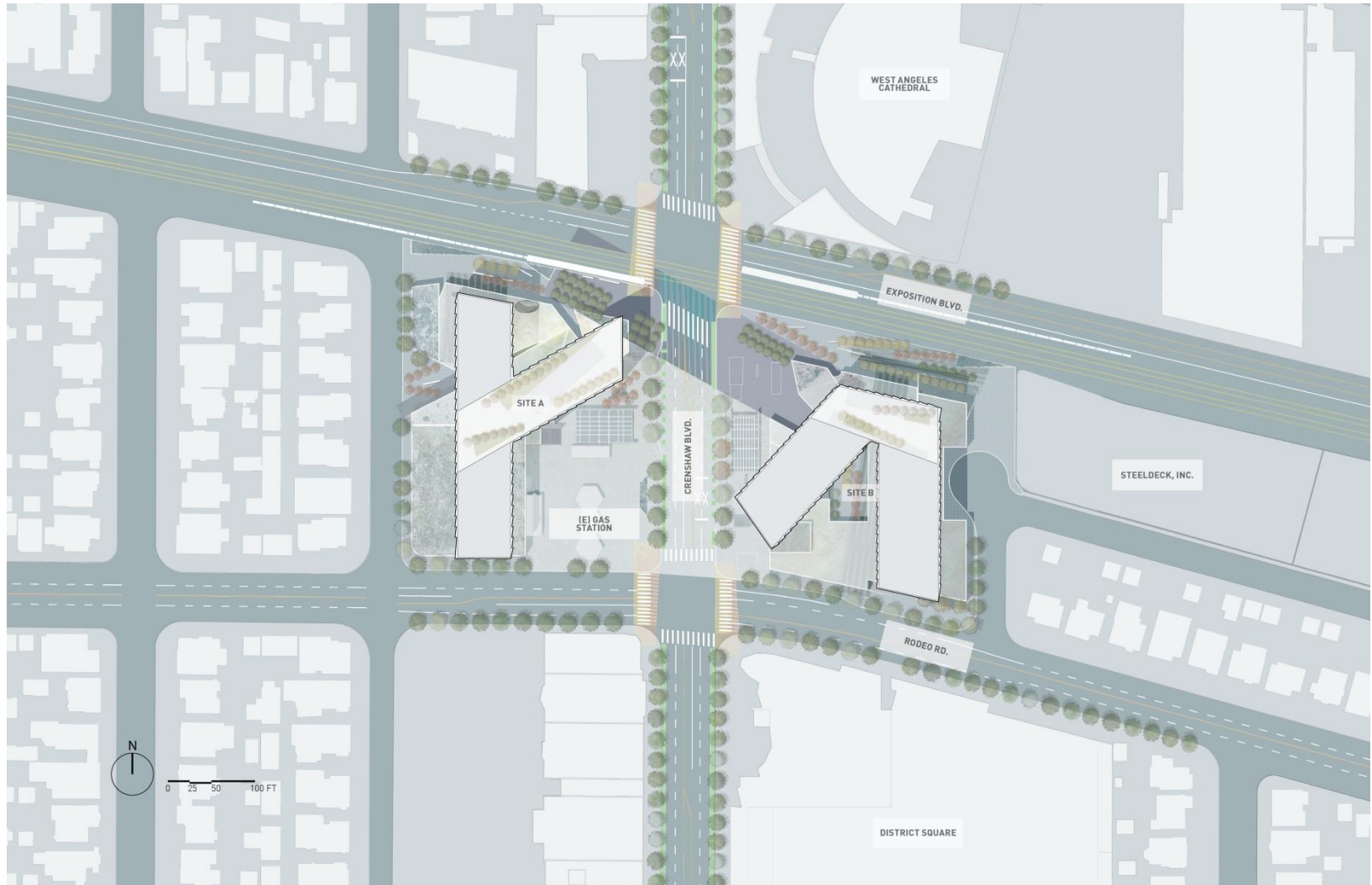
- 492 total residential units, 73 units (15%) affordable at 50% AMI
- 47,500 SF commercial/retail space
  - Grocery store, locally-owned and operated restaurants
  - 12,500 SF of community serving space and business incubator-type facilities
  - Auditorium and mobility hub/bike station facility
  - Nearly 3 acres of open space



*Perspective looking south down Crenshaw Boulevard*

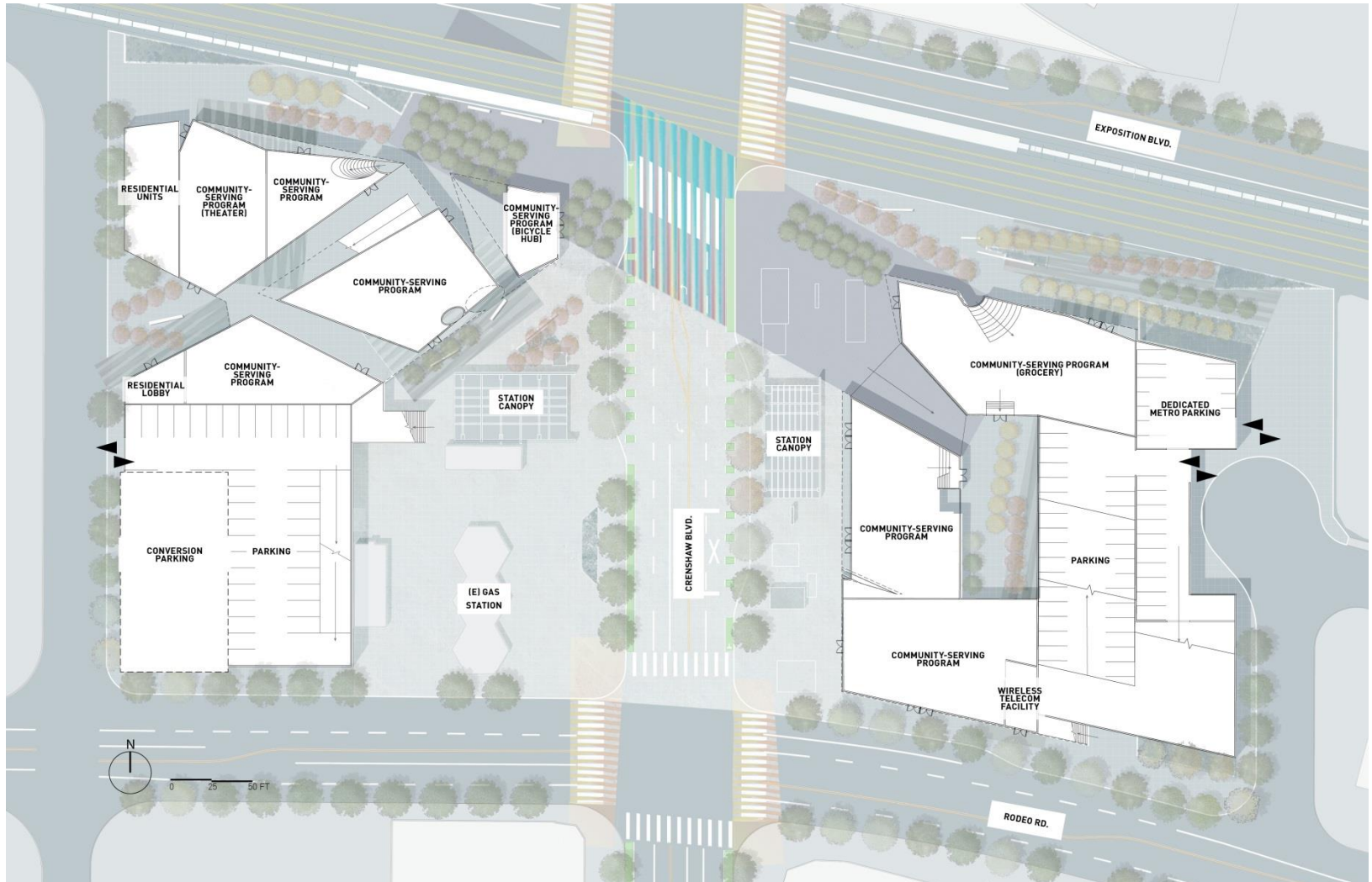


# Site Plan





# Ground Floor Plan



# Next Steps

- December 2017 - County Board of Supervisors to consider Short Term ENA
- Early 2018 – Initiate community outreach; enter into formal community partnership(s)
- Spring/Summer 2018 – Return to Metro and County Boards for authorization to enter into a full term ENA if Short Term ENA objectives and requirements are met



*View of ground floor retail, Site B*



Metro

## Board Report

**File #:** 2017-0767, **File Type:** Federal Legislation / State Legislation (Position)

**Agenda Number:** 15.

### EXECUTIVE MANAGEMENT COMMITTEE NOVEMBER 16, 2017

**SUBJECT: FEDERAL AUTONOMOUS VEHICLE LEGISLATION**

**ACTION: ADOPT STAFF RECOMMENDED POSITIONS**

#### **RECOMMENDATION**

ADOPT staff recommended positions:

- A. **HOUSE RESOLUTION 3388 (Latta)** - Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act - **WORK WITH AUTHOR**
- B. **SENATE 1885 (Thune)** - American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act - **WORK WITH AUTHOR**

#### **ATTACHMENTS**

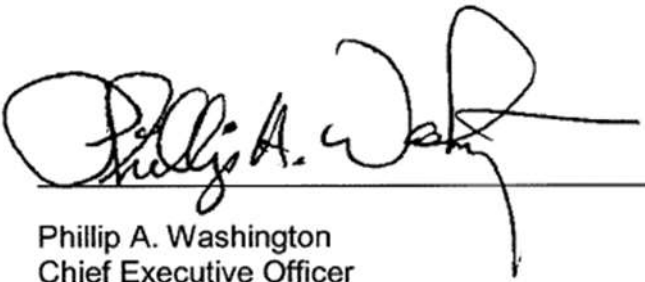
Attachment A - H.R.3388 (Latta) and S.1885 (Thune) Legislative Analysis

Attachment B - H.R. 3388 Bill Language

Attachment C - S.1885 Bill Language

Prepared by: Michael Davies, Sr. Manager Government Relations,  
(213) 922-3769

Reviewed by: Pauletta Tonilas, Chief Communications Officer, (213) 922-3777



Phillip A. Washington  
Chief Executive Officer



## ATTACHMENT A

**BILL:** HOUSE RESOLUTION BILL 3388 / U.S. SENATE BILL 1885

**AUTHOR:** CONGRESSMAN ROBERT E. LATTA (R-OHIO) / U.S. SENATOR JOHN THUNE (R-SOUTH DAKOTA)

**SUBJECT:** FEDERAL AUTONOMOUS VEHICLE LEGISLATION

**STATUS:** H.R. 3388 PASSED BY U.S. HOUSE OF REPRESENTATIVES  
S. 1885 PASSED BY THE SENATE COMMITTEE ON  
COMMERCE, SCIENCE AND TRANSPORTATION – PENDING  
CONSIDERATION BY FULL SENATE

**ACTION:** WORK WITH AUTHOR

### **RECOMMENDATION**

Staff recommends the Board of Directors adopt a Work With Author position on H.R. 3388 and S.1885 to ensure that the State of California, Los Angeles County and individual cities across Los Angeles County are able to appropriately regulate the operation of autonomous vehicles on their roadways to safeguard public safety.

### **ISSUE**

Congress is working in both chambers to approve autonomous vehicle legislation that would set the stage for the continuing development of autonomous vehicles across the United States. While the Federal Government has jurisdiction over vehicle design, construction and performance, States and localities have jurisdiction over when, where and how autonomous vehicles operate. Both the House and the Senate bills contain sections providing federal preemption over State and local laws, which has raised concerns over the ability of States and local governments to control and ensure the safe operation of autonomous vehicles. An additional concern is that neither the House nor Senate bills address data sharing between the private sector and States and local governments.

### **DISCUSSION**

As firms developing autonomous vehicles continue to develop and test Highly Autonomous Vehicles (HAV), it is important to establish clear guidelines that are uniform throughout the country in order to not stifle innovation in this new and growing industry. At the same time, it is important for States and local governments who will have HAVs being tested on their streets and highways be able to ensure the safety of the public as well as to regulate the operation of these new vehicles in an effective and efficient manner. Two bills have been considered in Congress have been drafted to establish uniform standards for autonomous vehicles. Congressman Robert Latta (R-OH) has authored H.R. 3388, the Safely Ensuring Lives Future Deployment and Research In Vehicle Evolution Act, or the SELF DRIVE Act. U.S. Senator John Thune

(R-SD) has authored S. 1885, the American Vision for Safer Transportation through Advancement of Revolutionary Technologies Act, or the AV START Act. Both the SELF DRIVE Act and the AV START Act provide for a process for research and require federal rulemaking on how autonomous vehicle manufacturers inform consumers of research outcomes. The SELF DRIVE Act has passed the U.S. House of Representatives and the AV START Act was favorably reported out of the Committee on Commerce, Science and Transportation and is currently awaiting consideration by the full Senate.

H.R. 3388 contains language preempting State and local laws that place an “unreasonable restriction” on design, construction and performance of HAVs. The term “performance” as it relates to motor vehicles or HAVs has not been defined in any statutes, regulations, or guidelines. Instead, the term performance is referenced in the definitions of “motor vehicle safety” and “motor vehicle standard” within Chapter 301 of the United States Code, which regulates motor vehicle safety. The National Highway Traffic Safety Administration (NHTSA) has been delegated the authority to regulate the safety, design and performance aspects of motor vehicles and motor vehicle equipment, and States continue to be responsible for regulating the human driver and vehicle operations. Because the HAV system is considered the “driver” in an HAV, there are circumstances in which States and local governments must regulate the in-use “performance” of the HAV system as the driver, rather than the equipment.

While S. 1885 initially included the exact same preemption language as H.R. 3388, the language was removed during the Committee markup. The Committee adopted an amendment that modified the bill by removing language specifically reserving for State and local governments the authority to regulate typically State and local concerns such as law enforcement and traffic laws. This language should be reinserted in S. 1885 and combined with the suggested clarification on the term performance before being passed by the Senate.

If H.R. 3388 and S. 1885 were amended to clearly state that the term performance, as it relates to preempting state laws, excludes all local and state traffic laws, States and local governments would be in a much stronger position to ensure public safety as it relates to the operation of autonomous vehicles on their roadways.

Another concern is that neither H.R. 3388 nor S. 1885 addresses data sharing between the private sector and States and local governments. Both bills should be modified to require private sector entities to share anonymized automated vehicle operation and performance data with State and local governments to ensure that States and local governments are able to ensure the safe operation of automated vehicles on our roadways.

## **DETERMINATION OF SAFETY IMPACT**

Without properly addressing the issue of data sharing and defining the term “performance” and making clear that “performance” does not preempt or preclude continued enforcement of and compliance with local traffic laws, States and local

governments may not be able to effectively ensure the safe and efficient operation of Highly Autonomous Vehicles on local streets.

### **FINANCIAL IMPACT**

There is no financial impact determined at this time.

### **ALTERNATIVES CONSIDERED**

Our agency could consider the option of not being involved in the development of federal legislation with respect to autonomous vehicles. Metro staff does not recommend this alternative.

### **NEXT STEPS**

Should the Board adopt a position to work with the authors on both bills, staff will communicate the Board's position to the authors and their professional staff and work to ensure that our Board-adopted recommendation is reflected in the final legislation Congress adopts with respect to autonomous vehicles. Staff will continue to keep the Board informed as this issue is addressed throughout the 115<sup>th</sup> Congress.

115TH CONGRESS  
1ST SESSION

# H. R. 3388

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 7, 2017

Received; read twice and referred to the Committee on Commerce, Science,  
and Transportation

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## AN ACT

To amend title 49, United States Code, regarding the author-  
ity of the National Highway Traffic Safety Administra-  
tion over highly automated vehicles, to provide safety  
measures for such vehicles, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*



1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) SHORT TITLE.—This Act may be cited as the  
 3 “Safely Ensuring Lives Future Deployment and Research  
 4 In Vehicle Evolution Act” or the “SELF DRIVE Act”.

5 (b) TABLE OF CONTENTS.—The table of contents for  
 6 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Purpose.
- Sec. 3. NHTSA authority and State preemption for autonomous motor vehicles.
- Sec. 4. Updated or new motor vehicle safety standards for highly automated vehicles.
- Sec. 5. Cybersecurity of automated driving systems.
- Sec. 6. General exemptions.
- Sec. 7. Motor vehicle testing or evaluation.
- Sec. 8. Information on highly automated driving systems made available to prospective buyers.
- Sec. 9. Highly Automated Vehicle Advisory Council.
- Sec. 10. Rear seat occupant alert system.
- Sec. 11. Headlamps.
- Sec. 12. Privacy plan required for highly automated vehicles.
- Sec. 13. Definitions.

7 **SEC. 2. PURPOSE.**

8 The purpose of this Act is to memorialize the Federal  
 9 role in ensuring the safety of highly automated vehicles  
 10 as it relates to design, construction, and performance, by  
 11 encouraging the testing and deployment of such vehicles.

12 **SEC. 3. NHTSA AUTHORITY AND PREEMPTION FOR**  
 13 **AUTONOMOUS MOTOR VEHICLES.**

14 Section 30103 of title 49, United States Code, is  
 15 amended—

16 (1) by amending subsection (b) to read as fol-  
 17 lows:

18 “(b) PREEMPTION.—

1           “(1) HIGHLY AUTOMATED VEHICLES.—No  
2       State or political subdivision of a State may main-  
3       tain, enforce, prescribe, or continue in effect any law  
4       or regulation regarding the design, construction, or  
5       performance of highly automated vehicles, auto-  
6       mated driving systems, or components of automated  
7       driving systems unless such law or regulation is  
8       identical to a standard prescribed under this chap-  
9       ter.

10           “(2) MOTOR VEHICLE STANDARD.—When a  
11       motor vehicle safety standard is in effect under this  
12       chapter, a State or political subdivision of a State  
13       may prescribe or continue in effect a standard appli-  
14       cable to the same aspect of performance of a motor  
15       vehicle or motor vehicle equipment only if the stand-  
16       ard is identical to the standard prescribed under this  
17       chapter.

18           “(3) RULES OF CONSTRUCTION.—

19           “(A) IN GENERAL.—Nothing in this sub-  
20       section may be construed to prohibit a State or  
21       a political subdivision of a State from maintain-  
22       ing, enforcing, prescribing, or continuing in ef-  
23       fect any law or regulation regarding registra-  
24       tion, licensing, driving education and training,  
25       insurance, la -

1           tions, safety and emissions inspections, conges-  
2           tion management of vehicles on the street with-  
3           in a State or political subdivision of a State, or  
4           traffic unless the law or regulation is an unrea-  
5           sonable restriction on the design, construction,  
6           or performance of highly automated vehicles,  
7           automated driving systems, or components of  
8           automated driving systems.

9           “(B) MOTOR VEHICLE DEALERS.—Nothing  
10          in this subsection may be construed to prohibit  
11          a State or political subdivision of a State from  
12          maintaining, enforcing, prescribing, or con-  
13          tinuing in effect any la                   lation regard-  
14          ing the sale, distribution, repair, or service of  
15          highly automated vehicles, automated driving  
16          systems, or components of automated driving  
17          systems by a dealer, manufacturer, or dis-  
18          tributor.

19          “(C) CONFORMITY WITH FEDERAL LAW.—  
20          Nothing in this subsection shall be construed to  
21          preempt, restrict, or limit a State or political  
22          subdivision of a State from acting in accordance  
23          with any other Federal law.

24          “(4) HIGHER PERFORMANCE REQUIREMENT.—

25          However, the United States Government, a State, or

1 a political subdivision of a State may prescribe a  
 2 standard for a motor vehicle, motor vehicle equip-  
 3 ment, highly automated vehicle, or automated driv-  
 4 ing system obtained for its own use that imposes a  
 5 higher performance requirement than that required  
 6 by the otherwise applicable standard under this  
 7 chapter.

8 “(5) STATE ENFORCEMENT.—A State may en-  
 9 force a standard that is identical to a standard pre-  
 10 scribed under this chapter.”; and

11 (2) by amending subsection (e) to read as fol-  
 12 lows:

13 “(e) COMMON LAW LIABILITY.—

14 “(1) IN GENERAL.—Compliance with a motor  
 15 vehicle safety standard prescribed under this chapter  
 16 does not exempt a person from liability at common  
 17 law.

18 “(2) RULE OF CONSTRUCTION.—Nothing in  
 19 this section shall be construed to preempt common  
 20 law claims.”.

21 **SEC. 4. UPDATED OR NEW MOTOR VEHICLE SAFETY STAND-**  
 22 **ARDS FOR HIGHLY AUTOMATED VEHICLES.**

23 (a) IN GENERAL.—Chapter 301 of subtitle VI of title  
 24 49, United States Code, is amended by inserting after sec-  
 tion 30128 the follow

1   **“§ 30129. Updated or new motor vehicle safety stand-**  
2                   **ards for highly automated vehicles**

3 “(a) SAFETY ASSESSMENT CERTIFICATION.—

“(1) FINAL RULE.—Not later than 24 months after the date of the enactment of this section, the Secretary of Transportation shall issue a final rule requiring the submission of safety assessment certifications regarding how safety is being addressed by each entity developing a highly automated vehicle or an automated driving system. Such rule shall include—

12 “(A) a specification of which entities are  
13 required to submit such certifications;

“(B) a clear description of the rele

16 -  
17 onstrate that such entity's vehicles are likely to  
18 maintain safety, and function as intended and  
19 contain fail safe features, to be included in such  
20 certifications; and

21 “(C) a specification of the circumstances  
22 under which such certifications are required to  
23 be updated or resubmitted.

24 “(2) INTERIM REQUIREMENT.—Until the final  
25 rule issued under paragraph (1) takes effect, safety  
26 assessment letters shall be submitted to the National

1 Highway Traffic Safety Administration as con-  
2 templated by the Federal Automated Vehicles Policy  
3 issued in September 2016, or any successor guid-  
4 ance issued on highly automated vehicles requiring a  
5 safety assessment letter.

6 “(3) PERIODIC REVIEW AND UPDATING.—Not  
7 later than 5 years after the date on which the final  
8 rule is issued under paragraph (1), and not less fre-  
9 quently than every 5 years thereafter, the Secretary  
10 shall—

11 “(A) review such rule; and

12 “(B) update such rule if the Secretary con-  
13 sider it necessary.

14 “(4) RULES OF CONSTRUCTION.—

15 “(A) NO CONDITIONS ON DEPLOYMENT.—

16 Nothing in this subsection may be construed to  
17 limit or affect the Secretary’s authority under  
any other provision of la

19 lloyment or testing of highly  
20 automated vehicles on review of safety assess-  
21 ment certifications.

22 “(B) NO NEW AUTHORITIES.—No new au-  
23 thorities are granted to the Secretary under  
24 this section other than the promulgation of the  
25 rule pursuant to paragraph (1).

1           “(5) REVIEW AND RESEARCH.—To accommo-  
2           date the development and deployment of highly auto-  
3           mated vehicles and to ensure the safety and security  
4           of highly automated vehicles and motor vehicles and  
5           others that will share the roads with highly auto-  
6           mated vehicles, not later than 180 days after the  
7           date of the enactment of this section, the Secretary  
8           shall—

9                   “(A) initiate or continue a review of the  
10           Federal motor vehicle safety standards in effect  
11           on such date of enactment; and

12                   “(B) initiate or continue research regard-  
13           ing new Federal motor vehicle safety standards.

14           “(b) RULEMAKING AND SAFETY PRIORITY PLAN.—

15                   “(1) IN GENERAL.—Not later than 1 year after  
16           the date of enactment of this section, the Secretary  
17           shall make available to the public and submit to the  
18           Committee on Energy and Commerce of the House  
19           of Representatives and the Committee on Commerce,  
20           Science, and Transportation of the Senate a rule-  
21           making and safety priority plan, as necessary to ac-  
22           commodate the development and deployment of high-  
23           ly automated vehicles and to ensure the safety and  
24           security of highly automated vehicles and motor ve-

1       hicles and others that will share the roads with high-  
2       ly automated vehicles, to—

3               “(A) update the motor vehicle safety  
4       standards in effect on such date of enactment;

5               “(B) issue new motor vehicle safety stand-  
6       ards; and

7               “(C) consider how objective ranges in per-  
8       formance standards could be used to test motor  
      vehicle safety standards, w

10       ld be appropriate for such testing, and  
11       whether additional authority would facilitate  
12       such testing.

13       “(2) INCLUSION OF PRIORITIES.—

14               “(A) PRIORITIES.—The plan required by  
15       paragraph (1) shall detail the overall priorities  
16       of the National Highway Traffic Safety Admin-  
17       istration for the 5 years following the issuance  
18       of the plan, including both priorities with re-  
19       spect to highly automated vehicles and priorities  
20       with respect to other safety initiatives of the  
21       Administration, in order to meet the Nation’s  
22       motor vehicle safety challenges.

23               “(B) IDENTIFICATION OF ELEMENTS THAT  
24       MAY REQUIRE STANDARDS.—For highly auto-  
25       mated vehicles, the National Highway Traffic



1 Safety Administration should identify elements  
2 that may require performance standards includ-  
3 ing human machine interface, sensors, and ac-  
4 tuators, and consider process and procedure  
5 standards for software and cybersecurity as  
6 necessary.

7 “(3) PERIODIC UPDATING.—The plan required  
8 by paragraph (1) shall be updated every 2 years, or  
9 more frequently if the Secretary considers it nec-  
10 essary.

11 “(4) RULEMAKING PROCEEDINGS ON UPDATED  
12 OR NEW MOTOR VEHICLE SAFETY STANDARDS.—

13 “(A) IN GENERAL.—Not later than 18  
14 months after the date of enactment of this sec-  
15 tion, the Secretary shall initiate the first rule-  
16 making proceeding in accordance with the rule-  
17 making and safety priority plan required by  
18 paragraph (1).

19 “(B) PRIORITIZATION OF SUBSEQUENT  
20 PROCEEDINGS.—The Secretary shall continue  
21 initiating rulemaking proceedings in accordance  
22 with such plan. The Secretary may change at  
23 any time those priorities to address matters the  
24 Secretary considers of greater priority. If the  
25 Secretary makes such a change, the Secretary

1 shall complete an interim update of the priority  
2 plan, make such update available to the public,  
3 and submit such update to the Committee on  
4 Energy and Commerce of the House of Rep-  
5 resentatives and the Committee on Commerce,  
6 Science, and Transportation of the Senate.”.

7 (b) CLERICAL AMENDMENT.—The analysis for chap-  
8 ter 301 of subtitle VI of title 49, United States Code, is  
9 amended by inserting after the item relating to section  
10 30128 the following new item:

“30129. Updated or new motor vehicle safety standards for highly auto-  
mated vehicles.”.

11 **SEC. 5. CYBERSECURITY OF AUTOMATED DRIVING SYS-**  
12 **TEMS.**

13 (a) IN GENERAL.—Chapter 301 of subtitle VI of title  
14 49, United States Code, is amended by inserting after sec-  
15 tion 30129 (as added by section 4) the following new sec-  
16 tion:

17 **“§ 30130. Cybersecurity of automated driving systems**

18 “(a) CYBERSECURITY PLAN.—A manufacturer may  
19 not sell, offer for sale, introduce or deliver for introduction  
20 into commerce, or import into the United States, any high-  
21 ly automated vehicle, vehicle that performs partial driving  
22 automation, or automated driving system unless such  
23 manufacturer has developed a cybersecurity plan that in-  
24 cludes the following:

1 “(1) A written cybersecurity policy with respect  
2 to the practices of the manufacturer for detecting  
3 and responding to cyber attacks, unauthorized intru-  
4 sions, and false and spurious messages or vehicle  
5 control commands. This policy shall include—

6 “(A) a process for identifying, assessing,  
7 and mitigating reasonably foreseeable  
8 vulnerabilities from cyber attacks or unauthor-  
9 ized intrusions, including false and spurious  
10 messages and malicious vehicle control com-  
11 mands; and

12 “(B) a process for taking preventive and  
13 corrective action to mitigate against  
14 vulnerabilities in a highly automated vehicle or  
15 a vehicle that performs partial driving automa-  
16 tion, including incident response plans, intru-  
17 sion detection and prevention systems that safe-  
18 guard key controls, systems, and procedures  
19 through testing or monitoring, and updates to  
20 such process based on changed circumstances.

21 “(2) The identification of an officer or other in-  
22 dividual of the manufacturer as the point of contact  
23 with responsibility for the management of cybersecu-  
24 rity.

1 “(3) A process for limiting access to automated  
2 driving systems.

3 “(4) A process for employee training and super-  
4 vision for implementation and maintenance of the  
5 policies and procedures required by this section, in-  
6 cluding controls on employee access to automated  
7 driving systems.

8 “(b) EFFECTIVE DATE.—This section shall take ef-  
9 fect 180 days after the date of enactment of this section.”.

10 (b) ENFORCEMENT AUTHORITY.—Section  
11 30165(a)(1) of title 49, United States Code, is amended  
12 by inserting “30130,” after “30127,”.

13 (c) CLERICAL AMENDMENT.—The analysis for chap-  
14 ter 301 of subtitle VI of title 49, United States Code, is  
15 amended by inserting after the item relating to section  
16 30129 (as added by section 4) the following new item:

“30130. Cybersecurity of automated driving systems.”.

17 **SEC. 6. GENERAL EXEMPTIONS.**

18 Section 30113 of title 49, United States Code, is  
19 amended—

20 (1) in subsection (b)(3)(B)—

21 (A) in clause (iii), by striking “; or” and  
22 inserting a semicolon;

23 (B) in clause (iv), by striking the period at  
24 the end and inserting “; or”; and

25 (C) by adding at the end the following:

1 “(v) the exemption would make easier the devel-  
2 opment or field evaluation of—

3 “(I) a feature of a highly automated vehi-  
4 cle providing a safety level at least equal to the  
5 safety level of the standard for which exemption  
6 is sought; or

7 “(II) a highly automated vehicle providing  
8 an overall safety level at least equal to the over-  
9 all safety level of nonexempt vehicles.”;

10 (2) in subsection (c), by adding at the end the  
11 following:

12 “(5) if the application is made under subsection  
13 (b)(3)(B)(v) of this section—

14 “(A) such development, testing, and other  
15 data necessary to demonstrate that the motor  
16 vehicle is a highly automated vehicle; and

17 “(B) a detailed analysis that includes sup-  
18 porting test data, including both on-road and  
19 validation and testing data showing (as applica-  
20 ble) that—

21 “(i) the safety level of the feature at  
22 least equals the safety level of the standard  
23 for which exemption is sought; or

1 “(ii) the vehicle provides an overall  
2 safety level at least equal to the overall  
3 safety level of nonexempt vehicles.”;

4 (3) in subsection (d), by striking “A manufac-  
5 turer is eligible” and all that follows and inserting  
6 the following:

7 “(1) ELIGIBILITY UNDER SUBSECTION  
8 (b)(3)(B)(i).—A manufacturer is eligible for an ex-  
9 emption under subsection (b)(3)(B)(i) of this section  
10 (including an exemption under subsection  
11 (b)(3)(B)(i) relating to a bumper standard referred  
12 to in subsection (b)(1)) only if the Secretary deter-  
13 mines that the manufacturer’s total motor vehicle  
14 production in the most recent year of production is  
15 not more than 10,000.

16 “(2) ELIGIBILITY UNDER SUBSECTION  
17 (b)(3)(B)(iii).—A manufacturer is eligible for an ex-  
18 emption under subsection (b)(3)(B)(iii) of this sec-  
19 tion only if the Secretary determines the exemption  
20 is for not more than 2,500 vehicles to be sold in the  
21 United States in any 12-month period.

22 “(3) ELIGIBILITY UNDER SUBSECTION  
23 (b)(3)(B)(ii), (iv), or (v).—A manufacturer is eligi-  
24 ble for an exemption under subsection (b)(3)(B)(ii),  
25 (iv), or (v) of this section only if the Secretary deter-

1 mines the exemption is for not more than 100,000  
2 vehicles per manufacturer to be sold, leased, or oth-  
3 erwise introduced into commerce in the United  
4 States in any 12-month period.

5 “(4) LIMITATION ON NUMBER OF VEHICLES  
6 EXEMPTED.—All exemptions granted to a manufac-  
7 turer under subsections (b)(3)(B)(i) through (v)  
8 shall not exceed a total of (i) 25,000 vehicles manu-  
9 factured within the first 12-month period, (ii)  
10 50,000 vehicles manufactured within the second 12-  
11 month period, (iii) 100,000 vehicles manufactured  
12 within the third 12-month period, and, (iv) 100,000  
13 vehicles manufactured within the fourth 12-month  
14 period. Any renewals under subsections (b)(3)(B)(i)  
15 through (v) shall not exceed a total of 100,000 vehi-  
16 cles manufactured within a 12-month period.”;

17 (4) in subsection (e), by striking “An exemption  
18 or renewal” and all that follows and inserting the  
19 following:

20 “(1) EXEMPTION UNDER SUBSECTION  
21 (b)(3)(B)(i).—An exemption or renewal under sub-  
22 section (b)(3)(B)(i) of this section may be granted  
23 for not more than 3 years.

24 “(2) EXEMPTION UNDER SUBSECTION  
25 (b)(3)(B)(iii).—An exemption or renewal under sub-

1 section (b)(3)(B)(iii) this section may be granted for  
2 not more than 2 years.

3 “(3) EXEMPTION UNDER SUBSECTION  
4 (b)(3)(B)(ii), (iv), or (v).—An exemption or renewal  
5 under subsection (b)(3)(B)(ii), (iv), or (v) of this  
6 section may be granted for not more than 4 years.”;  
7 and

8 (5) by adding at the end the following:

9 “(i) LIMITATION ON CERTAIN EXEMPTIONS.—No ex-  
10 emption from crashworthiness standards of motor vehicle  
11 safety standards shall be granted under subsection  
12 (b)(3)(B)(v) until the Secretary issues the safety assess-  
13 ment certification rule pursuant to section 30129(a) and  
14 the rulemaking and safety priority plan pursuant to sec-  
15 tion 30129(b) and one year has passed from the date by  
16 which the Secretary has issued both such rule and such  
17 plan. This subsection shall not apply to exemptions from  
18 occupant protection standards if the exemption is for a  
19 vehicle that will not carry its operator or passengers. This  
20 subsection shall not apply to exemptions from crash-  
21 worthiness standards if the exemption sought is for a  
22 standard addressing the steering control system and it is  
23 for a vehicle that—

24 “(1) will not have a steering control system;



1 “(2) provides impact protection to an occupant  
2 in the front left seat at a level at least equal to the  
3 level provided in nonexempt vehicles; and

4 “(3) provides a safety level at least equal to the  
5 safety level of the standard for which the exemption  
6 is sought.

7 “(j) REPORTING REQUIREMENT.—A manufacturer  
8 granted an exemption under subsection (b)(3)(B)(ii), (iv),  
9 or (v), shall provide information about all crashes of which  
10 it has actual knowledge involving \_\_\_\_\_ les,  
11 regardless of whether a claim is submitted to the manufac-  
12 turer, in accordance with part 579 of title 49, Code of  
13 Federal Regulations.

14 “(k) PROCESS AND ANALYSIS.—

15 “(1) IN GENERAL.—Not later than 180 days  
16 after the date of enactment of this subsection, the  
17 Secretary of Transportation shall publish in the  
18 Federal Register a notice that details the process  
19 and analysis used for the consideration of exemption  
20 or renewal applications under subsection  
21 (b)(3)(B)(v).

22 “(2) PERIODIC REVIEW AND UPDATING.—The  
23 notice required by paragraph (1) shall be reviewed  
24 every 5 years and updated if the Secretary considers  
25 it necessary.

1 “(l) EXEMPTION DATABASE.—

2 “(1) IN GENERAL.—The Secretary shall estab-  
3 lish a publicly available and searchable electronic  
4 database of each motor vehicle for which an exemp-  
5 tion from motor vehicle safety standards prescribed  
6 under this chapter or a bumper standard prescribed  
7 under chapter 325 has been granted.

8 “(2) VEHICLE IDENTIFICATION NUMBER.—The  
9 database established under paragraph (1) shall be  
10 searchable by Vehicle Identification Number and  
11 shall include no information identifying the vehicle  
12 owner.”.

13 **SEC. 7. MOTOR VEHICLE TESTING OR EVALUATION.**

14 Section 30112(b)(10) of title 49, United States Code,  
15 is amended—

16 (1) by striking “that prior to the date of enact-  
17 ment of this paragraph”;

18 (2) in subparagraph (A), by striking “motor ve-  
19 hicles into the United States that are certified” and  
20 inserting “into the United States motor vehicles that  
21 are certified, or motor vehicle equipment utilized in  
22 a motor vehicle that is certified,”;

23 (3) in subparagraph (C), by striking the period  
24 at the end and inserting “; or”;

1           (4) by redesignating subparagraphs (A) through  
2           (C) as clauses (i) through (iii), respectively, and  
3           moving their margins 2 ems to the right;

4           (5) by striking “evaluation by a manufacturer  
5           that agrees not to sell or offer for sale” and insert-  
6           ing the following: “evaluation by—

7                     “(A) a manufacturer that agrees not to sell  
8                     or lease or offer for sale or lease”; and

9           (6) by adding at the end the following:

10                    “(B) a manufacturer of highly automated  
11                    vehicles, automated driving systems, or compo-  
12                    nents of automated driving systems that agrees  
13                    not to sell or lease or offer for sale or lease the  
14                    highly automated vehicles, automated driving  
15                    systems, or components of automated driving  
16                    systems at the conclusion of the testing or eval-  
17                    uation and—

18                             “(i) has submitted to the Secretary—

19                             “(I) the name of the individual,  
20                             partnership, corporation, or institu-  
21                             tion of higher education and a point  
22                             of contact;

23                             “(II) the residence address of the  
24                             individual, partnership, corporation,

1 or institution of higher education and  
2 State of incorporation if applicable;

3 “(III) a description of each type  
4 of motor vehicle used during develop-  
5 ment of highly automated vehicles,  
6 automated driving systems, or compo-  
7 nents of automated driving systems  
8 manufactured by the individual, part-  
9 nership, corporation, or institution of  
10 higher education; and

11 “(IV) proof of insurance for any  
12 State in which the individual, partner-  
13 ship, corporation, or institution of  
14 higher education intends to test or  
15 evaluate highly automated vehicles;  
16 and

17 “(ii) if applicable, has identified an  
18 agent for service of process in accordance  
19 with part 551 of title 49, Code of Federal  
20 Regulations.”.

21 **SEC. 8. INFORMATION ON HIGHLY AUTOMATED DRIVING**  
22 **SYSTEMS MADE AVAILABLE TO PROSPECTIVE**  
23 **BUYERS.**

24 (a) RESEARCH.—Not later than 3 years after the  
25 date of enactment of this Act, the Secretary of Transpor-

1 tation shall complete research to determine the most effec-  
2 tive method and terminology for informing consumers for  
3 each highly automated vehicle or a vehicle that performs  
4 partial driving automation about the capabilities and limi-  
5 tations of that vehicle. The Secretary shall determine  
6 whether such information is based upon or includes the  
7 terminology as defined by SAE International in Rec-  
8 ommended Practice Report J3016 (published September  
9 2016) or whether such description should include alter-  
10 native terminology.

11 (b) RULEMAKING.—After the completion of the study  
12 required under subsection (a), the Secretary shall initiate  
13 a rulemaking proceeding to require manufacturers to in-  
14 form consumers of the capabilities and limitations of a ve-  
15 hicle’s driving automation system or feature for any highly  
16 automated vehicle or any vehicle that performs partial  
17 driving automation.

18 **SEC. 9. HIGHLY AUTOMATED VEHICLE ADVISORY COUNCIL.**

19 (a) ESTABLISHMENT.—Subject to the availa lity of  
20 appropriations, not later than 6 months after the date of  
21 enactment of this Act, the Secretary of Transportation  
22 shall establish in the National Highway Traffic Safety Ad-  
23 ministration a Highly Automated Vehicle Advisory Council  
24 (hereinafter referred to as the “Council”).

1           (b) MEMBERSHIP.—Members of the Council shall in-  
2 clude a diverse group representative of business, academia  
3 and independent researchers, State and local authorities,  
4 safety and consumer advocates, engineers, labor organiza-  
5 tions, environmental experts, a representative of the Na-  
6 tional Highway Traffic Safety Administration, and other  
7 members determined to be appropriate by the Secretary.  
8 Any subcommittee of the Council shall be composed of not  
9 less than 15 and not more than 30 members appointed  
10 by the Secretary.

11          (c) TERMS.—Members of the Council shall be ap-  
12 pointed by the Secretary of Transportation and shall serve  
13 for a term of three years.

14          (d) VACANCIES.—Any vacancy occurring in the mem-  
15 bership of the Council shall be filled in the same manner  
16 as the original appointment for the position being vacated.  
17 The vacancy shall not affect the power of the remaining  
18 members to execute the duties of the Council.

19          (e) DUTIES AND SUBCOMMITTEES.—The Council  
20 may form subcommittees as needed to undertake informa-  
21 tion gathering activities, develop technical advice, and  
22 present best practices or recommendations to the Sec-  
23 retary regarding—

24               (1) advancing mobility access for the disabled  
25 community with respect to the deployment of auto-

1 mated driving systems to identify impediments to  
2 their use and ensure an awareness of the needs of  
3 the disabled community as these vehicles are being  
4 designed for distribution in commerce;

5 (2) mobility access for senior citizens and popu-  
6 lations underserved by traditional public transpor-  
7 tation services and educational outreach efforts with  
8 respect to the testing and distribution of highly  
9 automated vehicles in commerce;

10 (3) cybersecurity for the testing, deployment,  
11 and updating of automated driving systems with re-  
12 spect to supply chain risk management, interactions  
13 with Information Sharing and Analysis Centers and  
14 Information Sharing and Analysis Organizations,  
15 and a framework for identifying and implementing  
16 recalls of motor vehicles or motor vehicle equipment;

17 (4) the development of a framework that allows  
18 manufacturers of highly automated vehicles to share  
19 with each other and the National Highway Traffic  
20 Safety Administration relevant, situational informa-  
21 tion related to any testing or deployment event on  
22 public streets resulting or that reasonably could have  
23 resulted in damage to the vehicle or any occupant  
24 thereof and validation of such vehicles in a manner  
25 that does not risk public disclosure of such informa-

1       tion or disclosure of confidential business informa-  
2       tion;

3           (5) labor and employment issues that may be  
4       affected by the deployment of highly automated vehi-  
5       cles;

6           (6) the environmental impacts of the deploy-  
7       ment of highly automated vehicles, and the develop-  
8       ment and deployment of alternative fuel infrastruc-  
9       ture alongside the development and deployment of  
10      highly automated vehicles;

11          (7) protection of consumer privacy and security  
12      of information collected by highly automated vehi-  
13      cles;

14          (8) cabin safety for highly automated vehicle  
15      passengers, and how automated driving systems may  
16      impact collision vectors, overall crashworthiness, and  
17      the use and placement of airbags, seatbelts, anchor  
18      belts, head restraints, and other protective features  
19      in the cabin;

20          (9) the testing and deployment of highly auto-  
21      mated vehicles and automated driving systems in  
22      areas that are rural, remote, mountainous, insular,  
23      or unmapped to evaluate operational limitations  
24      caused by natural geographical or man-made fea-  
25      tures, or adverse weather conditions, and to enhance



1 the safety and reliability of highly automated vehi-  
2 cles and automated driving systems used in such  
3 areas with such features or conditions; and

4 (10) independent verification and validation  
5 procedures for highly automated vehicles that may  
6 be useful to safeguard motor vehicle safety.

7 (f) REPORT TO CONGRESS.—The recommendations  
8 of the Council shall also be reported to the Committee on  
9 Energy and Commerce of the House of Representatives  
10 and the Committee on Commerce, Science, and Transpor-  
11 tation of the Senate.

12 (g) FEDERAL ADVISORY COMMITTEE ACT.—The es-  
13 tablishment and operation of the Council and any sub-  
14 committees of the Council shall conform to the require-  
15 ments of the Federal Advisory Committee Act (5 U.S.C.  
16 App.).

17 (h) TECHNICAL ASSISTANCE.—On request of the  
18 Council, the Secretary shall provide such technical assist-  
19 ance to the Council as the Secretary determines to be nec-  
20 essary to carry out the Council's duties.

21 (i) DETAIL OF FEDERAL EMPLOYEES.—On the re-  
22 quest of the Council, the Secretary may detail, with or  
23 without reimbursement, any of the personnel of the De-  
24 partment of Transportation to the Council to assist the  
25 Council in carrying out its duties. Any detail shall not in-

1 interrupt or otherwise affect the civil service status or privi-  
 2 leges of the Federal employee.

3 (j) PAYMENT AND EXPENSES.—Members of the  
 4 Council shall serve without pay, except travel and per diem  
 5 will be paid each member for meetings called by the Sec-  
 6 retary.

7 (k) TERMINATION.—The Council and any sub-  
 8 committees of the Council shall terminate 6 years after  
 9 the date of enactment of this Act.

#### 10 **SEC. 10. REAR SEAT OCCUPANT ALERT SYSTEM.**

11 (a) IN GENERAL.—Chapter 301 of subtitle VI of title  
 12 49, United States Code, is amended by inserting after sec-  
 13 tion 30130 (as added by section 5) the following new sec-  
 14 tion:

##### 15 **“§ 30131. Rear seat occupant alert system**

16 “(a) RULEMAKING REQUIRED.—Not later than 2  
 17 years after the date of enactment of this section, the Sec-  
 18 retary shall issue a final r ll new passenger  
 19 motor vehicles weighing less than 10,000 pounds gross ve-  
 20 hicle weight to be equipped with an alarm system to alert  
 21 the operator to check rear designated seating positions  
 22 after the vehicle motor or engine is deactivated by the op-  
 23 erator.

24 “(b) PHASE-IN.—The rule issued pursuant to sub-  
 25 section (a) shall require full compliance with the rule be-

1   ginning on September 1st of the calendar year that begins  
 2   2 years after the date on which the final rule is issued.

3       “(c) DEFINITIONS.—For purposes of this section—

4           “(1) the term ‘passenger motor vehicle’ has the  
 5       meaning given that term in section 32101; and

6           “(2) the term ‘rear designated seating position’  
 7       means any designated seating position that is rear-  
 8       ward of the front seat.”.

9       (b) CLERICAL AMENDMENT.—The analysis for chap-  
 10   ter 301 of subtitle VI of title 49, United States Code, is  
 11   amended by inserting after the item relating to section  
 12   30130 (as added by section 5) the following new item:

      “30131. Rear seat occupant alert system.”.

### 13   **SEC. 11. HEADLAMPS.**

14       (a) SAFETY RESEARCH INITIATIVE.—Not later than  
 15   2 years after the date of enactment of this Act, the Sec-  
 16   retary of Transportation shall complete research into the  
 17   development of updated motor vehicle safety standards or  
 18   performance requirements for motor vehicle headlamps  
 19   that would improve the performance of headlamps and im-  
 20   prove overall safety.

21       (b) RULEMAKING OR REPORT.—

22           (1) RULEMAKING.—After the completion of the  
 23       research required by subsection (a), the Secretary  
 24       shall initiate a rulemaking proceeding to revise the  
 25       motor vehicle safety standards regarding headlamps

1 if the Secretary determines that a revision of the  
2 standards meets the requirements and consider-  
3 ations set forth in subsections (a) and (b) of section  
4 30111 of title 49, United States Code.

5 (2) REPORT.—If the Secretary determines that  
6 a revision to the standard described in paragraph  
7 (1) does not meet the requirements and consider-  
8 ations set forth in such subsections, the Secretary  
9 shall submit a report describing the reasons for not  
10 revising the standard to the Committee on Energy  
11 and Commerce of the House of Representatives and  
12 the Committee on Commerce, Science, and Trans-  
13 portation of the Senate.

14 **SEC. 12. PRIVACY PLAN REQUIRED FOR HIGHLY AUTO-**  
15 **MATED VEHICLES.**

16 (a) PRIVACY PLAN.—A manufacturer may not sell,  
17 offer for sale, introduce or deliver for introduction in inter-  
18 state commerce, or import into the United States, any  
19 highly automated vehicle, vehicle that performs partial  
20 driving automation, or automated driving system unless  
21 the manufacturer has developed a privacy plan that in-  
22 cludes the following:

23 (1) A written privacy plan with respect to the  
24 collection, use, sharing, and storage of information  
25 about vehicle owners or occupants collected by a

1 highly automated vehicle, vehicle that performs par-  
2 tial driving automation, or automated driving sys-  
3 tem. Such policy shall include the following:

4 (A) The practices of the manufacturer with  
5 respect to the way that information about vehi-  
6 cle owners or occupants is collected, used,  
7 shared, or stored.

8 (B) The practices of the manufacturer  
9 with respect to the choices offered to vehicle  
10 owners or occupants regarding the collection,  
11 use, sharing, and storage of such information.

12 (C) The practices of the manufacturer with  
13 respect to the data minimization, de-identifica-  
14 tion, and retention of information about vehicle  
15 owners or occupants.

16 (D) The practices of the manufacturer  
17 with respect to extending its privacy plan to the  
18 entities it shares such information with.

19 (2) A method for providing notice to vehicle  
20 owners or occupants about the privacy policy.

21 (3) If information about vehicle owners or occu-  
22 pants is altered or combined so that the information  
23 can no longer reasonably be linked to the highly  
24 automated vehicle, vehicle that performs partial driv-  
25 ing automation, or automated driving system from

1       which the information is retrieved, the vehicle owner,  
2       or occupants, the manufacturer is not required to in-  
3       clude the process or practices regarding that infor-  
4       mation in the privacy policy.

5           (4) If information about an occupant is  
6       anonymized or encrypted the manufacturer is not re-  
7       quired to include the process or practices regarding  
8       that information in the privacy policy.

9       (b) STUDY.—The Federal Trade Commission shall  
10     conduct a study and submit a report to the Committee  
11     on Energy and Commerce of the House of Representatives  
12     and the Committee on Commerce, Science, and Transpor-  
13     tation of the Senate on the highly automated vehicle mar-  
14     ketplace, including an examination of the following issues:

15           (1) Which entities in the ecosystem have access  
16     to vehicle owner or occupant data.

17           (2) Which entities in the highly automated vehi-  
18     cle marketplace have privacy plans.

19           (3) What are the terms and disclosures made in  
20     such privacy plans, including regarding the collec-  
21     tion, use, sharing, and storage of vehicle owner or  
22     occupant data.

23           (4) What disclosures are made to consumers  
24     about such privacy plans.

1           (5) What methods are available to enable dele-  
2           tion of information about vehicle owners or occu-  
3           pants from any data storage system within the vehi-  
4           cle (other than a system that is critical to the safety  
5           or operation of the vehicle) before the vehicle is sold,  
6           leased, or rented, or otherwise occupied by a new  
7           owner or occupant.

8           (c) FEDERAL TRADE COMMISSION ENFORCEMENT.—  
9           A violation of subsection (a) shall be treated as a an unfair  
10          or deceptive act or practice within the meaning of section  
11          5(a)(1) of the Federal Trade Commission Act (15 U.S.C.  
12          45(a)(1)). The Federal Trade Commission shall enforce  
13          this section in the same manner, by the same means, and  
14          with the same jurisdiction, powers, and duties as though  
15          all applicable terms and provisions of the Federal Trade  
16          Commission Act were incorporated into and made a part  
17          of this Act.

18          (d) EFFECTIVE DATE.—This section shall take effect  
19          180 days after the date of enactment of this section and  
20          shall only apply to highly automated vehicles, vehicles that  
21          perform partial driving automation, or automated driving  
22          systems first introduced after the effective date of this sec-  
23          tion.

1   **SEC. 13. DEFINITIONS.**

2           (a) AMENDMENTS TO TITLE 49, UNITED STATES  
3 CODE.—Section 30102 of title 49, United States Code,  
4 is amended—

5           (1) in subsection (a)—

6                   (A) by redesignating paragraphs (1)  
7 through (13) as paragraphs (2), (3), (4), (5),  
8 (8), (9), (10), (11), (12), (13), (15), (16), and  
9 (17), respectively;

10                   (B) by inserting before paragraph (2) (as  
11 so redesignated) the following:

12                   “(1) ‘automated driving system’ means the  
13 hardware and software that are collectively capable  
14 of performing the entire dynamic driving task on a  
15 sustained basis, regardless of whether such system is  
16 limited to a specific operational design domain.”;

17                   (C) by inserting after paragraph (5) (as so  
18 redesignated) the following:

19                   “(6) ‘dynamic driving task’ means all of the  
20 real time operational and tactical functions required  
21 to operate a vehicle in on-road traffic, excluding the  
22 strategic functions such as trip scheduling and selec-  
23 tion of destinations and waypoints, and including—

24                           “(A) lateral vehicle motion control via  
25 steering;



1           “(B) longitudinal vehicle motion control  
2           via acceleration and deceleration;

3           “(C) monitoring the driving environment  
4           via object and event detection, recognition, clas-  
5           sification, and response preparation;

6           “(D) object and event response execution;

7           “(E) maneuver planning; and

8           “(F) enhancing conspicuity via lighting,  
9           signaling, and gesturing.

10          “(7) ‘highly automated vehicle’—

11           “(A) means a motor vehicle equipped with  
12           an automated driving system; and

13           “(B) does not include a commercial motor  
14           vehicle (as defined in section 31101).”;

15           (D) by inserting after paragraph (13) (as  
16           so redesignated) the following:

17           “(14) ‘operational design domain’ means the  
18           specific conditions under which a given driving auto-  
19           mation system or feature thereof is designed to func-  
20           tion.”; and

21           (E) by adding at the end the following:

22           “(18) ‘vehicle that performs partial driving au-  
23           tomation’ does not include a commercial motor vehi-  
24           cle (as defined in section 31101).”; and

25          (2) by adding at the end the following:

1 “(c) REVISIONS TO CERTAIN DEFINITIONS.—

2 “(1) If SAE International (or its successor or-  
3 ganization) revises the definition of any of the terms  
4 defined in paragraph (1), (6), or (14) of subsection  
5 (a) in Recommended Practice Report J3016, it shall  
6 notify the Secretary of the revision. The Secretary  
7 shall publish a notice in the Federal Register to in-  
form the public of the new definition unless, w

10 lic comment on  
11 the new definition, the Secretary notifies SAE Inter-  
12 national (or its successor organization) that the Sec-  
13 retary has determined that the new definition does  
14 not meet the need for motor vehicle safety, or is oth-  
15 erwise inconsistent with the purposes of this chapter.  
16 If the Secretary so notifies SAE International (or its  
17 successor organization), the existing definition in  
18 subsection (a) shall remain in effect.

19 “(2) If the Secretary does not reject a defini-  
20 tion revised by SAE International (or its successor  
21 organization) as described in paragraph (1), the Sec-  
22 retary shall promptly make any conforming amend-  
23 ments to the regulations and standards of the Sec-  
24 retary that are necessary. The revised definition  
25 shall apply for purposes of this chapter. The require-

1       ments of section 553 of title 5 shall not apply to the  
2       making of any such conforming amendments.

3           “(3) Pursuant to section 553 of title 5, the Sec-  
4       retary may update any of the definitions in para-  
5       graph (1), (6), or (14) of subsection (a) if the Sec-  
6       retary determines that materially changed cir-  
7       cumstances regarding highly automated vehicles  
8       have impacted motor vehicle safety such that the  
9       definitions need to be updated to reflect such cir-  
10      cumstances.”.

11      (b) DEFINITIONS IN THIS ACT.—As used in this  
12      Act—

13           (1) the term “automated driving system” has  
14       the meaning given such term in subsection (a) of  
15       section 30102 of title 49, United States Code, sub-  
16       ject to any revisions made to the definition of such  
17       term pursuant to subsection (c) of such section;

18           (2) the term “highly automated vehicle” has the  
19       meaning given such term in subsection (a) of section  
20       30102 of title 49, United States Code, not subject  
21       to any revision under subsection (c) of such section;  
22       and

23           (3) the term “vehicle that performs partial driv-  
24       ing automation” has the meaning given such term in  
25       subsection (a) of section 30102 of title 49, United

- 1 States Code, not subject to any revision under sub-
- 2 section (c) of such section.

Passed the House of Representatives September 6,  
2017.

Attest: KAREN L. HAAS,  
*Clerk.*

115TH CONGRESS  
1ST SESSION

# S. 1885

To support the development of highly automated vehicle safety technologies,  
and for other purposes.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 28, 2017

Mr. THUNE (for himself, Mr. PETERS, Mr. BLUNT, and Ms. STABENOW) in-  
troduced the follow       ll; which was read twice and referred to the Com-  
mittee on Commerce, Science, and Transportation

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## A BILL

To support the development of highly automated vehicle  
safety technologies, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4       (a) SHORT TITLE.—This Act may be cited as the  
5       “American Vision for Safer Transportation through Ad-  
6       vancement of Revolutionary Technologies Act” or the “AV  
7       START Act”.

8       (b) TABLE OF CONTENTS.—The table of contents of  
9       this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

- Sec. 3. Relationship to other laws.
- Sec. 4. Expedited resolution of highly automated vehicles conflicts with standards.
- Sec. 5. Highly automated vehicles testing.
- Sec. 6. Highly automated vehicles exemptions.
- Sec. 7. Inoperative controls.
- Sec. 8. Levels of driving automation.
- Sec. 9. Safety evaluation report.
- Sec. 10. Highly Automated Vehicles Technical Safety Committee.
- Sec. 11. Highly automated vehicles rulemaking.
- Sec. 12. Consumer education.
- Sec. 13. Traffic safety and law enforcement.
- Sec. 14. Cybersecurity.
- Sec. 15. Savings provision.

## 1 **SEC. 2. DEFINITIONS.**

2 (a) IN GENERAL.—In this Act:

3 (1) AUTOMATED DRIVING SYSTEM; DEDICATED  
 4 HIGHLY AUTOMATED VEHICLE; HIGHLY AUTOMATED  
 5 VEHICLE; MANUFACTURER; MOTOR VEHICLE; MOTOR  
 6 VEHICLE EQUIPMENT.—The terms “automated driv-  
 7 ing system”, “dedicated highly automated vehicle”,  
 8 “highly automated vehicle”, “manufacturer”, “motor  
 9 vehicle”, and “motor vehicle equipment” have the  
 10 meanings given such terms in section 30102 of title  
 11 49, United States Code, as amended by subsection  
 12 (b).

13 (2) NHTSA.—The term “NHTSA” means the  
 14 National Highway Traffic Safety Administration.

15 (3) SECRETARY.—The term “Secretary” means  
 16 the Secretary of Transportation.

17 (b) MOTOR VEHICLE SAFETY CHAPTER.—Section  
 18 30102(a) of title 49, United States Code, is amended—

1 (1) by redesignating paragraphs (5) through  
2 (13) as paragraphs (8) through (16) respectively;

3 (2) by redesignating paragraphs (3) and (4) as  
4 paragraphs (5) and (6), respectively;

5 (3) by redesignating paragraphs (1) and (2) as  
6 paragraphs (2) and (3), respectively;

7 (4) by inserting before paragraph (2), as redesi-  
8 gnated, the following:

9 “(1) AUTOMATED DRIVING SYSTEM.—In de-  
10 scribing a Level 3, 4, or 5 automated driving system  
11 (as defined by SAE International standard J3016,  
12 published on September 30, 2016, or subsequently  
13 adopted by the Secretary), the term ‘automated driv-  
14 ing system’ means the hardware and software that  
15 is collectively capable of performing the entire dy-  
16 namic driving task on a sustained basis, regardless  
17 of whether the system is limited to a specific oper-  
18 ational design domain.”;

19 (5) by inserting after paragraph (3), as redesi-  
20 gnated, the following:

21 “(4) DEDICATED HIGHLY AUTOMATED VEHI-  
22 CLE.—The term ‘dedicated highly automated vehicle’  
23 means a highly automated vehicle designed to be op-  
24 erated exclusively (as defined by the SAE Inter-  
25 national standard J3016, published on September

1       30, 2016) by a Level 4 or 5 automated driving sys-  
 2       tem (as defined by the SAE International standard  
 3       J3016, published on September 30, 2016, or subse-  
 4       quently adopted by the Secretary) for all trips.”; and

5               (6) by inserting after paragraph (6), as redesign-  
 6       nated, the following:

7               “(7) HIGHLY AUTOMATED VEHICLE.—The term  
 8       ‘highly automated vehicle’ means a motor vehicle  
 9       with a gross vehicle weight of 10,000 pounds or less  
 10       that is equipped with a Level 3, 4, or 5 automated  
 11       driving system (as defined by SAE International  
 12       standard J3016, published on September 30, 2016,  
 13       or subsequently adopted by the Secretary).”.

14   **SEC. 3. RELATIONSHIP TO OTHER LAWS.**

15       (a) IN GENERAL.—Section 30103 of title 49, United  
 16       States Code, is amended—

17               (1) in subsection (b), to read as follows:

18               “(b) PREEMPTION.—

19               “(1) HIGHLY AUTOMATED VEHICLES.—No  
 20       State or political subdivision of a State may main-  
 21       tain, enforce, prescribe, or continue in effect any law  
 22       or regulation regarding the design, construction, or  
 23       performance of highly automated vehicles, auto-  
 24       mated driving systems, or components of automated  
 25       driving systems unless such law or regulation is



1 identical to a standard prescribed under this chap-  
2 ter.

3 “(2) MOTOR VEHICLE STANDARD.—When a  
4 motor vehicle safety standard is in effect under this  
5 chapter, a State or political subdivision of a State  
6 may prescribe or continue in effect a standard appli-  
7 cable to the same aspect of performance of a motor  
8 vehicle or motor vehicle equipment only if the stand-  
9 ard is identical to the standard prescribed under this  
10 chapter.

11 “(3) RULES OF CONSTRUCTION.—

12 “(A) IN GENERAL.—Nothing in this sub-  
13 section may be construed to prohibit a State or  
14 a political subdivision of a State from maintain-  
15 ing, enforcing, prescribing, or continuing in ef-  
16 fect any law or regulation regarding registra-  
17 tion, licensing, driving education and training,  
18 insurance, law enforcement, crash investiga-  
19 tions, safety and emissions inspections, conges-  
20 tion management of vehicles on the street with-  
21 in a State or political subdivision of a State, or  
22 traffic unless the law or regulation is an unrea-  
23 sonable restriction on the design, construction,  
24 or performance of highly automated vehicles,

1 automated driving systems, or components of  
2 automated driving systems.

3 “(B) MOTOR VEHICLE DEALERS.—Nothing  
4 in this subsection may be construed to prohibit  
5 a State or political subdivision of a State from  
6 maintaining, enforcing, prescribing, or con-  
7 tinuing in effect any law or regulation regard-  
8 ing the sale, distribution, repair, or service of  
9 highly automated vehicles, automated driving  
10 systems, or components of automated driving  
11 systems by a dealer, manufacturer, or dis-  
12 tributor.

13 “(C) CONFORMITY WITH FEDERAL LAW.—  
14 Nothing in this subsection shall be construed to  
15 preempt, restrict, or limit a State or political  
16 subdivision of a State from acting in accordance  
17 with any other Federal law.

18 “(4) HIGHER PERFORMANCE REQUIREMENT.—  
19 However, the United States Government, a State, or  
20 a political subdivision of a State may prescribe a  
21 standard for a motor vehicle, motor vehicle equip-  
22 ment, highly automated vehicle, or automated driv-  
23 ing system obtained for its own use that imposes a  
24 higher performance requirement than that required

1 by the otherwise applicable standard under this  
2 chapter.

3 “(5) STATE ENFORCEMENT.—A State may en-  
4 force a standard that is identical to a standard pre-  
5 scribed under this chapter.”; and

6 (2) in subsection (c), to read as follows:

7 “(e) COMMON LAW LIABILITY.—

8 “(1) IN GENERAL.—Compliance with a motor  
9 vehicle safety standard prescribed under this chapter  
10 does not exempt a person from liability at common  
11 law.

12 “(2) RULE OF CONSTRUCTION.—Nothing in  
13 this section shall be construed to preempt common  
14 law claims.”.

15 (b) LICENSING.—Notwithstanding section 30103 of  
16 title 49, United States Code, as amended by subsection  
17 (a), a State may not issue a motor vehicle operator’s li-  
18 cense for the operation or use of a dedicated highly auto-  
19 mated vehicle in a manner that discriminates on the basis  
20 of disability (as defined in section 3 of the Americans with  
21 Disabilities Act of 1990 (42 U.S.C. 12102)).

22 **SEC. 4. EXPEDITED RESOLUTION OF HIGHLY AUTOMATED**  
23 **VEHICLES CONFLICTS WITH STANDARDS.**

24 (a) DEFINITIONS.—In this section:

1           (1) DIRECTOR.—The term “Director” means  
 2           the Director of the John A. Volpe National Trans-  
 3           portation Systems Center of the Department of  
 4           Transportation.

5           (2) DYNAMIC DRIVING TASK.—The term “dy-  
 6           namic driving task” has the meaning given the term  
 7           by SAE International standard J3016, published on  
 8           September 30, 2016.

9           (3) SAFETY STANDARD.—The term “safety  
 10          standard” means a Federal motor vehicle safety  
 11          standard prescribed under chapter 301 of title 49,  
 12          United States Code.

13          (b) REFERENCES TO HUMAN DRIVERS.—Not later  
 14          than 180 days after the date of the enactment of this Act,  
 15          the Director or other designated entity, after consultation  
 16          with stakeholders, shall prepare and submit to the Sec-  
 17          retary a report that identifies each provision, requirement,  
 18          specification, or procedure in a safety standard with a ref-  
 19          erence to features of the equipment that—

20               (1) are necessary only for the performance of  
 21               the dynamic driving task by a human driver;

22               (2) specify a location or reference point within  
 23               a vehicle by reference to the position of a human  
 24               driver; or

(1) IN GENERAL.—In each provision of the report prepared under subsection (b) identifying the text of a regulation from a safety standard, a test procedure, or a method for determining compliance with a safety standard, the Director or designated entity shall include—

18 (B) a determination that—

ance of a dynamic driving task by a human driver; and

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1           (2) CONDITIONS.—In carrying out paragraph  
2           (1), the Director or designated entity—

3                   (A) shall ensure that all requirements re-  
4                   main objective and practicable;

5                   (B) may not modify the purpose of any  
6                   safety standard; and

7                   (C) may specify different references for—

8                           (i) dedicated highly automated vehi-  
9                           cles that are intended for human occu-  
10                          pancy; and

11                           (ii) dedicated highly automated vehi-  
12                          cles that are not designed, intended, or  
13                          marketed for human occupancy.

14       (d) RULEMAKING.—

15           (1) COMMENCEMENT.—Not later than 90 days  
16           after the date on which the Director or designated  
17           entity submits the report under subsection (b), the  
18           Secretary shall commence a rulemaking proceeding  
19           to incorporate the report by reference into the rel-  
20           evant safety standards, except as provided in para-  
21           graph (3).

22           (2) FINAL RULE.—Not later than 1 year after  
23           the Director or other entity submits the report  
24           under subsection (b), the Secretary shall issue a  
          final r

the rele

2 (3).

3 (3) ALTERNATIVE TEXT.—If the Secretary de-  
4 termines that one or more of the revisions to a regu-  
5 lation contained in the report submitted under sub-  
6 section (b) is not objective, is not practicable, or  
7 does not meet the need for motor vehicle safety, the  
8 Secretary shall incorporate alternative regulatory  
9 text.

10 (4) INCORPORATION BY REFERENCE.—If the  
11 Secretary does not complete the rulemaking pro-  
ceeding under this subsection within 1 y

13 (b), the  
14 revisions to regulations contained in such report  
shall be incorporated by reference into the rele

16 .

17 (c) S ISON.—Nothing in this section  
18 may be construed to prohibit the Secretary from maintain-  
19 ing different test procedures for highly automated vehicles  
20 that retain the capability to be operated by a human driver  
21 when such vehicles are not operating in an automated  
22 mode.

23 **SEC. 5. HIGHLY AUTOMATED VEHICLES TESTING.**

24 Section 30112(b) of title 49, United States Code, is  
25 amended—

1 (1) in paragraph (9), by striking “or” at the  
2 end;

3 (2) in paragraph (10)—

4 (A) in the matter preceding subparagraph  
5 (A), by inserting “(except for a highly auto-  
6 mated vehicle)” after “the introduction of a  
7 motor vehicle”; and

8 (B) in subparagraph (C), by striking the  
9 period at the end and inserting “; or”; and

10 (3) by adding at the end the following:

11 “(11) the introduction of a motor vehicle into  
12 interstate commerce solely for the purposes of test-  
13 ing, e , or demonstration of a highly auto-  
14 mated vehicle or automated driving system if—

15 “(A) the testing, evaluation, or demonstra-  
16 tion of the vehicle is only conducted by employ-  
17 ees, agents, or fleet management contractors of  
18 the manufacturer of the highly automated vehi-  
19 cle, the automated driving system, or any com-  
20 ponent thereof;

21 “(B) such manufacturer agrees not to sell,  
22 lease, or offer for sale or lease, the vehicle or  
23 system at the conclusion of the testing, evalua-  
24 tion, or demonstration; and



1           “(C) such manufacturer has submitted ap-  
 2           propriate manufacturer identification informa-  
 3           tion that is similar to information submitted by  
 4           manufacturers subject to a Federal motor vehi-  
 5           cle safety standard under part 566 of title 49,  
 6           Code of Federal Regulations, before the com-  
 7           mencement of such testing or evaluation.”.

8 **SEC. 6. HIGHLY AUTOMATED VEHICLES EXEMPTIONS.**

9           (a) IN GENERAL.—Section 30113 of title 49, United  
 10 States Code, is amended—

11           (1) in subsection (a)—

12                   (A) by striking “this section,” and insert-  
 13           ing the following: “this section—  
 14           “(1) the term”;

15                   (B) by striking the period at the end and  
 16           inserting “; and”; and

17                   (C) by adding at the end the following:

18           “(2) the term ‘new motor vehicle safety feature’  
 19           includes any feature that enables a highly automated  
 20           vehicle or an automated driving system, regardless  
 21           of whether an exemption has already been granted  
 22           for a similar feature on another model or models.”;

23           (2) in subsection (b)—

24                   (A) by amending paragraph (2) to read as  
 25           follows:

1       “(2) The Secretary may begin a proceeding under  
 2 this subsection when a manufacturer applies for an exemp-  
 3 tion or a renewal of an exemption. The Secretary shall  
 4 publish notice of the application and provide an oppor-  
 5 tunity to comment. An application for an exemption or  
 6 for a renewal of an exemption shall be filed at a time and  
 7 in the way, and contain such information, this section and  
 8 the Secretary require. The Secretary shall grant or deny  
 9 an exemption for a highly automated vehicle not later than  
 10 180 days after receiving an application for such exemption  
 11 from a manufacturer.”; and

12               (B) in paragraph (3)(B)(iv), by inserting  
 13       “or introducing or delivering into interstate  
 14       commerce” after “selling”;

15       (3) in subsection (d)—

16               (A) by inserting “(1)” after “ELIGI-  
 17       BILITY.—”; and

18               (B) by striking the second sentence and in-  
 19       serting the following:

20       “(2) A manufacturer is eligible for an exemp-  
 21       tion under clause (ii), (iii), or (iv) of subsection  
 22       (b)(3)(B) only if the Secretary determines that—

23               “(A) the exemption is for not more than  
 24       2,500 vehicles to be sold in the United States  
 25       in any 12-month period; or

1           “(B) the vehicle is a highly automated ve-  
2           hicle; and

3                   “(i) during the 12-month period be-  
4                   ginning on the date of the enactment of  
5                   the AV START Act, the exemption is for  
6                   not more than 50,000 vehicles to be sold  
7                   or introduced into interstate commerce in  
8                   the United States;

9                   “(ii) d           12-month period im-  
10                  mediately following the period described in  
11                  clause (i), the exemption is for not more  
12                  than 75,000 vehicles to be sold or intro-  
13                  duced into interstate commerce in the  
14                  United States; and

15                  “(iii) d           -month period fol-  
16                  lowing the period described in clause (ii),  
17                  the exemption is for not more than  
18                  100,000 vehicles to be sold or introduced  
19                  into interstate commerce in the United  
20                  States.

21           “(C) A manufacturer of a highly auto-  
22           mated vehicle may petition the Secretary to ex-  
23           pand the exemption under paragraph (2)(B) to  
24           more than 100,000 vehicles in any 12-month

1           period after the exemption has been in place for  
2           5 years.”; and

3           (4) in subsection (e), by inserting “, unless the  
4           vehicle is a highly automated vehicle” before the pe-  
5           riod at the end.

6           (b) SUNSET.—A manufacturer’s eligibility for an ex-  
7           emption from a provision, clause, sentence, or paragraph  
8           in a motor vehicle safety standard under section  
9           30113(d)(2)(B) of title 49, United States Code, as amend-  
10          ed by subsection (a), shall end on the date on which a  
11          standard (except for a standard promulgated under sec-  
12          tion 4 of this Act) that amends the provision, clause, sen-  
13          tence, or paragraph from which an exemption is sought  
14          takes effect, with due consideration for any lead time spec-  
15          ified for compliance.

#### **SEC. 7. INOPERATIV**

18           —

19           (1) by inserting “(1)” before “A manufac-  
20          turer”; and

21           (2) by adding at the end the following:

22          “(2) The prohibition under paragraph (1) shall not  
23          apply to a manufacturer that intentionally allows a device  
24          or element of design installed on or in a motor vehicle or  
25          item of equipment in compliance with an applicable motor

1 vehicle safety standard to be temporarily disabled during  
2 the time that an automated driving system is performing  
3 the entire dynamic driving task.”.

4 **SEC. 8. LEVELS OF DRIVING AUTOMATION.**

5 (a) USE OF SAE INTERNATIONAL’S TAXONOMY AND  
6 DEFINITIONS.—The Secretary shall use the taxonomy and  
7 definitions for automated driving systems set forth in SAE  
8 International standard J3016, published on September  
9 30, 2016, for the various levels of automation for motor  
10 vehicles.

11 (b) REVIEW.—

12 (1) IN GENERAL.—The Secretary—

13 (A) shall review the taxonomy and defini-  
14 tions for automated driving systems set forth by  
15 SAE International to ensure that such tax-  
16 onomy and definitions are clear and objective;  
17 and

18 (B) may provide feedback to SAE Inter-  
19 national for potential updates.

20 (2) USE OF REVISED STANDARD.—

21 (A) DETERMINATION.—Not later than 120  
22 days after SAE International revises the stand-  
23 ard referred to in subsection (a), the Secretary,  
24 after publishing notice of the revision in the  
25 Federal Register, shall determine whether to

(B) EFFECT OF DECISION NOT TO ADOPT  
THE REVISED STANDARD.—If the Secretary de-  
cides not to adopt the revised standard—

(i) the Secretary shall notify SAE International of the Secretary's decision;  
and

9 (ii) the definitions referred to in sub-  
10 section (a) shall remain in effect.

(a) IN GENERAL.—Subchapter I of chapter 301 of title 49, United States Code, is amended by adding at the end the following:

17           “(a) IN GENERAL.—

•S 1885 IS

1           “(2) SUBMISSION.—Each manufacturer de-  
2       scribed in paragraph (1) shall—

3                   “(A) submit a report to the Secretary—

4                           “(i) upon testing a highly automated  
5       vehicle or automated driving system; and

6                           “(ii) not later than 90 days before  
7       selling, offering for sale, or otherwise com-  
8       mercializing a highly automated vehicle or  
9       automated driving system; and

10                   “(B) annually submit, until the vehicle or  
11       system is no longer being sold, offered for sale,  
12       or otherwise introduced into interstate com-  
13       merce by the manufacturer or until the system  
14       is no longer being incorporated into new motor  
15       vehicles by the manufacturer, an updated report  
16       to the Secretary that—

17                           “(i) may disclose that no significant  
18       changes were made to the vehicle or sys-  
19       tem; and

20                           “(ii) shall provide aggregate results of  
21       any significant safety deviation from ex-  
22       pected performance disclosed in the pre-  
23       vious report.

24           “(3) REVIEW.—The Secretary—

1           “(A) shall review each report submitted  
2           under paragraph (2); and

3           “(B) may require that the manufacturer  
4           submit additional or clarifying information.

5           “(4) LIMITATION.—The Secretary may not con-  
6           dition the manufacture, testing, sale, offer for sale,  
7           or introduction into interstate commerce of a highly  
8           automated vehicle or automated driving system  
9           based on a review of a safety evaluation report or  
10          additional information submitted under this section.

11          “(b) SAFETY EVALUATION REPORT SUBJECT  
12          AREAS.—Each report submitted by a manufacturer under  
13          subsection (a) shall describe how the manufacturer is ad-  
14          dressing, through a documented assessment, testing, and  
15          validation process, each of the subject areas described in  
16          paragraphs (1) through (9).

17          “(1) SYSTEM SAFETY.—The avoidance of un-  
18          reasonable risks to safety, including—

19                  “(A) assurance that systems, including  
20                  hardware and software, perform intended func-  
21                  tions;

22                  “(B) the mitigation of unreasonable risks  
23                  to safety caused by a malfunction of the auto-  
24                  mated driving system; and



1           “(C) sense of objects, motorcyclists,  
2           bicyclists, pedestrians, and animals in or cross-  
3           ing the path of travel through the automated  
4           driving system.

5           “(2) DATA RECORDING.—The collection by the  
6           vehicle of automated driving system performance in-  
7           formation and incident and crash data—

8           “(A) to record the occurrence of malfunc-  
9           tions, disengagements, degradations, or failures;

10          “(B) to aid in the analysis of the cause of  
11          any issues described in subparagraph (A);

12          “(C) to enable efforts to work with other  
13          entities to address data recording and sharing;  
14          and

15          “(D) with respect to event data recorder  
16          information, that complies with the collection  
17          and sharing requirements under the FAST Act  
18          (Public Law 114–94).

19          “(3) CYBERSECURITY.—The minimization of  
20          cybersecurity risks to safety and the exchange of in-  
21          formation about any vulnerabilities discovered from  
22          field incidents, internal testing, or external security  
23          research.

24          “(4) HUMAN-MACHINE INTERFACE.—

1           “(A) The methods of informing the human  
2           driver or operator about whether the automated  
3           driving system is functioning properly.

4           “(B) For a Level 3 vehicle, the methods to  
5           address driver reengagement.

6           “(C) The use of a human-machine inter-  
7           face by people with disabilities through visual,  
8           auditory, or haptic displa .

9           “(5) CRASHWORTHINESS.—Practicable protec-  
10          tion for all occupants given any planned seating po-  
11          sitions or interior configurations.

12          “(6) CAPABILITIES.—The capabilities and limi-  
13          tations of the highly automated vehicle or automated  
14          driving system.

15          “(7) POST-CRASH BEHAVIOR.—The post-crash  
16          behavior of the highly automated vehicle or auto-  
17          mated driving system if sensors or critical systems  
18          are damaged in a crash.

19          “(8) ACCOUNT FOR APPLICABLE LAWS.—The  
20          account of applicable traffic laws and rules of the  
21          road, based on operational design domain, in the de-  
22          velopment of a highly automated vehicle or auto-  
23          mated driving system.

24          “(9) AUTOMATION FUNCTION.—

1           “(A) The expected operational design do-  
2           main in which the highly automated vehicle or  
3           automated driving system is designed to oper-  
4           ate, including any roadway and infrastructure  
5           assets required for the operation of the highly  
6           automated vehicle or automated driving system,  
7           such as roadside equipment, pavement mark-  
8           ings, signage, and traffic signals, and how it  
9           will respond if that operational design domain  
10          unexpectedly changes.

11          “(B) The automated driving system’s ex-  
12          pected object and event detection and response  
13          capabilities, including behavioral competencies  
14          and crash avoidance capability.

15          “(C) The ability of the highly automated  
16          vehicle or automated driving system to transi-  
17          tion to a minimal risk condition when a mal-  
18          function is encountered.

19          “(D) The performance of the vehicle  
20          through the manufacturer’s development and  
21          implementation of tests, including simulation,  
22          test track, and on-road testing.

23          “(c) CERTIFICATION OF INAPPLICABLE CAT-  
24          EGORIES.—A manufacturer that is solely testing a vehicle

1 or system may certify that one or more of the categories  
2 set forth in subsection (b) do not apply.

3 “(d) PUBLICLY AVAILABLE.—The Secretary shall  
4 make any report submitted by a manufacturer under this  
5 section publicly available as soon as practicable, except the  
6 Secretary may not make publicly available any information  
7 relating to a trade secret or confidential business informa-  
8 tion, or which is privileged. The manufacturer may submit  
9 information related to a trade secret or confidential busi-  
10 ness information separately from the report.

11 “(e) OFFICIAL SIGNATURE.—Each report submitted  
12 by an entity under this section shall be reviewed by a sen-  
13 ior official of the entity who—

14 “(1) is knowledgeable about the information  
15 contained in the report; and

16 “(2) shall certify that, based on the official’s  
17 knowledge, the report does not contain any untrue  
18 statement of a material fact.

19 “(f) TERMINATION OF OBLIGATION TO DISCLOSE IN-  
20 FORMATION.—

21 “(1) IN GENERAL.—A manufacturer’s obliga-  
22 tion to provide information on a specific category  
23 under subsection (b) shall end on the effective date  
24 of a motor vehicle safety standard applicable to the  
25 same aspect of vehicle or system performance as is

1 covered by the category, with due consideration for  
 2 any lead time specified for compliance.

3 “(2) EFFECT OF NEW STANDARD.—In adopting  
 4 any standard applicable to highly automated vehicle  
 5 performance, the Secretary shall—

6 “(A) identify the category under subsection  
 7 (b) to which the standard relates, if any; and

8 “(B) specify what information is no longer  
 9 required to be included in the report as a result  
 10 of the new standard.

11 “(g) RULE OF CONSTRUCTION.—

12 “(1) SUBMISSIONS.—A manufacturer may sub-  
 13 mit a safety evaluation report for vehicles introduced  
 14 into interstate commerce before the date of the en-  
 15 actment of the AV START Act.

16 “(2) SAVINGS PROVISIONS.—Nothing in this  
 17 section may be construed to amend, limit the au-  
 18 thority, or prohibit the use of the information in-  
 19 cluded in the report under chapter 301 of title 49,  
 20 United States Code.”.

21 (b) CLERICAL AMENDMENT.—The analysis for chap-  
 22 ter 301 of title 49, United States Code, is amended by  
 23 inserting after the item relating to section 30106 the fol-  
 24 lowing:

“30107. Highly automated vehicles safety evaluation report.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
 2 this section shall take effect on the date that is 90 days  
 3 after the date of the enactment of this Act.

4 **SEC. 10. HIGHLY AUTOMATED VEHICLES TECHNICAL COM-**  
 5 **MITTEE.**

6 (a) ESTABLISHMENT.—Not later than 180 days after  
 7 the date of the enactment of this Act, the Secretary shall  
 8 establish a Highly Automated Vehicles Technical Com-  
 9 mittee (referred to in this section as the “Committee”)  
 10 to provide a forum for stakeholders to discuss, prioritize,  
 11 and make technical recommendations for highly auto-  
 12 mated vehicle and automated driving system safety.

13 (b) MEMBERSHIP.—

14 (1) VOTING MEMBERS.—The Secretary—

15 (A) shall appoint 15 voting members to the  
 16 Committee who—

17 (i) are specially qualified to serve on  
 18 the Committee because of their technical  
 19 knowledge of automated driving systems,  
 20 vehicle-to-vehicle infrastructure systems, or  
 21 the impact of such systems on Federal  
 22 motor vehicle safety standards; and

23 (ii) shall include representatives of  
 24 SAE International, automated vehicle  
 25 proving grounds designated by the Depart-

1           ment of Transportation, highly automated  
2           vehicle and automated driving system man-  
3           ufacturers, safety organizations, State and  
4           local government agencies, and other orga-  
5           nizations directly or indirectly impacted by  
6           NHTSA regulations; and

7           (B) may appoint new members to the  
8           Committee at any time.

9           (2) COMPENSATION.—Members of the Com-  
10          mittee shall serve without compensation.

11          (3) CHAIRPERSON.—The Secretary, or the Sec-  
12          retary's designee, shall act as Chairperson of the  
13          Committee, but will not have voting rights, except to  
14          break a tie.

15          (c) DUTIES.—

16          (1) RECOMMENDATIONS.—The Committee shall  
17          provide consensus-based recommendations to the  
18          Secretary on rulemaking, policy, and guidance re-  
19          garding highly automated vehicle safety, including—

20                (A) the identification and creation of per-  
21                formance standards; and

22                (B) the harmonization of national highly  
23                automated vehicle safety standards with inter-  
24                national standards.

1           (2) SCOPE.—The Committee shall study issues  
2 relating to highly automated vehicles, including—

3                   (A) system safety;

4                   (B) automated steering and braking;

5                   (C) crashworthiness for vehicles with un-  
6 conventional seating positions or vehicles not in-  
7 tended for human occupancy;

                  (D) e

10                   (E) accessibility for people with physical,  
11 sensory, or other disabilities, including for those  
12 who rely on mobility devices;

13                   (F) potential conflicts with existing Fed-  
14 eral motor vehicle safety standards; and

15                   (G) any other issue the Secretary considers  
16 appropriate.

17           (3) SUPPORT.—The NHTSA Office of Rule-  
18 making and the NHTSA Office of Vehicle Safety  
19 Research shall provide support services to the Com-  
20 mittee.

21           (4) MEETINGS.—The Committee shall meet not  
22 less frequently than 4 times per year. Committee  
23 meetings shall be open to the public, except in cir-  
24 cumstances in which a meeting is likely to discuss—



1 (A) internal personnel rules and practices  
2 of the NHTSA;

3 (B) matters specifically exempted from dis-  
4 closure by statute;

5 (C) trade secrets or confidential or privi-  
6 leged business information;

7 (D) matters involving criminal accusation  
8 or official censure;

9 (E) information of a personal nature that,  
10 if disclosed, would constitute an unwarranted  
11 invasion of personal privacy; or

12 (F) investigatory records that might inter-  
13 fere with enforcement proceedings.

14 (5) WORKING GROUPS.—

15 (A) IN GENERAL.—The Committee may  
16 establish temporary working groups, as nec-  
17 essary, to address specific issues. Each working  
18 group shall include at least 1 member who rep-  
19 resents a manufacturer of highly automated ve-  
20 hicles or automated driving systems and other  
21 individuals who are subject matter experts on  
22 the issue before the working group.

23 (B) DISABILITY ACCESS.—The Committee  
24 shall establish a working group to develop vol-  
25 untary best practices regarding highly auto-

(1) IN GENERAL.—On a periodic basis, the Committee shall release recommendations on voluntary standards regarding highly automated vehicle safety.

(3) REPORT.—Not later than 5 years after the date of the enactment of this Act, the Committee shall submit a report containing recommendations of consensus-based, feasible, and objective standards to the Secretary for potential rulemaking governing

1 highly automated vehicles that meet the need for  
2 motor vehicle safety.

3 (e) CONSULTATION AND PUBLICATION OF RE-  
4 PORTS.—

5 (1) IN GENERAL.—The Secretary shall consult  
6 with the Committee, as appropriate, on highly auto-  
7 mated vehicle safety matters, including the develop-  
8 ment and implementation of relevant policies, pro-  
9 grams, and rulemaking.

10 (2) RECOMMENDED AGENDA.—The Secretary  
11 shall regularly provide recommendations to the Com-  
12 mittee regarding the agenda of the Committee and  
13 areas in which Committee activity would benefit and  
14 complement Department of Transportation efforts.

15 (3) REPORTS.—The Secretary shall make any  
16 report or recommendation developed under this sec-  
17 tion publicly available.

18 (f) FACA.—The Committee shall not be subject to  
the requirements under the Federal A

20 (5 U.S.C. App.).

21 (g) TERMINATION.—The Committee shall terminate  
22 upon the submission of the final report required under  
23 subsection (d)(3) unless the Secretary determines that the  
24 Committee should continue.

1 **SEC. 11. HIGHLY AUTOMATED VEHICLES RULEMAKING.**

2 (a) IN GENERAL.—The Secretary shall review and  
3 seek public comment on the recommendations for stand-  
4 ards made by the Highly Automated Vehicles Technical  
5 Committee under section 10(d)(3).

6 (b) DETERMINATION.—Not later than 1 year after  
7 the receipt of the recommendations referred to in sub-  
8 section (a), the Secretary shall—

9 (1) make a determination whether to approve  
10 one or more of the recommendations, based on an  
11 identified need for motor vehicle safety; and

12 (2) begin a rulemaking proceeding on the rec-  
13 ommendations approved pursuant to paragraph (1)  
14 on the safety of highly automated vehicles.

15 (c) RULE OF CONSTRUCTION.—Nothing in this sec-  
16 tion may be construed to restrict the authority of the Sec-  
17 retary under section 30111 of title 49, United States  
18 Code. Any Federal motor vehicle safety standard adopted  
19 pursuant to this section shall meet the requirements under  
20 such section 30111.

21 **SEC. 12. CONSUMER EDUCATION.**

22 (a) ESTABLISHMENT.—Not later than 180 days after  
23 the date of the enactment of this Act, the Secretary shall  
24 establish a working group on responsible education efforts  
25 for advanced driver assist systems and automated driving  
26 systems.

1 (b) DUTIES.—The working group established under  
2 subsection (a) shall—

3 (1) identify recommended education and re-  
4 sponsible marketing strategies that may be volun-  
5 tarily employed by industry to inform consumers, ve-  
6 hicle owners and operators, and other stakeholders  
7 about advanced driver assistance systems and auto-  
8 mated driving systems as they become available or  
9 are soon to be introduced into interstate commerce;  
10 and

11 (2) submit a report containing the findings and  
12 recommendations of the working group to Congress  
13 and making such report available to the public.

14 (c) CONSIDERATIONS.—The working group shall con-  
15 sider topics pertaining to—

16 (1) intent, capabilities, and limitations of ad-  
17 vanced driver assistance systems and automated  
18 driving systems;

19 (2) engagement and disengagement methods,  
20 including methods to address driver engagement in  
21 lower levels of automation;

22 (3) human-machine interfaces;

23 (4) emergency fallback scenarios;

24 (5) operational boundary responsibilities;

1           (6) response in the event of a crash or system  
2 failure;

3           (7) potential mechanisms that could change  
4 function behavior in service; and

5           (8) consistent nomenclature and taxonomy for  
6 safety features and systems.

7       (d) MEMBERSHIP.—

8           (1) IN GENERAL.—The Secretary shall appoint,  
9 as members of the working group, individuals with  
10 expertise in automated driving systems and driver  
11 assistance systems, including—

12           (A) representatives of—

13                   (i) motor vehicle manufacturers;

14                   (ii) manufacturers of automated driv-  
15 ing systems and driver assistance systems  
16 (including components);

17                   (iii) motor vehicle dealers;

18                   (iv) motor vehicle owners and opera-  
19 tors, including fleet managers, vehicle rent-  
20 al companies, and transportation network  
21 companies;

22                   (v) consumers or consumer advocacy  
23 groups;

1 (v ) automated vehicle proving  
2 grounds designated by the Department of  
3 Transportation;

4 (v ) public health organizations;

5 (v ) marketing professionals;

6 (i ) entities with national experience  
7 in consumer education; and

8 (x) enabling technology companies;  
9 and

10 (B) any other members the Secretary con-  
11 siders appropriate.

12 (2) COMPENSATION.—Members of the working  
13 group shall serve without compensation.

14 (3) CONSULTATION.—The Secretary shall con-  
15 sult with the Federal Trade Commission about the  
16 recommendations of the working group, as appro-  
17 priate.

18 (e) TERMINATION.—The working group established  
19 under this section shall terminate on the date that is 2  
20 years after the date of the enactment of this Act.

21 **SEC. 13. TRAFFIC SAFETY AND LAW ENFORCEMENT.**

22 (a) RESEARCH.—The Secretary, in coordination with  
23 State and local transportation and highway safety entities,  
24 State and local law enforcement entities, and other rel-

1 evant parties, shall research the traffic safety implications  
 2 of highly automated vehicles, including—

3 (1) the intersection of conventional and highly  
 4 automated vehicles; and

5 (2) law enforcement impacts, including—

6 (A) enforcing applicable laws;

7 (B) identifying whether a vehicle was in  
 8 automated mode at the time of a crash;

9 (C) lawfully accessing event data informa-  
 10 tion; and

11 (D) determining how a highly automated  
 12 vehicle should respond to law enforcement.

13 (b) COORDINATION OF SAFETY.—The Secretary, in  
 14 coordination with State, local, and law enforcement agen-  
 15 cies, may develop a process for State and local entities  
 16 to provide information, on a voluntary basis, to the Sec-  
 17 retary to assist the Department of Transportation in iden-  
 18 tifying defects related to motor vehicle safety of highly  
 19 automated vehicles.

20 (c) CRASH DATA.—Not later than 3 years after the  
 21 date of the enactment of this Act, the Secretary shall re-  
 22 vise the crash investigation data collection system to in-  
 23 clude the collection of crash report data elements that dis-  
 24 tinguish whether the vehicle involved in a crash is a highly  
 25 automated vehicle, including the level of automation and



1 whether the vehicle was in automated mode at the time  
2 of a crash.

3 **SEC. 14. CYBERSECURITY.**

4 (a) IN GENERAL.—Subchapter I of chapter 301 of  
5 title 49, United States Code, as amended by section 9,  
6 is further amended by adding at the end the following:

7 **“§ 30108. Cybersecurity risks to the safety of highly**  
8 **automated vehicles**

9 “(a) DEFINITIONS.—In this section:

10 “(1) CYBERSECURITY INCIDENT.—The term  
11 ‘cybersecurity incident’ has the meaning given the  
12 term ‘incident’ in section 227(a) of the Homeland  
13 Security Act of 2002 (6 U.S.C. 148(a)).

14 “(2) CYBERSECURITY RISK.—The term ‘cyber-  
15 security risk’ has the meaning given the term in sec-  
16 tion 227(a) of the Homeland Security Act of 2002  
17 (6 U.S.C. 148(a)).

18 “(3) CYBERSECURITY VULNERABILITY.—The  
19 term ‘cybersecurity vulnerability’ has the meaning  
20 given the term ‘security vulnerability’ in section 102  
21 of the Cybersecurity Information Sharing Act of  
22 2015 (6 U.S.C. 1501).

23 “(b) CYBERSECURITY PLAN.—

24 “(1) IN GENERAL.—Each manufacturer of a  
25 highly automated vehicle or automated driving sys-

1       tem shall develop, maintain, and execute a written  
2       plan for identifying and reducing cybersecurity risks  
3       to the motor vehicle safety of such vehicles and sys-  
4       tems.

5           “(2) REQUIREMENTS.—The plan required  
6       under paragraph (1) shall include a process for—

7           “(A) the risk-based prioritized identifica-  
8       tion and protection of safety-critical vehicle con-  
9       trol systems and the broader transportation  
10      ecosystem, as applicable;

11          “(B) the efficient detection and response  
12      to potential vehicle cybersecurity incidents in  
13      the field;

14          “(C) facilitating expeditious recovery from  
15      incidents as they occur;

16          “(D) the institutionalization of methods  
17      for the accelerated adoption of lessons learned  
18      across industry through voluntary exchange of  
19      information pertaining to cybersecurity inci-  
20      dents, threats, and vulnerabilities, including the  
21      consideration of a coordinated cybersecurity  
22      vulnerability disclosure policy or other related  
23      practices for collaboration with third-party cy-  
24      bersecurity researchers;

1           “(E) the identification of the point of con-  
2           tact of the manufacturer with responsibility for  
3           the management of cybersecurity;

4           “(F) the use of segmentation and isolation  
5           techniques in vehicle architecture design, as ap-  
6           propriate; and

7           “(G) supporting voluntary efforts by indus-  
8           try and standards-setting organizations to de-  
9           velop and identify consistent standards and  
10          guidelines relating to vehicle cybersecurity, con-  
11          sistent, and to the extent appropriate, with the  
12          cybersecurity risk management activities de-  
13          scribed in section 2(e) of the National Institute  
14          of Standards and Technology Act (15 U.S.C.  
15          272(e)).

16          “(3) INSPECTION.—The Secretary may inspect  
17          any cybersecurity plan developed by a manufacturer  
18          under this subsection to enable the Secretary to de-  
19          cide whether the manufacturer has complied, or is  
20          complying, with this chapter or a regulation pre-  
21          scribed or order issued pursuant to this chapter.

22          “(4) PROTECTIONS FOR DISCLOSURE.—The  
23          Secretary may, by notice and comment rulemaking,  
24          establish a requirement that manufacturers subject

1 to subsection (b) develop a summary of its plan that  
 2 is suitable for public disclosure, as appropriate.

3 “(c) COORDINATED CYBERSECURITY VULNER-  
 4 ABILITY DISCLOSURE.—The Secretary may work coopera-  
 5 tively with manufacturers of highly automated vehicles  
 6 and automated driving systems to incentivize manufactur-  
 7 ers to voluntarily adopt a coordinated vulnerability disclo-  
 8 sure policy and practice in which a security researcher pri-  
 9 vately discloses information related to a discovered vulner-  
 10 ability to a manufacturer and allows the manufacturer  
 11 time to confirm and remediate the vulnerability—

12 “(1) so that manufacturers build relationships  
 13 with security researchers to mitigate cybersecurity  
 14 risks; and

15 “(2) to discover and mitigate cybersecurity  
 16 vulnerabilities in highly automated vehicles or auto-  
 17 mated driving systems that present a risk to motor  
 18 vehicle safety (as defined in section 30102 of title  
 19 49, United States Code).

20 “(d) COORDINATION.—All Federal agencies under-  
 21 taking research on cybersecurity risks associated with  
 22 highly automated vehicles shall coordinate with the Sec-  
 23 retary on their findings.”.

24 (b) CLERICAL AMENDMENT.—The analysis for chap-  
 25 ter 301 of title 49, United States Code, is amended by

1 inserting after the item relating to section 30107, as  
2 added by section 9, the following:

“30108. Cybersecurity risks to the safety of highly automated vehicles.”.

3 (c) EFFECTIVE DATE.—The amendments made by  
4 this section shall take effect on the date that is 18 months  
5 after the date of the enactment of this Act.

6 **SEC. 15. SAVINGS PROVISION.**

7 Nothing in this Act may be construed to alter any  
8 existing authority under subtitle VI of title 49, United  
9 States Code, relating to motor vehicles with a gross vehicle  
10 weight of 10,001 pounds or more.

○



## Board Report

File #: 2017-0699, File Type: Contract

Agenda Number: 9.

**REVISED**  
**EXECUTIVE MANAGEMENT COMMITTEE**  
**NOVEMBER 16, 2017**

**SUBJECT: COMMUNICATIONS SUPPORT SERVICES BENCH**

**ACTION: AWARD CONTRACTS**

### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to:

- A. AWARD seven-year, task order based bench Contract Nos. PS44432001 through PS44432010, with the following firms: Arellano Associates, Celtis Ventures, Communications Lab, Community Connections, Consensus, Dakota Communications, ETA Agency, Lee Andrews Group, MBI Media, and the Robert Group, for Communications Support Services, for a not-to-exceed amount of \$9,505,568 for the base three-year term effective January 1, 2018 through December 31, 2020, plus \$5,393,760 for each of the two, two-year options, for a combined total amount not-to-exceed \$20,293,088, subject to resolution of protest(s), if any; and
- B. EXECUTE Task Orders under these Contracts for communications support services in a total amount not-to-exceed \$9,650,568.

### **ISSUE**

With the passage of Measure M in November 2016, the agency's work effort will expand greatly. To optimize the agency's existing communications workforce and to ensure adherence to Metro's External Communications Policy, this growing work effort will be accomplished through a combination of agency staff and contracted services through this bench award. In addition, there are numerous processes that require Communications support such as the Long Range Transportation Plan, the NextGen Bus Service Study and efforts to increase ridership and enhance the customer experience. The Metro Communications Department developed this bench contract concept to supplement the agency's current and future communications needs. The bench is set to augment existing and future staff on Metro planning, design and construction projects and perform tasks on numerous other projects, programs, and initiatives as the need arises.

The Communications staff recommends awarding contracts to 10 teams to serve on this on-call bench contract. There is a SBE/ Disadvantaged Business Enterprise (DBE), Small Business Enterprise (SBE), and Disabled Veteran Business Enterprise (DBVBE) goal for this contract depending on the funding source: bench is 20% percent DBE for federally funded projects, 17%

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percent SBE and 3% DVBE for locally funded projects, 17 percent DBE for federally funded projects, and 3 percent for DVBE firms. Staff will issue task orders as needed to one of the ten full-service multi-disciplinary teams selected to serve on this bench.

## **DISCUSSION**

The Metro Communications Department is comprised of six departments: Art and Design Programs, Community Relations, Customer Care, Government Relations, Marketing, and Public Relations. While the on-call bench contracts could supplement functions in any of these six departments, the intent is to provide an extension of the work effort in the Community Relations, Marketing, and Public Relations Departments. The bulk of the work expected through the bench will support the Community Relations Department in executing public engagement, public information and community outreach activities on current and future projects.

The Community Relations Department serves as the public face of Metro's projects, programs and initiatives by supporting internal/external communications functions through the planning, design, construction, and operations phases of Metro's fast growing transportation system. Many of these projects require a high-level of targeted communications and engagement with Metro customers, residents, elected officials, business groups, homeowner groups and other interested stakeholders. Community Relations is responsible for implementing programs to engage a wide range of stakeholders including, but not limited to, cities, businesses, neighborhood and homeowner groups, environmental advocates, environmental justice advocates, minority groups, limited English proficiency and underserved communities, and disabled organizations, older adults, students, and other targeted community groups that are or may be impacted by Metro operations, future projects, construction activities, and other initiatives.

The Marketing Department is responsible for establishing and managing Metro's branding, marketing activities and advertising. This includes campaign development, copywriting, graphic design, digital and social media, marketing videos, website design and maintenance, printing services, advertising, and specialized TAP card programs.

The Public Relations Department oversees and implements all agency media relations, special press and promotional events, and develops written content in the form of press releases, rider alerts, blogs, news-related digital and social media, talking points, articles, guest columns and opinion editorials.

In the development of this approach, an emphasis was placed on "teaming", encouraging proposers to team with a number of firms to broaden their scope of services, experience and areas of discipline. This, in turn, provides a wide range of opportunities for small, disadvantaged and veteran-owned businesses to contribute to the development and growth of Metro's system and services.

In addition to providing opportunities to many firms, this approach also streamlines procurement processes for Metro and the business community by consolidating numerous, laborious and costly contracting opportunities into one contract. This approach prevents individual procurement processes when services are needed, and creates efficiencies for the business community and Metro.

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## **DETERMINATION OF SAFETY IMPACT**

Contractors may be required to conduct tasks on Metro property where construction may be taking place. All safety requirements will be met with requisite training and clearance as established by Metro Safety, Construction and Operation protocols.

## **FINANCIAL IMPACT**

The funding for this bench contract will parallel that of the benefiting projects charged which may include sales tax, grants, fares, and other funding sources within the agency. There is no single source that will unilaterally fund this contract. As specific work efforts arise, task orders will be issued and funded from the corresponding project budget upon approval by the responsible project manager, or by the relevant department.

The External Communications Policy establishes that all processes and materials intended to represent Metro and its services, programs and projects to external audiences must be created, reviewed and/or approved by Metro's Communications Department. To accommodate the multitude of needs for each department, the Communications staff will facilitate any communications support needed through this bench contract.

Therefore, project managers and respective cost center managers from the various departments will budget for future communications-related task orders related to their project, program or initiative that will be provided through this contract.

## **IMPACT TO BUDGET**

The Communications Department has anticipated the work needed through this contract for FY18 and has funds available in the Community Relations, Public Relations and Marketing cost centers to cover these expected task orders. In addition, funds are available in individual project and departmental budgets to cover the activities to support their efforts.

Moving forward, the funds to support the various departments' projects, programs and initiatives will either be budgeted within their cost centers each Fiscal Year, or through individual life of project budgets.

The funding sources used will correspond to the respective projects' funding plans charged and consist of federal, state or local funds.

This bench contract will also mitigate the need to pursue numerous procurements for communications services, saving time and money as an overall positive impact to the agency budget.

## **ALTERNATIVES CONSIDERED**

1. Pursue procurement processes and solicit proposals for each individual task when the requirement arises. This alternative is not recommended as it would place an undue burden on the small business community, requiring them to expend significant and costly resources to respond to multiple procurement processes each year. It also would require extensive staff time to develop a scope of work, internal estimate and proceed with a competitive procurement for each individual task. This would also delay the provision of services and prevent the opportunity to expedite services when needed. Additionally, procuring services on a per-assignment basis would impose significant additional burden on the Communications



and Vendor/Contract Management departments.

2. Utilize existing Communications staff to provide the required support services. This alternative is also not feasible as Metro's current Communications staff is being fully utilized to support existing projects, programs and initiatives. Due to these commitments, it would be a major challenge for current staff to provide the necessary additional support required for future projects, programs and initiatives. If this alternative were exercised, Metro would need to hire additional staff with expertise in several disciplines to perform the desired work. Based on staffing trends, it is unlikely the agency can support this effort in-house.
3. Direct departments to procure services for their own needs. This option puts an undue burden on the small business community, requiring them to expend significant and costly resources to respond to multiple procurement processes each year. It also is counter to Metro's External Communications Policy, which is designed to consolidate, optimize and strategically coordinate communications services across the agency.

### **NEXT STEPS**

Upon Board approval, staff will establish the Communications Support Services Bench contracts with each of the selected firms effective January 1, 2018. Once contracts are executed, staff will begin issuing task orders as needed.

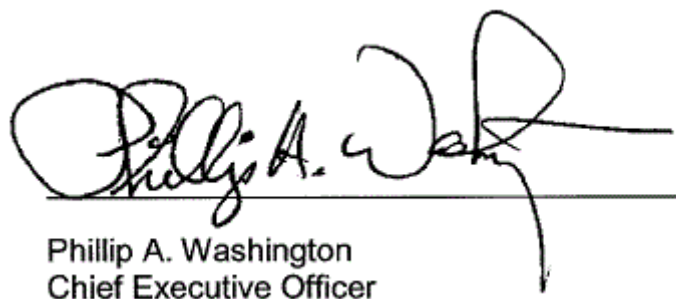
### **ATTACHMENTS**

Attachment A - Procurement Summary

Attachment B - DEOD Summary

Prepared by: Yvette ZR Rapose, Deputy Executive Officer, (213) 418-3154  
Antwaun Boykin, Sr. Contract Administrator (213) 922-1056

Reviewed by: Pauletta Tonilas, Chief Communication Officer, (213) 922-3777  
Debra Avila, Chief Vendor/Contract Management Officer,  
(213) 418-3051



Phillip A. Washington  
Chief Executive Officer

## PROCUREMENT SUMMARY

## COMMUNICATIONS BENCH / PS44432000

1.	<b>Contract Numbers:</b> PS44432001-010	
2.	<b>Recommended Vendors:</b> Arellano Associates; Celtis Ventures; Communications Lab; Community Connections; Consensus; Dakota Communications; ETA Agency; Lee Andrews Group; MBI Media; The Robert Group	
3.	<b>Type of Procurement (check one):</b> <input checked="" type="checkbox"/> RFP <input type="checkbox"/> IFB <input type="checkbox"/> IFB-A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	<b>Procurement Dates:</b>	
	<b>A. Issued:</b> July 27, 2017	
	<b>B. Advertised/Publicized</b> August 3, 2017	
	<b>C. Pre-proposal Conference:</b> August 10, 2017	
	<b>D. Proposals Due:</b> August 31, 2017	
	<b>E. Pre-Qualification Completed:</b> Pending	
	<b>F. Conflict of Interest Form Submitted to Ethics:</b> October 5, 2017	
	<b>G. Protest Period End Date:</b> November 20, 2017	
5.	<b>Solicitations Picked up/Downloaded:</b> 51	<b>Proposals Received:</b> 17
6.	<b>Contract Administrator:</b> Antwaun Boykin	<b>Telephone Number:</b> (213) 922-1056
7.	<b>Project Manager:</b> Yvette ZR Rapose	<b>Telephone Number:</b> (213) 418-3154

**A. Procurement Background**

This Board Action is to approve the award of bench Contract Nos. PS44432001 through PS44432010 issued in support of the Metro Communications Department for a seven-year term inclusive of two, two-year options. The Contracts will be effective January 1, 2018 through December 31, 2024, plus two, two-year options, for a total amount not-to-exceed \$20,293,088. These services will be performed on an “as-needed” basis for which task orders will be issued. Board approval of contract awards are subject to resolution of properly submitted protests.

Request for Proposals (RFP) No. PS44432 was issued in accordance with Metro's Acquisition Policy and the contract type is task order based.

Two amendments were issued during the solicitation phase of this RFP:

- Amendment No. 1, issued on August 11, 2017 provided documents from the pre-proposal conference ;
- Amendment No. 2, issued on August 24, 2017 provided a revised Cost Proposal ;

**B. Evaluation of Proposals**

A total of 17 proposals were received on the due date of August 31, 2017.  
The firms are listed below in alphabetical order:

1. Arellano Associates
2. Celtis Ventures

3. Communications Lab
4. Community Connections
5. Consensus
6. Dakota Communications
7. ETA Agency
8. Lee Andrews Group
9. MBI Media
10. Noble Insight
11. North Star Alliances
12. PRR
13. Sensis
14. T&T/Saeshe
15. The Robert Group
16. Xerxes Studio
17. Zeldesign

A Proposal Evaluation Team (PET) consisting of staff from Metro Communications, Marketing, and Public Relations was convened and conducted a comprehensive technical evaluation of the proposals received.

The proposals were evaluated based on the following evaluation criteria and weights:

- |   |            |
|---|------------|
| • Teaming Effort, Key Personnel Experience and Capabilities on the Contracting Team | 30 percent |
| • Experience in Transportation, LA County and Working in Diverse Communities        | 25 percent |
| • Understanding of Work Scope and Approach for Implementation                       | 30 percent |
| • Cost  | 15 percent |

Several factors were considered when developing these weights, giving the greatest importance to teaming effort, key personnel experience and capabilities on the contracting team, as well as, understanding of work scope and approach for implementation.

On August 31, 2017, the members of the PET were given copies of 16 written technical proposals to begin their evaluation. On September 1, 2017, one proposal was determined to be non-responsive because it did not meet the requirements of providing the services included in the statement of work. On September 18, 2017, the members of the PET met to determine the competitive range based on the evaluation criteria factors established in the solicitation. On September 22, 2017, six of the 16 firms were determined to be outside of the competitive range. From September 25, 2017 to September 27, 2017, the remaining 10 firms within the competitive range were contacted for additional discussion and clarification. Each proposing team was provided an opportunity to discuss their qualifications and respond to questions from the evaluation committee. In general, each team's presentation was designed to address questions submitted by the PET in order to clarify and discuss requirements of the RFP, and highlight their experience with all aspects of the required tasks. The PET concluded the evaluations on September 27, 2017.

The recommended firms for the bench are listed below in alphabetical order:

No.	Contract No.	Firm
1	PS44432001	Arellano Assosicates
2	PS44432002	Celtis Ventures
3	PS44432003	Communications Lab
4	PS44432004	Community Connections
5	PS44432005	Consensus
6	PS44432006	Dakota Communications
7	PS44432007	ETA Agency
8	PS44432008	Lee Andrews Group
9	PS44432009	MBI Media
10	PS44432010	The Robert Group

Nine of the recommended firms above are Metro certified SBE and/or DBE.

### **Qualifications Summary of Firms:**

#### **Arellano Associates**

Arellano Associates (AA) is a Chino Hills based communications firm with over 23 years of experience. AA is a Metro certified SBE and DBE consulting firm specializing in communications and public outreach, community and government relations, and strategic planning and marketing programs. They offer a team of professionals who provide comprehensive communications and planning services for the full spectrum of public projects from planning to construction or implementation.

#### **Celtis Ventures**

Celtis Ventures (CV) is a Redondo Beach based communications firm with five years of experience. CV utilizes incisive strategies, creativity, brand transformation expertise and a targeted mix of digital, social, print, video and mobile tactics in communications and public outreach.

#### **Communications Lab**

Communications Lab (CL) is a communications firm based in the City of Orange with 12 years of experience. CL is a Metro certified SBE and DBE firm. CL has provided communications and public outreach for the Orange County Transportation Authority, Southern California Edison, and San Diego Gas and Electric.

#### **Community Connections**

Community Connections (CC) is a Los Angeles based communications firm with over 20 years of experience. CC is a Metro certified SBE and DBE firm. CC is an outreach specialist with experience working with and for public agencies and municipalities.

### **Consensus**

Consensus is a Los Angeles based communications firm with over 30 years of experience. Consensus is a Metro certified SBE firm. Consensus specializes in public relations, public affairs and communications, the firm has provided services for the Orange County Transportation Authority, Caltrans, and the U.S. Veterans Administration for West Los Angeles.

### **Dakota Communications**

Dakota Communications (DC) is a Los Angeles based communications firm with over 20 years of experience. DC is a Metro certified SBE and DBE firm. DC has experience building community support for public policy initiatives and programs advanced by corporate, business, governmental, non-profit and community-based organizations. DC has conducted outreach and public education campaigns for a variety of clients including Los Angeles Community College District and Los Angeles World Airport.

### **ETA Agency**

ETA Agency (ETA) is a Long Beach based communications firm with 12 years of experience. ETA is a Metro certified SBE and DBE firm. ETA Agency specializes in community relations, increasing awareness and garnering public support for the public and private sector. ETA has experience working with government agencies, including Long Beach Transit, Newport Beach Police Department and Pasadena Fire Department.

### **Lee Andrews Group**

Lee Andrews Group (LAG) is a Los Angeles based communications firm with over 20 years of experience. LAG is a Metro certified SBE and DBE firm. LAG has experience managing multiple community outreach projects and providing support and guidance to local government agencies and private entities. LAG has provided community and public outreach for Alameda Corridor-East Construction Authority and the City of Bakersfield.

### **MBI Media**

MBI Media (MBI) is a Covina based communications firm with 28 years of experience. MBI is a Metro certified SBE and DBE firm. MBI specializes in Community Relations, Marketing, Public Relations and Multi-Media production. MBI has performed public outreach services for Metrolink and Los Angeles County Department of Public Works.

### **The Robert Group**

The Robert Group (TRG) is a Los Angeles based communications firm with 25 years of experience. The Robert Group is a Metro certified SBE and DBE firm. TRG is a public affairs firm with expertise in community outreach, strategic communications, and governmental relations. TRG has worked with public sector governmental agencies such

as the City of Los Angeles Bureau of Sanitation and the City of Los Angeles Department of City Planning.

**C. Price Analysis**

The recommended fixed unit rates from all firms have been determined to be fair and reasonable based upon adequate price competition. Each individual task order will be competed and will comply with all requirements of Metro's Acquisition Policy and the terms and conditions of these Contracts. The contractors will propose according to the requirements of the task order, an independent cost estimate, technical evaluation, and cost/price analysis will be performed, as appropriate, on all task orders issued.

**D. Background on Recommended Contractors**

All ten firms listed above are recommended for award. These firms have been evaluated and determined to be qualified to work on Metro assignments on an as-needed, task order basis. Having multiple contracts ensures that Metro Communications Department will have a variety of on-call providers to support its communication and outreach efforts.

## DEOD SUMMARY

## COMMUNICATIONS BENCH / PS44432000

### **A. Small Business Participation**

The Diversity and Economic Opportunity Department (DEOD) established a 20% Disadvantaged Business Enterprise (DBE) goal for task orders awarded with federal funds, and a 20% small business participation goal, inclusive of 17% Small Business Enterprise (SBE) and 3% Disabled Veteran Business Enterprise (DVBE) goal for task orders awarded with non-federal funds. Communications Bench proposers were required to submit DBE/SBE/DVBE affidavits confirming their commitment to the applicable goals, and participants met or exceeded the goal with varied commitments as listed below. Proposers were also required to list all known DBE, SBE and DVBE firms that will perform any portion of the work without specific dollar commitments.

The Communications Bench is subject to the Small Business Prime (Set-Aside) Program requirements. Of the ten proposers selected for the Bench contract, eight are DBE and SBE primes, one is a SBE prime only and one is a non-DBE/SBE prime. Metro also encouraged medium-sized businesses to propose pursuant to the Medium-Size Business Enterprise Program (MSZ) requirement; however, the agency did not receive more than one medium-size firm's proposal, and therefore MSZ does not apply to the bench.

Overall DBE/SBE/DVBE participation for the Bench will be determined based on the total aggregate of all task orders issued and awarded.

### Prime: Arellano Associates

Small Business Goal	20% DBE 17% SBE 3% DVBE	Small Business Commitment	20% DBE 17% SBE 3% DVBE
	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Arellano Associates	Hispanic American Female	TBD
2.	VMA Communications	Hispanic American Female	TBD
<b>Total DBE Commitment</b>			<b>20%</b>
	<b>SBE Prime/Subcontractors</b>		<b>% Committed</b>
1.	Arellano Associates		TBD
2.	AVS Consulting		TBD
3.	D. Barton Doyle		TBD
4.	Jarrett Walker + Associates		TBD
5.	Two Hundred		TBD
6.	VMA Communications		TBD
7.	Wilson, Sparling & Associates		TBD
8.	Matthew Zehner, LLC dba Zehner Group		TBD

<b>Total SBE Commitment</b>		<b>17%</b>
	<b>DVBE Subcontractors</b>	<b>% Committed</b>
1.	Sunset Cliffs Productions	TBD
<b>Total DVBE Commitment</b>		<b>3%</b>

**Prime: Celtis Ventures**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>20% DBE 17% SBE 3% DVBE</b>
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	<b>DBE Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Arellano Associates	Hispanic American Female	TBD
<b>Total DBE Commitment</b>			<b>20%</b>
	<b>SBE Subcontractors</b>		<b>% Committed</b>
1.	Arellano Associates		TBD
2.	The Walking Man		TBD
<b>Total SBE Commitment</b>			<b>17%</b>
	<b>DVBE Subcontractors</b>		<b>% Committed</b>
1.	Proforma DVE Global Marketing		TBD
2.	Flagship Marketing		TBD
<b>Total DVBE Commitment</b>			<b>3%</b>

**Prime: Barrios and Associates LLC dba Communications Lab**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>40% DBE 40% SBE 5% DVBE</b>
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	<b>DBE Prime</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Barrios and Associates LLC dba Communications Lab	Hispanic American Female	TBD
<b>Total DBE Commitment</b>			<b>40%</b>
	<b>SBE Prime/Subcontractors</b>		<b>% Committed</b>
1.	Barrios and Associates LLC dba Communications Lab		TBD
2.	The Walking Man		TBD
<b>Total SBE Commitment</b>			<b>40%</b>
	<b>DVBE Subcontractors</b>		<b>% Committed</b>
1.	Brentwood Reprographics		TBD
<b>Total DVBE Commitment</b>			<b>5%</b>



**Prime: Community Connections, LLC**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>20% DBE 17% SBE 3% DVBE</b>
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	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Community Connections, LLC	Hispanic American Female	TBD
2.	Alas Media, Inc.	Hispanic American Female	TBD
3.	Allied Interpreting Service, Inc.	Caucasian Female	TBD
4.	Capital Government Contract Specialists, Inc.	Hispanic American	TBD
5.	Cynthia M. Ruiz & Associates	Hispanic American Female	TBD
6.	Judith Norman Transportation Consultant dba JNTC	African American Female	TBD
7.	Magna Sol Corporation	Hispanic American Female	TBD
8.	Young Communications Group, Inc.	African American Female	TBD
<b>Total DBE Commitment</b>			<b>20%</b>

	<b>SBE Prime/Subcontractors</b>	<b>% Committed</b>
1.	Community Connections, LLC	TBD
2.	Alas Media, Inc.	TBD
3.	Allied Interpreting Service, Inc.	TBD
4.	Capital Government Contract Specialists, Inc.	TBD
5.	Cynthia M. Ruiz & Associates	TBD
6.	Magna Sol Corporation	TBD
7.	Young Communications Group, Inc.	TBD
<b>Total SBE Commitment</b>		<b>17%</b>
	<b>DVBE Subcontractors</b>	<b>% Committed</b>
1.	Capital Government Contract Specialists, Inc.	TBD
<b>Total DVBE Commitment</b>		<b>3%</b>

**Prime: Consensus Inc.**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>20% DBE 17% SBE 3% DVBE</b>
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	<b>DBE Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Translating Services, Inc. dba Lazar Translating & Interpreting	Caucasian Female	TBD
2.	Saucedo Professional	Hispanic American Female	TBD

	Group, Inc.		
3.	Friendly Filmworks	Hispanic American	TBD
4.	LA1, Inc.	Asian Pacific American	TBD
5.	The Glue	Caucasian Female	TBD
6.	Deborah Murphy Urban Design & Planning	Caucasian Female	TBD
7.	Davis & Associates dba D&A Communications	African American Female	TBD
<b>Total DBE Commitment</b>			<b>20%</b>
	<b>SBE Prime/Subcontractors</b>	<b>% Committed</b>	
1.	Consensus Inc.		TBD
2.	Translating Services, Inc. dba Lazar Translating & Interpreting		TBD
3.	Community Arts Resources		TBD
4.	Saucedo Professional Group, Inc.		TBD
5.	Imprenta Communications Group		TBD
6.	Friendly Filmworks		TBD
7.	LA1, Inc.		TBD
8.	The Glue		TBD
9.	Deborah Murphy Urban Design & Planning		TBD
<b>Total SBE Commitment</b>			<b>17%</b>
	<b>DVBE Subcontractors</b>	<b>% Committed</b>	
1.	Deborah Murphy Urban Design & Planning		TBD
<b>Total DVBE Commitment</b>			<b>3%</b>

**Prime: Dakota Communications**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>65% DBE 65% SBE 3% DVBE</b>
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	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Dakota Communications	African American	TBD
2.	JKH Consulting	African American Female	TBD
3.	360 Total Concept Inc.	African American Female	TBD
<b>Total DBE Commitment</b>			<b>65%</b>
	<b>SBE Prime/Subcontractors</b>	<b>% Committed</b>	
1.	Dakota Communications		TBD
2.	JKH Consulting		TBD
3.	360 Total Concept Inc.		TBD
<b>Total SBE Commitment</b>			<b>65%</b>
	<b>DVBE Subcontractors</b>	<b>% Committed</b>	
1.	V-Solutions Consulting		TBD
<b>Total DVBE Commitment</b>			<b>3%</b>

**Prime: ETA Agency, Inc.**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>30% DBE 30% SBE 3% DVBE</b>
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	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	ETA Agency, Inc.	Female Caucasian	TBD
2.	Barrantes Enterprises, Inc. dba The Sierra Group	Hispanic American Female	TBD
3.	J-U Carter, Inc. dba J-U Public	Caucasian Female	TBD
4.	Zelddesign, dba ZHA – Harrison Associates	African American Female	TBD
<b>Total DBE Commitment</b>			<b>30%</b>
	<b>SBE Prime/Subcontractors</b>		<b>% Committed</b>
1.	ETA Agency, Inc.		TBD
2.	Barrantes Enterprises, Inc. dba The Sierra Group		TBD
3.	Matthew Zehner, LLC dba Zehner Group		TBD
4.	Zelddesign, dba ZHA – Harrison Associates		TBD
5.	The Walking Man		TBD
<b>Total SBE Commitment</b>			<b>30%</b>
	<b>DVBE Subcontractors</b>		<b>% Committed</b>
1.	Bedrosian & Associates		TBD
<b>Total DVBE Commitment</b>			<b>3%</b>

**Prime: Lee Andrews Group**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>80% DBE 80% SBE 3% DVBE</b>
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	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	Lee Andrews Group	Hispanic American Female	TBD
2.	DeAngelis Design	Caucasian Female	TBD
3.	Del Richardson & Assoc.	African American Female	TBD
4.	Effect Strategies LLC	Caucasian Female	TBD
5.	North Star Alliance	Hispanic American	TBD
6.	Paragon Language Services	Caucasian Female	TBD
7.	Tovar Geospatial Services	Hispanic American	TBD
8.	Trifiletti Consulting	Hispanic American Female	TBD
<b>Total DBE Commitment</b>			<b>80%</b>
	<b>SBE Prime/Subcontractors</b>		<b>% Committed</b>
1.	Lee Andrews Group		TBD
2.	DeAngelis Design		TBD
3.	Del Richardson & Associates		TBD

4.	Effect Strategies LLC	TBD
5.	North Star Alliance	TBD
6.	Paragon Language Services	TBD
7.	Trifiletti Consulting	TBD
8.	Matthew Zehner, LLC dba Zehner Group	TBD
<b>Total SBE Commitment</b>		<b>80%</b>
	<b>DVBE Subcontractors</b>	<b>% Committed</b>
1.	J-Rock Communications	TBD
<b>Total DVBE Commitment</b>		<b>3%</b>

**Prime: MBI Media**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>80% DBE 80% SBE 3% DVBE</b>
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	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	MBI Media	Caucasian Female	TBD
2.	Alas Media, Inc.	African American Female	TBD
3.	North Star Alliance	Hispanic American	TBD
4.	House 47	Caucasian Female	TBD
5.	Sir Speedy Printing	Caucasian Female	TBD
6.	Young Communications	African American Female	TBD
<b>Total DBE Commitment</b>			<b>80%</b>
	<b>SBE Prime/Subcontractors</b>		<b>% Committed</b>
1.	MBI Media		TBD
2.	Alas Media, Inc.		TBD
3.	North Star Alliance		TBD
4.	House 47		TBD
5.	The Walking Man		TBD
<b>Total SBE Commitment</b>			<b>80%</b>
	<b>DVBE Subcontractors</b>		<b>% Committed</b>
1.	Continental Interpreting		TBD
<b>Total DVBE Commitment</b>			<b>3%</b>

**Prime: The Robert Group**

<b>Small Business Goal</b>	<b>20% DBE 17% SBE 3% DVBE</b>	<b>Small Business Commitment</b>	<b>75% DBE 33% SBE 3% DVBE</b>
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	<b>DBE Prime/Subcontractors</b>	<b>Ethnicity</b>	<b>% Committed</b>
1.	The Robert Group	African American Female	TBD
2.	Effect Strategies, LLC	Caucasian Female	TBD

3.	Trifiletti Consulting, Inc.	Hispanic Female	TBD
Total DBE Commitment			75%
	SBE Prime/Subcontractors		% Committed
1.	The Robert Group		TBD
2.	Effect Strategies LLC		TBD
3.	Emerson & Associates		TBD
4.	Trifiletti Consulting		TBD
5.	VPE Public Relations		TBE
6.	The Walking Man		TBD
Total SBE Commitment			33%
	DVBE Subcontractors		% Committed
1.	Brentwood Reprographics, Inc.		TBD
	Total DVBE Commitment		3%

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

The Living Wage and Service Contract Worker Retention Policy is not applicable to these Contracts.

**C. Prevailing Wage Applicability**

Prevailing Wage requirements are not applicable to this project.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to these Contracts.

**Board Report**

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**File #:** 2017-0761, **File Type:** Informational Report**Agenda Number:** 14.

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**EXECUTIVE MANAGEMENT COMMITTEE  
NOVEMBER 16, 2017****SUBJECT: U.S. DEPARTMENT OF TRANSPORTATION CIVIL RIGHTS INVESTIGATION****ACTION: RECEIVE AND FILE****RECOMMENDATION**

RECEIVE AND FILE status report on the resolution of the U.S. Department of Transportation (USDOT) civil rights investigation.

**ISSUE**

On January 12, 2017 Metro received a notice from USDOT in Washington advising that they had accepted a formal civil rights complaint against Metro. The complaint from the Labor Community Strategy Center (LCSC) alleged that Metro was discriminating on the basis of race with regard to its policies and practices of fare enforcement, citations and arrests on public transportation in violation of Title VI of the Civil Rights Act of 1964.

USDOT conducted a thorough investigation of the allegations including a site visit to Los Angeles. Hundreds of pages of documentation were provided to the USDOT review team. The visit included observations of fare collection and compliance checks, and a review of Metro policies and practices. On October 23, 2017 Metro was informed that USDOT will administratively close the complaint without any findings and enter into a one year agreement to provide technical assistance with regard to fare collection and fare compliance and related public outreach.

**DISCUSSION**

As a recipient of Federal financial assistance, Metro is required to comply with Title VI of the Civil Rights Act of 1964. Title VI specifically prohibits disparate impacts, which are defined as discriminatory impacts based on color, race or national origin resulting from policies or actions which appear to be facially color, race or national origin neutral. As a result of a ruling by the Supreme Court of the United States in 2001, a private party such as the LCSC no longer has a right of private action to file a lawsuit against a public agency under the disparate impact (section 602) regulations of Title VI of the Civil Right Act of 1964. The LCSC is limited to filing a complaint with the responsible Federal agency and the agency must determine if action is warranted.

The LCSC alleged that the Metro fare enforcement, citations and arrests deliberately targeted minorities and specifically African American passengers. The LCSC also alleged that Metro fare compliance activities resulted in criminalization of African American fare violators and that Metro had

a policy of “stop and frisk” designed to harass African American passengers.

Metro has never had a policy of “stop and frisk” and the creation of its Transit Court in 2012, and its expansion to include juveniles in 2017 ensures that fare compliance issues do not result in criminalization of violators. Metro also transferred primary fare enforcement duties away from law enforcement to civilian Metro employees earlier this calendar year. Law enforcement officers may assist when needed, but the primary fare inspection is now conducted by non-law enforcement personnel.

The signing of the agreement with the USDOT will enable Metro to proactively partner with USDOT to collaboratively identify and resolve any practices involving fare collection that could have a discriminatory impact on users.

USDOT will provide technical assistance to ensure that Metro programs for fare collection and fare compliance comply with responsibilities under Title VI while continuing to ensure that public safety goals are met. USDOT will also provide technical assistance on a public outreach campaign designed to inform the public about fare collection and compliance, generate meaningful participation in the process and proactively avoid practices that could have a discriminatory impact on users

### **NEXT STEPS**

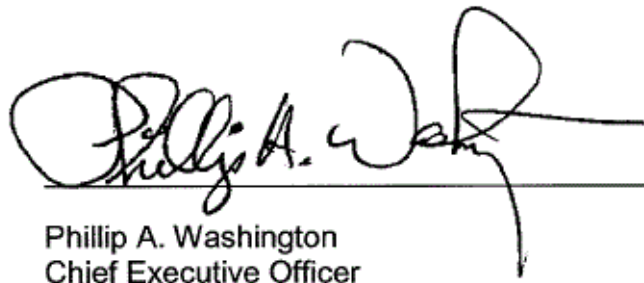
Metro signed the letter of agreement with the DOT on November 1, 2017. The period of technical assistance will run for one year from the date of signing. The first step will be to work with USDOT to develop a plan and schedule for the technical assistance.

### **ATTACHMENTS**

Attachment A - Letter of Agreement with USDOT

Prepared by: Daniel Levy, Chief, Civil Rights Programs (213) 418-3169

Reviewed by: Alex Wiggins, Chief System Security and Law Enforcement, (213) 922-4433



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Phillip A. Washington  
Chief Executive Officer



**U.S. Department of  
Transportation**  
Office of the Secretary  
of Transportation

1200 New Jersey Avenue, SE  
Suite W78-340  
Washington, DC 20590

November 1, 2017

Mr. Phillip A. Washington  
Chief Executive Officer  
Los Angeles County MTA  
One Gateway Plaza  
Los Angeles, CA 90012

**Subject:** Letter Agreement to Close Complaint Investigation, DOT# 2017-0093

This letter describes the steps mutually agreed to by the Los Angeles County Metropolitan Transportation Authority (LA Metro) and the United States Department of Transportation (DOT) to ensure compliance with federal civil rights laws. Pursuant to this agreement, LA Metro agrees to receive technical assistance from DOT with regards to their system for fare collection and fare enforcement, including public outreach. Upon the signature of both parties, DOT will administratively close the investigation into DOT# 2017-0093.

LA Metro, as a recipient of Federal financial assistance from DOT and its Operating Administrations, is bound to comply with Title VI of the Civil Rights Act of 1964 (Title VI) and DOT Title VI implementing regulations at 49 C.F.R. § 21 prohibiting discrimination on the basis of race, color, or national origin. Since the beginning of the investigation, DOT and LA Metro have met on multiple occasions to discuss fare collection, enforcement, and public engagement strategies, and DOT anticipates that LA Metro will continue its cooperative approach towards addressing the issues raised in the complaint in partnership with DOT. The administrative closure of this complaint will greatly enhance DOT and LA Metro's ability to partner and proactively identify practices involving fare collection that could have a discriminatory effect on users of the Metro system and to collaboratively resolve them.

Pursuant to this agreement, DOT will provide technical assistance to ensure that LA Metro's programs of fare collection and fare enforcement comply with their responsibilities under Title VI, while continuing to ensure that LA Metro meets its public safety-related goals. This will include, but is not limited to, a DOT review of LA Metro's policy for the distribution of fare enforcement resources and the assignment of fare enforcement staff to LA Metro lines and stations, and may include the development of new approaches, where necessary and in collaboration with LA Metro. This will also include technical assistance from DOT on a public outreach campaign designed to inform the public about fare collection and enforcement, generate their meaningful participation in the process, and to proactively avoid practices that could have a discriminatory impact on users of the Metro system.



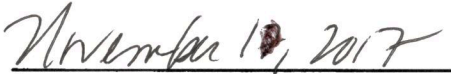
This agreement for the provision of technical assistance will expire one year from the date later-in-time of the signatures below, unless extended by the mutual agreement of both parties. Upon signature, DOT will administratively close the complaint without finding.

The undersigned agree to the terms of this agreement for the provision of technical assistance.

For the United States Department of Transportation:

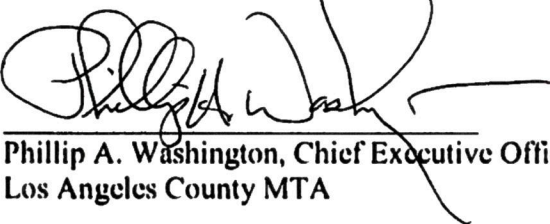


Yvette Rivera, Associate Director  
Departmental Office of Civil Rights  
U.S. Department of Transportation

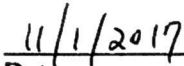


Date

For the Los Angeles County Metropolitan Transportation Authority:



Phillip A. Washington, Chief Executive Officer  
Los Angeles County MTA



Date



## Board Report

File #: 2017-0686, File Type: Policy

Agenda Number: 8.

REVISED  
EXECUTIVE MANAGEMENT COMMITTEE  
NOVEMBER 16, 2017

**SUBJECT: MEASURE M EARLY PROJECT DELIVERY STRATEGY**

**ACTION: APPROVE POLICY**

### **RECOMMENDATION**

APPROVE the policy for a Measure M Early Project Delivery Strategy, outlined in Attachment A.

### **ISSUE**

This item proposes a uniform policy for determining when Measure M projects can be delivered earlier than scheduled, as allowed by the Ordinance. Attachment A is the proposed Policy. Attachment B is an explainer about it, including the rationale and frequently asked questions. A comprehensive policy to transparently and uniformly guide decision-making about how and when projects can be delivered earlier increases the likelihood that project acceleration can be achieved. Furthermore, stating the fundamental responsibilities for collaboration between Metro and its many partners helps to keep projects on schedule and within budget.

### **BACKGROUND**

#### **Policy Authority**

The Measure M Ordinance approved by Los Angeles County voters allows for project acceleration. Section 11, paragraph b states: *“By two-thirds (2/3) vote, the Metro Board of Directors may amend the “Schedule of Funds Available” columns listed in Attachment A to accelerate a project, provided that any such amendments shall not reduce the amount of funds assigned to any other project or program as shown in the “Measure M Funding 2015\$” column of Attachment A or delay the Schedule of Funds Available for any other project or program.”* This is essentially a hold harmless clause, which in laymen’s terms could be interpreted to mean that “projects can be accelerated as long as doing so does not delay or otherwise negatively impact other projects”.

#### **Policy Need**

During development of the Measure M Ordinance in 2016, many stakeholders expressed a desire to have projects delivered earlier. Therefore, the aforementioned authority was written into the

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Ordinance to allow for project acceleration. Despite the enabling language, a policy framework for an early project delivery strategy does not exist. This has resulted in requests for early delivery of individual projects lacking supporting evidence, inefficient use of resources in addressing the requests and disappointment by proponents who have not been provided clarity in how to accelerate a project.

### Policy Benefits

The faster projects in Measure M can be completed, the sooner Metro can expand access to opportunity for the residents of Los Angeles County. These projects improve mobility for all those who live, work, play and visit the region. A strategic framework for how to accomplish early project delivery enables attaining it. That achieves all of the benefits set forth in the preamble of the Measure M Ordinance.

### Policy Approach

The four categories of strategic inputs for early project delivery - Funding, Partnerships, Process and Innovations - were identified because those are the areas most impactful in driving how projects are completed. These strategic inputs are project accelerators that could partially support facilitating early project delivery. Multiple inputs are generally needed to achieve early project delivery. For projects at risk of delay, a disclosure and recovery plan must be prepared.

### Policy Process

A screening tool is used to suggest the propensity for early project delivery. If the propensity exists, then staff conducts a further analysis to confirm the likelihood of early project delivery. For projects with potential for acceleration, the Board considers and then makes the final decision, following a public process set forth in controlling law.

### Policy Iteration

At its September 21, 2017 regular meeting, the Executive Management Committee (EMC) reviewed a concept for establishing a policy and factors for determining when a Measure M project can be accelerated or decelerated (File #2017-0596). EMC forwarded the concept to the Board for discussion at its September 28, 2017 regular meeting without recommendation. At that time, they conveyed a favorable view of the concept of acceleration, while finding a need for a guiding policy.

- The need and emphasis for the policy should be about early project delivery.
- Be clear that the screening tool itself does not result in a decision; generally multiple factors are needed to trigger early project delivery.
- Forward to Policy Advisory Council, Measure M Independent Taxpayers Oversight Committee and conduct stakeholder engagement.

The Board provided similar feedback. Concerns were also raised about addressing the potential for project delays/deceleration at an equivalent level to early project delivery/acceleration, when the goals are to standardize how projects are evaluated for early delivery and articulate how Metro and its many partners can collaborate to deliver Measure M projects on schedule and within budget. Staff

has also undertaken ongoing stakeholder engagement since the Board meeting. As a result of this iterative process, this is the third draft of the Policy.

### Policy Changes

A Policy is proposed for Board consideration in Attachment A, based on Board feedback received in September and stakeholder engagement in October and November; an explainer is provided in Attachment B. The draft Policy has been substantively re-crafted to focus on a strategy for early project delivery. Instead of a “deceleration” component, the draft Policy now articulates fundamental responsibilities for maintaining project schedules. Other notable revisions made in response to specific Board input include:

- Removing the reference to other priorities in the Funding section
- Adding an early project delivery input for savings from the time value of money
- Removing the reference to a future Transit-oriented Communities Policy and replacing that with general language about advancing Metro goals and policies that promote the integration of land use and transportation
- Adjusting some of the funding percentages pertaining to local and sub-regional contributions as potential strategic inputs for early project delivery
- Generalizing the early project delivery inputs to more readily be transportation mode neutral

The score assigned to each input has been added along with various text, all of which advance the initial concept into a further developed policy document with greater clarity. The point value assigned to each input is based on the relative strength of the input to contribute toward achieving early project delivery. The three percentage ranges that define low, medium and high propensity for project acceleration are simplistically set at thresholds of a third.

## **DISCUSSION**

This version of the Policy recognizes and emphasizes the goal of the Board, Metro’s partners and the public to focus efforts on an early project delivery strategy, while also being clear what the fundamental responsibilities are to ensure projects can be completed on schedule and within budget. The Policy is structured yet flexible. With the clarity provided by the Policy, energies can be more effectively focused on actually achieving early delivery of projects.

## **FINANCIAL IMPACT**

The impacts of early project delivery decisions would be case-specific. Analysis of budget and long range financial programming would be an essential part of the analysis that would accompany any considerations under this proposed approach.

### Impact to Budget

Fiscal year budget impacts would be case-specific to the projects and schedules involved.

### **ALTERNATIVES CONSIDERED**

The Board could consider revising the Policy for Early Project Delivery Strategy as presented by staff, or recommend that a Policy not be adopted. Should the Board elect not to adopt a Policy, the Chief Executive Officer requests that alternative direction be provided by the Board to ensure a transparent, unbiased and consistent process is in place to guide any decisions that will be forthcoming regarding early project delivery.

### **NEXT STEPS**

Implementation of the Policy, if adopted by the Board.

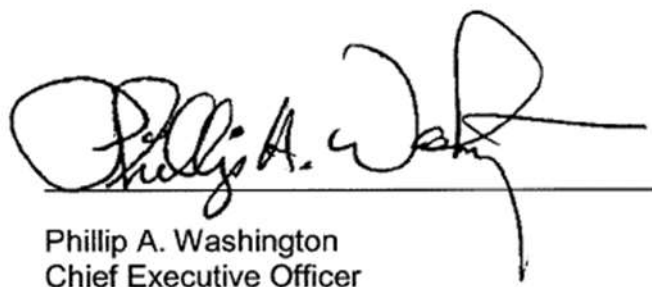
### **ATTACHMENTS**

Attachment A - Proposed Metro Board Policy: Early Project Delivery Strategy

Attachment B - About Metro's Proposed Policy: Early Project Delivery Strategy

Prepared by: Manjeet Ranu, Senior Executive Officer, Countywide Planning & Development, (213) 418-3157

Reviewed by: Phillip A. Washington, Chief Executive Officer, (213) 922-7555  
Stephanie Wiggins, Deputy Chief Executive Officer, (213) 922-1023  
Therese W. McMillan, Chief Planning Officer, (213) 922-7077  
Richard Clarke, Chief Program Management Officer, (213) 922-7382  
Joshua Schank, Chief Innovation Officer, (213) 922-7447

  
Phillip A. Washington  
Chief Executive Officer

## **ATTACHMENT A**

### **Proposed Metro Board Policy: Early Project Delivery Strategy**

#### **EFFECTIVE DATE:**

*[date]*

#### **TITLE**

- This Policy shall be referred to as the **Early Project Delivery Strategy**.

#### **PURPOSE**

- This Policy establishes clear, uniformly applied criteria to determine if a Measure M Project can be delivered faster than scheduled in the Measure M Expenditure Plan. A comprehensive policy allows for rigorous and expeditious analyses and determinations. It provides for transparency and financial accountability. Projects can be accelerated as long as others are not negatively impacted, pursuant to the Measure M Ordinance.

#### **PROCESS**

1. Identify multiple inputs that suggest a potential for acceleration. A screening tool will then be utilized to assist in identifying the inputs that potentially have occurred and whether an initial assessment of the propensity for acceleration is warranted.
2. If warranted, staff will then conduct an analysis to confirm the ability to accelerate a project schedule, determine the extent to which a project could be accelerated and what would be the impacts of that action.
3. The Board of Directors will review the staff analysis and may: (a) give direction to subsequently provide notice and take action pursuant to controlling law; (b) decline to find for early project delivery; or (c) direct staff to undertake further analysis.

#### **GENERALLY**

- Multiple acceleration inputs are typically needed to result in accelerating a project schedule.
- A project's funding, schedule, scope or legal/regulatory environment are integral to the acceleration inputs.
- Acceleration inputs considered may also indirectly relate to the project if they are demonstrated to substantially advance system performance or adopted policies of the Board.
- Acceleration inputs are intended to be transportation mode-neutral, unless otherwise indicated (e.g., mode-specific funding revenues or fees).
- Funding considerations must be consistent with all applicable local, state, and/or federal rules and regulations; and Board-adopted debt policy.

#### **DEFINITION**

- **Accelerator:** a single strategic input that could partially support facilitating early delivery of a Measure M project.

## STRATEGIC INPUTS FOR EARLY PROJECT DELIVERY

	Accelerator	Points
<b>Funding</b> (30 points)	1. <b>New Revenue.</b> Has new, committed funding become available at an amount greater than 25% of the total project construction cost?	15
	A. Is this funding discretionary?	2
	B. Is this funding somehow conditional to the project or time-sensitive?	5
	C. Is funding cash flow available sooner as a result of a delayed project?	3
	D. Are confirmed surplus funds available from another project in the same subregion, based on a final Life of Project budget?	2
	E. Would there be cost savings of at least 25% based on the time value of money resulting from this funding accelerator?	3
<b>Partnerships</b> (30 points)	2. <b>Regional Responsibility.</b> Have one or more of the local jurisdictions within which the project is located substantially advanced or committed to advancing the implementation of one or more Metro Board adopted goals and policies that support the integration of transportation and land use for which Metro is reliant upon its local partners to achieve?	6
	3. <b>Process Streamlining.</b> Have all responsible local agencies streamlined permitting processes and executed or committed to executing necessary memoranda of agreements prior to awarding of the project construction contract?	<del>3</del> 5
	4. <b>Additional Support.</b> Is the local jurisdiction and/or other local partner contributing at least 10% more than the required 3% contribution or 5% of the project cost within that jurisdiction from other sources?	5
	5. <b>Value Capture.</b> Is a local improvement, financing district or other value capture financing tool existing or will be established within three years of the groundbreaking date for the purpose of funding at least 10% of the project cost within the jurisdiction in which the financing tool is established?	5
	6. <b>Advance Funding.</b> Is there a proposal by a local jurisdiction or other party to advance funding, which would deliver all or a functional segment of the project 10% <del>faster</del> earlier?	5
	7. <b>Impact Fees.</b> Is there a program to collect a fee in-lieu of providing required parking and/or local traffic <del>mitigation fees/improvements</del> , with revenues allocated to <del>transit passes and other</del> transportation demand management (TDM) strategies that are directly dependent on and in support of Metro's project, or a goods movement impact fee program to fund improvements, in conformance with California and federal laws?	<del>3</del> 4
	<del>8. Is there a goods movement impact fee program to fund improvements in conformance with California and federal laws?</del>	<del>3</del>

	Accelerator	Points
Process (25 points)	9. <b>Streamlined Review.</b> Is this project currently undergoing or can commit to a streamlined planning and environmental review process that does not exceed three years in duration?	5
	10. <b>Clearance Complete.</b> Has this project concluded the planning and environmental review process, needing no more than a refresh of the environmental document(s), not exceeding one year in duration to complete (Operation Shovel Ready)?	10
	11. <b>Phased Completion.</b> Can this project be designed to phase improvements to achieve early action, incremental benefits?	8
	12. <b>Property Availability.</b> Has at least 75% of the required right-of-way and site acquisitions been completed or is anticipated to be completed within one year?	2
Innovations (15 points)	13. <b>Alternative Solutions.</b> Is there an equal or superior, less costly improvement to accomplish the capacity and performance intended by the transportation project?	3
	14. <b>Technological Innovations.</b> Are there technological innovations that will reduce the planned capital and/or operating cost of the project?	3
	15. <b>Consolidated Delivery.</b> Is there an opportunity to combine two or more projects/segments to achieve economy of scale and minimize impacts of multiple back-to-back construction over a long period of time such that the combined project construction cost is reduced by at least 25%?	3
	16. <b>Delivery Method.</b> Is this project the subject of a public-private partnership proposal or other unsolicited proposal that can reduce the estimated construction cost by a minimum of 10% or accelerate the delivery date by at least 5 years?	6

## PROPENSITY FOR EARLY PROJECT DELIVERY

High:	67-100	Automatically advances to staff analysis and Board consideration
Medium:	34-66	Advances to staff review, which determines whether Board consideration is warranted
Low:	0-33	Does not advance to staff review nor Board consideration
Exception:	N/A	Project acceleration can unambiguously be demonstrated by an exceptional condition regardless of scoring (e.g., unexpected full funding from outside source)

## MEASURE M PROJECT EVALUATION READINESS TOOL (M-PERT)

- M-PERT is an evaluation tool only—not a determinative decision tool.
- Required initial screening step (unless exceptional condition, per above).
- All Measure M projects ordered as listed in the Expenditure Plan are included.
- The above acceleration strategic inputs are set forth as “yes” or “no” questions to answer.
- A score given to each input to measure its relative strength in impacting project timing; a “yes” answer returns the possible score for that input, as listed above.
- An overall score given as a low, medium and high indicator for acceleration.
- An accounting of evaluations conducted is logged and reported.
- The M-PERT tool is for use by Metro staff, Board Directors and their deputy staff.



## MAINTAINING PROJECT SCHEDULES: HOW TO HELP METRO DELIVER PROJECTS

	Responsibilities
Funding	• Protect all funding sources allocated to the project, per Metro's financial plan.
	• Keep the project within the budgeted cost identified in the Measure M Expenditure Plan.
Partnerships	• Request design features that have a rational nexus to potential project impacts.
	• Minimize permitting requirements and ensure that ministerial actions are a staff-level decision, done timely.
	• Establish and maintain an effective, genuine public and stakeholder engagement process.
Process	• Select a Locally Preferred Alternative that can be constructed within budget or augmented with reasonably expected, new outside funding sources that are needed to achieve desired community goals and compatibility.
	• Pursue constructive conflict resolution, creativity and solutions that are in rough proportionality to the problem to avoid litigation delays.
	• Thoroughly address environmental issues and avoid project design features that trigger costly mitigation measures.
Innovations	• Rely upon current, proven technology for the project design, rather than await speculative innovations.
	• Seek any necessary regulatory reform and streamlining to allow the rapid deployment of any available state-of-the-art, proven technologies that can increase capacity, reduce travel times or improve safety, which can help keep the project on time and at or below budget.

### DISCLOSURE AND RECOVERY PLAN

- A disclosure and recovery plan shall be prepared for a project at risk for delay.

### ANNUAL REPORTING AND EVALUATION

- The CEO shall report annually on activities and actions pertaining to this Policy, including projects being considered for early project delivery, the number of screening inquiries conducted for each project using M-PERT and projects under or being considered for a Disclosure and Recovery Plan.



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## **ATTACHMENT B – ABOUT METRO’S PROPOSED POLICY: EARLY PROJECT DELIVERY STRATEGY**

### *Highlights*

- **Establishes uniform criteria.** Guides decision-making about the propensity for early project delivery with uniform, transparent criteria.
- **Promotes cooperation and discipline.** Encourages effective collaboration between Metro and its many partners to promote timely delivery of Measure M projects.
- **Know how to help.** Gives advice on how to maintain project delivery schedules.
- **Protects performing projects.** Because Measure M prohibits accelerating a project schedule to the detriment of any other project, any change to one project schedule does not affect the others.
- **Board of Directors makes the decision.** Changes to a project schedule requires a two-thirds vote of the Board of Directors, following a public noticing period.

### *Background*

During development of the Measure M ordinance in 2016, many stakeholders expressed a desire to have projects delivered earlier. Therefore, Measure M provides flexibility in the use of funds to allow schedule acceleration. The Measure M ordinance includes permissive language for project acceleration, as long as doing so does not delay any other project. The voters approved the Measure M ordinance in November 2016.

### *Overview*

- **What is the proposed Early Project Delivery Strategy?**  
This comprehensive policy was prepared to guide decision-making on the propensity for a project to be delivered earlier than scheduled in Measure M. This includes opportunities to accelerate the schedule for an individual Measure M transportation improvement project and opportunities to improve project schedule performance. Four categories encompassing multiple inputs affecting the timing of a project include: Funding, Process, Partnerships and Innovations.

### *Purpose and Need*

- **Why is it needed?**  
A clear, uniformly applied set of criteria allows for objective decision-making about the schedule status for an individual project, following a rigorous analysis. This promotes transparency and financial accountability.
- **Why is Metro articulating responsibilities about maintaining project delivery schedules?**  
There is much that Metro can do to responsibly and effectively lead and manage the delivery of the Measure M projects. However, Metro needs the support and cooperation of its many partners to deliver the projects the voters understood to be a sacred promise of government when they approved Measure M with 71 percent of the vote. These many partners have permitting authority, influence project design and participate in the environmental review process. Balancing the benefit of engagement by both Metro and its partners within voter-approved budget and schedule requirements takes effective collaboration. This Policy is transparent about how Metro and its many partners can work together within a disciplined framework to deliver the promise and potential of this transformative transportation infrastructure investment program.

### *Process*

- **How does it work?**

The first step is an initial screening review using a streamlined evaluation tool in which every input is posed as a question with a yes-no answer. A point value is assigned to each input based on the strength of the input to accelerate. The higher the point value, the greater the propensity for acceleration. The second step is a detailed staff analysis. A project shown by the screening tool to have low potential does not advance into staff analysis. Moderate and high potential projects do. All staff analyses are reported to the Board, but only high potential projects automatically advance to Board review. Moderate potential projects are considered for Board review following a review of the results in the staff analysis. The third step is Board consideration of the staff analysis. The Board may find that acceleration exists and take action after following the procedural requirements in Measure M. The Board may also direct staff to undertake more analysis, or decline to take any action.

- **Who determines whether a project has the potential for acceleration?**

The Metro Board of Directors is the final decision-maker on project acceleration. The decision must follow the law set forth in Measure M. A two-thirds vote is required to accelerate a project schedule. (*Section 11, Measure M ordinance*)

- **How is the proposed Policy consistent with Measure M?**

Per the Measure M ordinance, a project schedule can be accelerated as long as others are not negatively impacted.

- **If a project is accelerated, do all the other projects get delayed?**

No. Per the Measure M ordinance, a project cannot be accelerated if it delays other projects. Only the individual schedule for the accelerated project changes, when it can be done independently.

- **Are there required inputs that must occur to accelerate a project?**

No. Generally, multiple inputs need to occur for these complex, Measure M projects to accelerate. Therefore, there is no mandatory input out of all the inputs identified in the Policy. An exception is when an acceleration occurrence clearly would result in changing the timing of project delivery (e.g., unexpected full project-specific funding from the federal/state government). However, this is an exceptional circumstance.

### ***Contact***

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## **EXAMPLE EARLY PROJECT DELIVERY SCENARIO (FICTITIOUS NAMES USED)**

### *Acceleration*

Citius Transit Corridor is scheduled to open in 2035. A new Funding source is allocated from the federal government for 35 percent of the cost and may only be used for this project, if the project can be completed by 2028. The Federal Transit Administration agrees to a streamlined environmental review Process because Metro has demonstrated that it has narrowed the range of alternatives during a feasibility study after significant public engagement. The cities of Collins Fort and Valley Carmel are working in a collaborative Partnership with Metro by initiating the establishment of an Enhanced Infrastructure Financing District to assist in the early funding of stations and project betterments, while the Rockstacker Council of Governments commits five years of a portion of its multi-subregional program funds. An unsolicited proposal for a public-private partnership includes extraordinary Innovations that demonstrate an ability to deliver and operate the project much faster and cheaply, including technological innovations for modular construction techniques. Deputy staff for Board Director Speedy apply the M-PERT screening tool, which returns a moderate potential for acceleration. Metro staff conducts an analysis and finds that the time value of money savings can fund operations and maintenance costs for the seven years of early operation. The Metro Board of Directors accepts the staff recommendation to accelerate the project, public noticing procedures are completed and the Board votes unanimously to accelerate the project to a delivery year of 2028. All other project schedules in the Measure M schedule remain unchanged because the inputs that created the opportunity for an accelerated project completion only affects Citius Transit Corridor.



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## **MEASURE M PROJECT EVALUATION READINESS TOOL (M-PERT)**

### *Purpose*

- The M-PERT tool allows for a streamlined, initial screening review to determine whether an acceleration is likely.

### *How it Works*

- The screening tool includes all of the individual inputs in the Policy, each with a point value relative to the strength of the input to move a project toward acceleration. Multiple inputs are needed for these Measure M projects to potentially be accelerated, unless an exceptional circumstance has occurred.

### *Users*

- Because the tool allows for a streamlined screening-level evaluation of complex information that relies on deep, existing familiarity of individual project information, the M-PERT is for use by Metro staff, Board Directors and their deputy staff. Other stakeholders and the public can ask their Board representative to conduct a screening review using the tool, if there is reason to believe an acceleration is likely.



# Measure M Early Project Delivery Strategy

Executive Management Committee  
November 16, 2017

Board of Directors  
November 30, 2017



**Metro**

# The Value of a Comprehensive Policy

- Establishes clear, uniformly applied criteria
- Allows rigorous and expeditious analyses and determinations
- Provides for transparency and financial accountability

# Policy Development Process Background

- Revisions based on Board and stakeholder input
- Concerns about addressing project delays at equivalent level to early project delivery
- Goals:
  - Standardize evaluation for early delivery
  - Articulate how Metro and partners can collaborate to deliver projects on schedule and budget





# Policy Highlights

- Establishes uniform criteria
- Promotes cooperation and discipline
- Know how to help
- Protects performing projects
- Board of Directors makes the decision

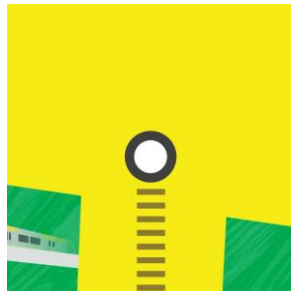
# Strategic Inputs for Early Project Delivery

- Funding
- Partnerships
- Process
- Innovations



# Approach

- **Accelerator:** a single strategic input that could partially support facilitating early delivery of a Measure M project
- Articulates fundamental responsibilities for maintaining project schedules
- Disclosure and recovery plan for projects at risk for delay



# Evaluation Process

- Identify applicable acceleration inputs and apply screening tool
- Staff conducts analysis if tool demonstrates propensity for early project delivery, along with impacts in taking action
- Board of Directors review
  - Decide to subsequently provide notice and take action
  - Decline to find for early project delivery
  - Direct staff to undertake further analysis



# Recommendation

- APPROVE the policy for a Measure M Early Project Delivery Strategy





# Discussion



Metro



## Board Report

File #: 2017-0686, File Type: Policy

Agenda Number: 8.

REVISED  
EXECUTIVE MANAGEMENT COMMITTEE  
NOVEMBER 16, 2017

**SUBJECT: MEASURE M EARLY PROJECT DELIVERY STRATEGY**

**ACTION: APPROVE POLICY**

### **RECOMMENDATION**

APPROVE the policy for a Measure M Early Project Delivery Strategy, outlined in Attachment A.

### **ISSUE**

This item proposes a uniform policy for determining when Measure M projects can be delivered earlier than scheduled, as allowed by the Ordinance. Attachment A is the proposed Policy. Attachment B is an explainer about it, including the rationale and frequently asked questions. A comprehensive policy to transparently and uniformly guide decision-making about how and when projects can be delivered earlier increases the likelihood that project acceleration can be achieved. Furthermore, stating the fundamental responsibilities for collaboration between Metro and its many partners helps to keep projects on schedule and within budget.

### **BACKGROUND**

#### **Policy Authority**

The Measure M Ordinance approved by Los Angeles County voters allows for project acceleration. Section 11, paragraph b states: *“By two-thirds (2/3) vote, the Metro Board of Directors may amend the “Schedule of Funds Available” columns listed in Attachment A to accelerate a project, provided that any such amendments shall not reduce the amount of funds assigned to any other project or program as shown in the “Measure M Funding 2015\$” column of Attachment A or delay the Schedule of Funds Available for any other project or program.”* This is essentially a hold harmless clause, which in laymen’s terms could be interpreted to mean that “projects can be accelerated as long as doing so does not delay or otherwise negatively impact other projects”.

#### **Policy Need**

During development of the Measure M Ordinance in 2016, many stakeholders expressed a desire to have projects delivered earlier. Therefore, the aforementioned authority was written into the

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Ordinance to allow for project acceleration. Despite the enabling language, a policy framework for an early project delivery strategy does not exist. This has resulted in requests for early delivery of individual projects lacking supporting evidence, inefficient use of resources in addressing the requests and disappointment by proponents who have not been provided clarity in how to accelerate a project.

### Policy Benefits

The faster projects in Measure M can be completed, the sooner Metro can expand access to opportunity for the residents of Los Angeles County. These projects improve mobility for all those who live, work, play and visit the region. A strategic framework for how to accomplish early project delivery enables attaining it. That achieves all of the benefits set forth in the preamble of the Measure M Ordinance.

### Policy Approach

The four categories of strategic inputs for early project delivery - Funding, Partnerships, Process and Innovations - were identified because those are the areas most impactful in driving how projects are completed. These strategic inputs are project accelerators that could partially support facilitating early project delivery. Multiple inputs are generally needed to achieve early project delivery. For projects at risk of delay, a disclosure and recovery plan must be prepared.

### Policy Process

A screening tool is used to suggest the propensity for early project delivery. If the propensity exists, then staff conducts a further analysis to confirm the likelihood of early project delivery. For projects with potential for acceleration, the Board considers and then makes the final decision, following a public process set forth in controlling law.

### Policy Iteration

At its September 21, 2017 regular meeting, the Executive Management Committee (EMC) reviewed a concept for establishing a policy and factors for determining when a Measure M project can be accelerated or decelerated (File #2017-0596). EMC forwarded the concept to the Board for discussion at its September 28, 2017 regular meeting without recommendation. At that time, they conveyed a favorable view of the concept of acceleration, while finding a need for a guiding policy.

- The need and emphasis for the policy should be about early project delivery.
- Be clear that the screening tool itself does not result in a decision; generally multiple factors are needed to trigger early project delivery.
- Forward to Policy Advisory Council, Measure M Independent Taxpayers Oversight Committee and conduct stakeholder engagement.

The Board provided similar feedback. Concerns were also raised about addressing the potential for project delays/deceleration at an equivalent level to early project delivery/acceleration, when the goals are to standardize how projects are evaluated for early delivery and articulate how Metro and its many partners can collaborate to deliver Measure M projects on schedule and within budget. Staff



has also undertaken ongoing stakeholder engagement since the Board meeting. As a result of this iterative process, this is the third draft of the Policy.

### Policy Changes

A Policy is proposed for Board consideration in Attachment A, based on Board feedback received in September and stakeholder engagement in October and November; an explainer is provided in Attachment B. The draft Policy has been substantively re-crafted to focus on a strategy for early project delivery. Instead of a “deceleration” component, the draft Policy now articulates fundamental responsibilities for maintaining project schedules. Other notable revisions made in response to specific Board input include:

- Removing the reference to other priorities in the Funding section
- Adding an early project delivery input for savings from the time value of money
- Removing the reference to a future Transit-oriented Communities Policy and replacing that with general language about advancing Metro goals and policies that promote the integration of land use and transportation
- Adjusting some of the funding percentages pertaining to local and sub-regional contributions as potential strategic inputs for early project delivery
- Generalizing the early project delivery inputs to more readily be transportation mode neutral

The score assigned to each input has been added along with various text, all of which advance the initial concept into a further developed policy document with greater clarity. The point value assigned to each input is based on the relative strength of the input to contribute toward achieving early project delivery. The three percentage ranges that define low, medium and high propensity for project acceleration are simplistically set at thresholds of a third.

## **DISCUSSION**

This version of the Policy recognizes and emphasizes the goal of the Board, Metro’s partners and the public to focus efforts on an early project delivery strategy, while also being clear what the fundamental responsibilities are to ensure projects can be completed on schedule and within budget. The Policy is structured yet flexible. With the clarity provided by the Policy, energies can be more effectively focused on actually achieving early delivery of projects.

## **FINANCIAL IMPACT**

The impacts of early project delivery decisions would be case-specific. Analysis of budget and long range financial programming would be an essential part of the analysis that would accompany any considerations under this proposed approach.

### Impact to Budget

Fiscal year budget impacts would be case-specific to the projects and schedules involved.

## **ALTERNATIVES CONSIDERED**

The Board could consider revising the Policy for Early Project Delivery Strategy as presented by staff, or recommend that a Policy not be adopted. Should the Board elect not to adopt a Policy, the Chief Executive Officer requests that alternative direction be provided by the Board to ensure a transparent, unbiased and consistent process is in place to guide any decisions that will be forthcoming regarding early project delivery.

## **NEXT STEPS**

Implementation of the Policy, if adopted by the Board.

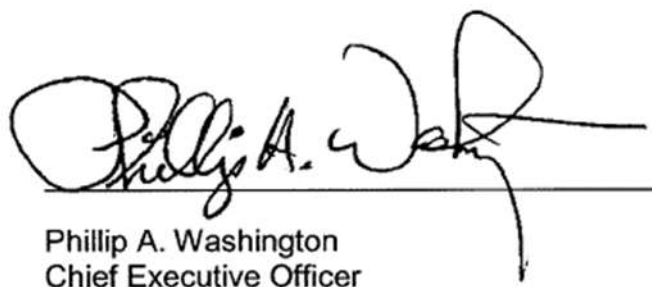
## **ATTACHMENTS**

Attachment A - Proposed Metro Board Policy: Early Project Delivery Strategy

Attachment B - About Metro's Proposed Policy: Early Project Delivery Strategy

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## Board Report

File #: 2017-0718, File Type: Contract

Agenda Number: 10.

### REGULAR BOARD MEETING JANUARY 25, 2018

**SUBJECT: METRO SYSTEM ADVERTISING (LICENSE TO  
SELL AND DISPLAY ADVERTISING ON BUS AND  
RAIL)**

**ACTION: APPROVE ADVERTISING CONTRACT AWARDS**

#### **RECOMMENDATION**

AUTHORIZE the Chief Executive Officer to:

- A. AWARD Contract No. PS41099B - License to Sell and Display Advertising on Metro Bus System to OUTFRONT Media Group, LLC for 10 years, generating an aggregate minimum guarantee of \$262,250,000 revenue for Metro, subject to resolution of protest(s), if any;
- B. AWARD Contract No. PS41099R - License to Sell and Display Advertising on Metro Rail System to Intersection Parent, Inc. for 10 years, generating an aggregate minimum guarantee of \$42,902,200 revenue for Metro, subject to resolution of protest(s), if any; and
- C. AMEND the FY18 Budget to add three (3) Full Time Employees (FTEs) to support implementation of digital advertising and the new revenue contracts; FTEs will be funded by revenues generated from No. PS41099B and No. PS41099R.

#### **ISSUE**

Metro's current system advertising contract (License To Sell and Display Advertising on Metro Bus and Rail System) expired December 31, 2017. The contract has been extended to allow time to finalize the approval and contract execution process. The procurement for new revenue-generating contracts began in April 2017 with a public Request for Proposals (RFP) process.

The agency's expanded advertising policy coupled with recent innovations in advertising allow for leveraging technology to enhance the customer experience. Staff is recommending the award of two separate contracts - one for bus advertising to a firm with extensive experience, longevity and solid performance, and one for rail advertising to a firm that offers innovative digital technology to enhance the customer experience through new amenities for Metro customers and the communities Metro serves.

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## **DISCUSSION**

### **Background**

Metro has an advertising policy as a way of utilizing the agency's assets to generate revenue. To implement the policy, Metro contracts with a professional advertising firm to sell, schedule, produce and install advertising on the Metro system. In January 2016, the Metro Board of Directors approved the Risk Allocation Matrix (RAM) and creation of an Internal Savings Account intended as tools to ensure long-term financial stability and mitigate projected budget shortfalls. Expanded advertising was identified as a significant initiative contributing to the sustainability of Metro's current and future operations and expansions.

In February 2017, the Metro Board of Directors approved the revised System Advertising Policy in order to implement the RAM initiative of expanded advertising as an agency revenue generator.

A Request for Proposals (RFP) process was initiated in April 2017 with intent to award a 10-year contract.

### **Goals**

The contract approach centered around three primary goals:

1. **Enhance the customer experience** by upgrading all current static map cases to digital customer information panels (CIPs), thus, enabling real-time management and flexibility of customer information.
2. **Reduce costs** by securing free and guaranteed advertising space and no print/production costs to the agency.
3. **Increase revenue-generation** by maximizing the agency's vast and growing capital assets including the bus and rail fleet, rail stations, transitway stations, parking facilities, and Division facilities; and migrating to digital advertising.

### **Enhancing the Customer Experience**

Transitioning to a digital advertising model affords a unique opportunity for the agency to leverage its system advertising program to not only increase revenues, but also enhance the customer experience by providing new amenities for Metro customers and the communities Metro serves.

This new digital technology will include interactive screens to display customer information, system and neighborhood maps, vehicle arrival information, service alerts and disruptions, and other agency information.

Some of the displays will also provide customer amenities such as free Wi-Fi, free 911 emergency calls and other calls nationwide, USB charging stations, and neighborhood and city information on an interactive tablet.

### **Conversion to Digital Displays**

Staff has mapped out a plan to modernize the agency's advertising approach by transitioning from static map cases and signage to digital advertising over a five-year period. This will involve upgrading the display of ads to digital advertising screens and customer information panels across the rail system.

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Metro's current and future rail stations will feature digital screens to share real-time customer information. Additionally, the screens will be placed at stations along the Orange Line and Silver Line, as well as the El Monte and Harbor Gateway Transit Centers.

For the first year of the contract, the contractor will audit all rail stations in Metro's system and develop an installation plan based on those that are install-ready. A proposed design for each station will be reviewed and approved by the relevant Metro departments.

#### Procurement Process

*Attachment A - Procurement Summary* provides full procurement process, where the RFP followed the best value process:

- Two proposals were received and oral presentations were held in September by both Respondents.
- Best and Final Offers, along with a final oral presentation, were requested, which were provided by Respondents in October. Final scoring and decision was completed in October by the evaluation committee.
- The evaluation committee was comprised of staff from Marketing, Countywide Planning, Office of Budget and Finance, Operations, and Signage and Environmental Design; with advisors from: Marketing, Vendor/Contract Management, and Universal Studios Hollywood (non-Metro).

#### Contract Terms

- 10 years with midpoint performance audit at the end of 5<sup>th</sup> year
- Minimum annual guarantee (MAG) revenue payments
- Revenue share of 55% to Metro beyond the MAG (years 1-5)
- Revenue share of 70% to Metro beyond the MAG (years 6-10)
- Full financial audit access and detailed reporting requirements
- Full compliance with Metro's standard terms and conditions, Fire Life Safety, and ADA compliance
- Commitment to install and maintain digital screens for the customer information and advertising

#### OUTFRONT Media Group, LLC

OUTFRONT Media Group, LLC (OUTFRONT) is proposing guaranteed revenues of \$262,250,000 to Metro over the 10-year contract term for the bus system. They will provide static advertising on and in the agency's bus fleet.

OUTFRONT is an industry leader in transit advertising with 80 years of knowledge and experience - 35 years of direct service experience with Metro. OUTFRONT demonstrates a solid financial history with a consistent record of fulfilling their revenue payments to Metro and all other transit agencies including NY MTA, WMATA, and MBTA.

With a strong national and local sales team, expert knowledge in sales management and operations of commercial advertising, staff is confident OUFONT will fulfill their bus revenue guarantee to Metro over the 10-year contract term.

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As the incumbent, their experience with Metro and their intricate knowledge of agency Bus Operations is advantageous to Metro, requiring no new training or transition. OUTFRONT has been and will continue to utilize the services of a certified Disadvantaged Business Enterprise (DBE) firm to fulfill advertising operations on the agency's bus fleet.

#### Intersection Parent, Inc.

Intersection Parent, Inc. (Intersection) is proposing guaranteed revenues of \$42,902,200 to Metro over the 10-year contract term for the rail system. They are also committed to a capital investment of \$19,700,000 to install new digital equipment to implement customer information and digital advertising on Metro's rail system.

Intersection is an industry leader in municipal out-of-home advertising with 15 years of knowledge and expertise. They are also a leader in product innovation involving technology in public spaces. Intersection has a proven track record with NY MTA deploying interactive On-the-Go customer kiosks, and with New York City deploying digital screens that include customer amenities - a technology known as LinkNYC.

In their proposal and demonstration to Metro, Intersection better addressed the agency's goal of enhancing the customer experience through innovative and digital technology with three offerings: LinkLA, interactive customer information panels, and station activations.

Intersection proposes deploying LinkLA on Metro's system providing free Wi-Fi, USB charging stations, an interactive tablet with Metro and community resources, and free 911 calls and calls nationwide for use by Metro customers and the communities Metro serves. Intersection embraces advancing the participation of DBE, SBE and women-owned businesses on Metro's municipal contracts.

### **DETERMINATION OF SAFETY IMPACT**

Digital and interactive information will improve the customer experience by providing relevant and timely content to Metro customers, including safety information. Once the displays are installed and ready for use, Metro staff will manage agency information on all digital screens. In the event of an emergency, digital screens can be used to display emergency information with a take-over message on a single screen, station-wide, the entire rail line, or system-wide.

The light emanating from digital screens and customer information panels provide additional lighting within each station - a safety benefit to all riders. Additionally, the screens are designed with a self-dimming feature at night to reduce glare and light pollution.

All new equipment, placement, and impact to passenger flow will be reviewed by System Safety to meet Metro Fire Life Safety Criteria, and Civil Rights to meet ADA Compliance. All contractors and subcontractor personnel will be trained and certified in Metro Rail Safety training.

### **FINANCIAL IMPACT**

This is a revenue-generating contract and requires no capital funds to support it. This 10-year

contract meets three main goals:

- Enhance the customer experience
- Increase cost savings towards the agency's annual budget
- Generate significant revenue for the agency

#### Revenues to Metro

Metro will generate a minimum guarantee of \$30,515,221 annually and \$305,152,214 over 10 years in combined revenues from both contracts. Metro has also incorporated a shared revenue component to the contract so that the agency benefits from revenue generated over and beyond the minimum annual guarantee (MAG). In years 1-5 of the contract term, Metro will receive 55 percent of any additional revenue beyond the MAG. In years 6-10, Metro will receive 70 percent of additional revenues beyond the MAG. The revenue generated through this contract also contributes to the agency's ability to implement the "28 by 28" initiative to deliver major projects by the time Los Angeles hosts the 2028 Olympic and Paralympic Games.

#### Cost Savings

Metro will save approximately \$2,937,240 per year in cost savings and \$29,372,400 over the 10-year duration of both contracts in free and guaranteed advertising space and print/production costs for the purpose of agency awareness, outreach and advertising campaigns. Historically, Metro has paid for the print/production cost of advertising on our own system.

#### Contractor Capital Investment

Intersection Parent, Inc. is committed to making a \$19,700,000 capital investment in the installation of new innovative digital customer information and advertising equipment on the rail system. This is a commitment by the contractor to invest in Metro's technology infrastructure, new digital equipment, and efforts to improve the customer experience - at no cost to the agency.

#### Impact to Budget

While no capital funds are needed to support these revenue-generating contracts, labor support agency-wide is required to effectively rollout, implement, manage, and maintain advertising activities. Three new full-time employees (FTEs) are necessary to manage the program, manage the installation of new advertising infrastructure, and ensure seamless operations across the agency. Funding for the FTEs will be provided by revenues generated from commercial advertising on Metro's system (No.PS41099B and No.PS41099R), and will be pursued through the mid-year 2018 budget process to fully deliver this initiative:

#### **Digital Advertising Installation and Rollout**

- Full-Time Employee (FTE) - Project Manager staffed as a project position for a defined timeframe to implement installation and rollout of digital advertising infrastructure on the Metro system and coordinate activities from the following internal departments:
  - Engineering/Safety staff to review and approve station proposals in order to meet Metro Fire Life Safety Criteria.
  - Civil Rights/ADA Compliance staff to review and approve station proposals in order to meet ADA Compliance.
  - Countywide Planning staff to review and approve station proposals in order to

- meet Metro Rail Design Criteria.
- Signage Design staff to review and approve station proposals in order to meet Customer Station Signage Criteria.
- Information Technology staff to review and approve station proposals in order to meet IT Architecture and Infrastructure Standards.

### **Ongoing Advertising Efforts**

- Full-Time Employee (FTE) - Digital Communications Administrator to manage the agency's free and guaranteed content in new advertising systems for static and digital advertising.
- Full-Time Employee (FTE) - Communications Officer to audit and provide quality control to ensure agency free and guaranteed advertising is executed by all contractors.

### **ALTERNATIVES CONSIDERED**

The Board may choose to not award the revenue contracts for system advertising. This is not recommended as it would contradict the RAM initiative.

The existing advertising contract with OUTFRONT Media expired December 31, 2017. Staff has extended the contract to allow time for Board approval and the contract execution process. If the Board chooses not to award a new contract, Metro would have to continue to extend the current contractor on a temporary basis while undergoing a new procurement process. However, both proposers are leaders in the industry and submitted impressive proposals, so staff would not expect another procurement to result in much of a different outcome.

Another alternative is that Metro suspends its advertising program while pursuing a new procurement process, which would negatively impact the agency's budget (up to \$2,000,000 in monthly revenue) given the substantial revenue generated through the advertising program.

### **NEXT STEPS**

Upon Board approval, staff will execute both contracts:

1. Contract No. PS41099B with OUTFRONT Media Group, LLC to provide a License to Sell and Display Advertising on Metro Bus System.
2. Contract No. PS41099R with Intersection Parent, Inc. to provide a License to Sell and Display Advertising on Metro Rail System, and

Staff will coordinate knowledge transfer between the contractors to ensure no gap or disruption of advertising efforts or revenue payments to the agency.

### **ATTACHMENTS**

Attachment A - Procurement Summary  
Attachment B - Financial Summary  
Attachment C - DEOD Summary  
Attachment D - PowerPoint Presentation



Prepared by: Lan-Chi Lam, Director of Communications, (213) 922-2349  
Glen Becerra, Executive Officer of Marketing, (213) 418-3264

Reviewed by: Pauletta Tonilas, Chief Communications Officer, (213) 922-3777  
Carolina Coppolo, Executive Officer of Vendor/Contract Management, (213) 922-4471



Phillip A. Washington  
Chief Executive Officer

## PROCUREMENT SUMMARY

**METRO SYSTEM ADVERTISING - LICENSE TO SELL AND DISPLAY  
ADVERTISING ON METRO BUS AND RAIL SYSTEMS/PS41099B and PS41099R**

1.	<b>Contract Numbers:</b> PS41099B & PS41099R	
2.	<b>Recommended Vendors:</b> A. Outfront Media Group, LLC. B. Intersection Parent, Inc.	
3.	<b>Type of Procurement (check one):</b> <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP <input type="checkbox"/> RFP-A&E <input type="checkbox"/> Non-Competitive <input type="checkbox"/> Modification <input type="checkbox"/> Task Order	
4.	<b>Procurement Dates:</b>	
	<b>A. Issued:</b> April 27, 2017	
	<b>B. Advertised/Publicized:</b> April 20, 2017	
	<b>C. Pre-Proposal Conference:</b> May 11, 2017	
	<b>D. Proposals Due:</b> August 14, 2017	
	<b>E. Pre-Qualification Completed:</b> September 7, 2017	
	<b>F. Conflict of Interest Form Submitted to Ethics:</b> September 25, 2017	
	<b>G. Protest Period End Date:</b> November 20, 2017	
5.	<b>Solicitations Picked up/Downloaded:</b> 47	<b>Bids/Proposals Received:</b> 2
6.	<b>Contract Administrator:</b> James A. Nolan	<b>Telephone Number:</b> 213-922-7312
7.	<b>Project Manager:</b> Lan-Chi Lam	<b>Telephone Number:</b> 213-922-2349

**A. Procurement Background**

This Board Action is to approve ten-year Contracts Nos. PS41099B and PS41099R issued to provide a License to Sell and Display Advertising on Metro Bus and Rail Systems. The goal in the selection of firms was to maximize the value of the total revenue to Metro while ensuring compliance with Metro's advertising standards. Board approval of contract awards are subject to resolution of any properly submitted protest(s).

The Request for Proposals (RFP) was issued on April 27, 2017 as a competitive solicitation, in accordance with Metro's Acquisition Policy and the contract types are License Agreement Services Contract with Fixed Revenue Share Percentage with Minimum Annual Guarantee.

A Pre-Proposal Conference was held on May 11, 2017 with 16 attendees representing eight companies.

Four amendments were issued during the solicitation phase of this RFP;

- Amendment No. 1 issued May 31, 2017, extended the due date to July 12, 2017 and directed that all RFP questions/clarification requests be received by July 9, 2017.
- Amendment No. 2 issued July 5, 2017, extended the due date to July 31, 2017.

- Amendment No. 3 issued July 24, 2017, extended the due date to August 7, 2017 and provided revised RFP documents. Also provided Non-disclosure agreement for access to additional station diagrams.
- Amendment No. 4 was issued July 31, 2017 to extend the due date to August 14, 2017, and provided revised RFP documents and pricing forms.

Two proposals were received on August 14, 2017, as follows in alphabetical order:

1. Intersection Parent, Inc.
2. Outfront Media Group, LLC

Both proposals were deemed responsible and responsive to the requirements of the RFP.

## **B. Evaluation of Proposals**

This solicitation was conducted in accordance, and complies with, Metro's Acquisition Policy for a competitive negotiated procurement as well as with Metro's revised Board approved System Advertising Policy. A Proposal Evaluation Team (PET) consisting of staff from Metro Marketing, Signage and Wayfinding, Systemwide Planning, Finance and Operations Department was convened and conducted a comprehensive technical evaluation of the proposals received. The proposals were first evaluated according to minimum qualifications required by the RFP.

The proposals were then evaluated based on the following evaluation criteria and weights:

- |                                  |            |
|----------------------------------|------------|
| • Revenue                        | 35 percent |
| • Qualifications of Firm         | 30 percent |
| • Business Plan and Case Studies | 35 percent |

The evaluation criteria are appropriate and consistent with criteria developed for other, similar revenue procurements.

During the week(s) of August 17, through October 30, 2017 the PET met and evaluated the firms in accordance with the applicable evaluation criteria. The PET's recommendation is to award two contracts, one for bus and one for rail, to the highest rated firm(s) in each respective category as this method has been successful in the past and allows flexibility to award to the proposer best qualified in each distinct area.

The recommended firms are listed below:

Bus Advertising PS41099B  
Outfront Media, LLC

Rail Advertising PS41099R  
Intersection Parent, Inc.

1	<b>BUS SYSTEM ADVERTISING</b>	<b>Average Score</b>	<b>Factor Weight</b>	<b>Weighted Average Score</b>	<b>Rank</b>
2	<b>Firm #1 Outfront Media, LLC</b>				
3	Revenue	90.40	35.00%	31.64	
4	Qualifications of Firm	92.53	30.00%	27.76	
5	Business Plan and Case Studies	54.51	35.00%	19.08	
6	<b>Total</b>		<b>100.00%</b>	<b>78.48</b>	<b>1</b>
7	<b>Firm # 2 Intersection Parent, Inc.</b>				
8	Revenue	79.37	35.00%	27.78	
9	Qualifications of Firm	85.80	30.00%	25.74	
10	Business Plan and Case Studies	68.11	35.00%	23.84	
11	<b>Total</b>		<b>100.00%</b>	<b>77.36</b>	<b>2</b>

1	<b>RAIL SYSTEM ADVERTISING</b>	<b>Average Score</b>	<b>Factor Weight</b>	<b>Weighted Average Score</b>	<b>Rank</b>
2	<b>Firm #1 Intersection Parent, Inc.</b>				
3	Revenue	77.37	35.00%	27.08	
4	Qualifications of Firm	86.80	30.00%	26.04	
5	Business Plan and Case Studies	84.29	35.00%	29.50	
6	<b>Total</b>		<b>100.00%</b>	<b>82.62</b>	<b>1</b>
7	<b>Firm # 2 Outfront Media, LLC</b>				
8	Revenue	86.51	35.00%	30.28	
9	Qualifications of Firm	85.53	30.00%	25.66	
10	Business Plan and Case Studies	53.94	35.00%	18.88	
11	<b>Total</b>		<b>100.00%</b>	<b>74.82</b>	<b>2</b>

**C. Revenue Fairness Analysis**

The recommended Revenue Share/Minimum Annual Guarantee (MAG) has been determined to be fair and reasonable based upon adequate competition and in comparison with Metro's Revenue Estimates. Additionally, at the end of each year,

each firm shall pay to Metro the amount, if any, by which the revenue share for each contract year exceeds the MAG paid to Metro for that contract year.

**D. Background on Recommended Contractor(s)**

**Intersection Parent, Inc.**, (Intersection) formerly Titan, located in New York City, NY, was established in 2016. Intersection employs over 600 people in ten offices around the United States. Intersection has provided advertising revenue services to SEPTA, DART, NJ Transit, NYMTA, BART and Chicago Transit Authority, among others.

**Outfront Media Group, LLC (Outfront)**

Outfront Media Group was established in 1968, and is located in New York City, NY. Outfront employs 2,181 people. In addition to Metro, Outfront provides similar services to NYMTA, Boston's MBTA, Washington DC's WMATA, Atlanta's MARTA, Miami-Dade Transit, Detroit, MI DOT, OCTA, and Long Beach Transit, as well as other agencies.

## RFP No. PS41099 – System Advertising Financial Summary

## Best and Final Offer (BAFO)

Financial Comparison – Revenues & Capital Investments

BUS REVENUES		
	INTERSECTION	OUTFRONT
Minimum Annual Guarantee (MAG)	\$241,690,525	\$262,250,000
Additional Revenue Share (subject to actual gross receipts)	\$51,303,970	\$19,281,765
Est. Metro share	\$292,994,495	\$281,531,765
RAIL REVENUES		
	INTERSECTION	OUTFRONT
Minimum Annual Guarantee (MAG)	\$42,902,214	\$47,750,000
Additional Revenue Share (subject to actual gross receipts)	\$183,508,473	\$17,318,235
Est. Metro share	\$226,410,687	\$65,068,235
CAPITAL INVESTMENTS		
	INTERSECTION	OUTFRONT
	\$19,750,000	\$22,650,000
754 Customer Info Panels (interactive)	735 Digital advertising displays	
57 LinkLA units (interactive)	400 ON Smart Liveboards (interactive)	
10 Station activations (interactive)	25 PALO kiosks (interactive)	
Optional Expansion		
	\$12,500,000	
143 LinkLA units (interactive)		

## RFP No. PS41099 – System Advertising Financial Summary

## Agency Cost Savings

Estimated Cost Savings – 10% Ad Usage

ADVERTISING COSTS SHEET (PRODUCTION & MEDIA SPACE)			
ITEM	2016 ANNUAL SALES (ACTUALS)	PRODUCTION UNIT COST	MEDIA SPACE UNIT COST
Rail Full Wraps	148	\$13,500	\$5,500
Bus Full Wraps	121	\$9,000	\$5,500
Bus Supra King Wraps	n/a	\$1,500	\$5,000
Rail Kings	7,620	\$30	\$450
Bus Kings	44,016	\$30	\$450
Bus Tail Kings	n/a		\$225
Bus Tail Wraps	n/a		\$225

*\*Production and media space unit cost provided by Outfront Media*

METRO 10% AD USAGE (PRODUCTION & MEDIA SPACE COSTS)			
ITEM	10% METRO ALLOTMENT	PRODUCTION TOTAL COST	MEDIA SPACE TOTAL COST
Rail Full Wraps	14	\$202,500	\$82,500
Bus Full Wraps	12	\$108,000	\$66,000
Bus Supra King Wraps			
Rail Kings	762	\$22,860	\$342,900
Bus Kings	4,401	\$132,030	\$1,980,450
Bus Tail Kings			
Bus Tail Wraps			
Totals		\$465,390	\$2,471,850
		<b>GRAND TOTAL</b>	<b>\$2,937,240</b>

## RFP No. PS41099 – System Advertising Financial Summary

## Contract Comparison

Current Contracts vs New Contracts

	CURRENT CONTRACTS	NEW CONTRACTS
Bus Revenue	\$104,250,000	\$262,250,000
Bikes Racks (additional) *	\$136,063	<i>included above</i>
Additional Revenue Share	-	\$19,281,765
Rail Revenue	\$5,750,000	\$42,902,214
2-Sheets (additional) *	\$316,058	<i>included above</i>
Additional Revenue Share	-	\$183,508,473
<b>Totals</b>	<b>\$110,452,121</b>	<b>\$507,942,452</b>
	5 Year contract	10 Year contract
	Minimum annual guarantee (MAG) only	Revenue share + MAG

*\*Does not include Additional Revenues for 2017*



**DEOD SUMMARY**

**METRO SYSTEM ADVERTISING - LICENSE TO SELL AND DISPLAY  
ADVERTISING ON METRO BUS AND RAIL SYSTEMS/PS41099B and PS41099R**

**A. Small Business Participation**

For this revenue generating procurement, the Diversity and Economic Opportunity Department (DEOD) determined that a goal is not applicable to the system advertising contract, which will not utilize any federal, state and/or local funds.

**B. Living Wage and Service Contract Worker Retention Policy Applicability**

The Living Wage and Service Contract Worker Retention Policy is not applicable to this Contract.

**C. Prevailing Wage Applicability**

Prevailing wage is not applicable to this Contract.

**D. Project Labor Agreement/Construction Careers Policy**

Project Labor Agreement/Construction Careers Policy is not applicable to this Contract.

# **Metro System Advertising Contract Recommendation to Award**

**Communications Department  
Vendor/Contract Management Department**

**January 25, 2018**



**Metro**

# Opportunities Through New Contract

- This new contract is an opportunity to enhance the customer experience through digital technology.
- Allows Metro to provide customers with real-time information and amenities like free WiFi, free calls, an interactive tablet, and USB charging stations.
- Supports Metro's goal to advance innovation and technology.
- Revenue generated through this contract will contribute to Metro delivering the 28 by '28 initiative.

# Contract Goals

## **1. Enhance the customer experience**

Leverage technology to enhance the customer experience by upgrading static map cases to digital customer information panels (CIPs), and enabling real-time management and flexibility of customer information.

## **2. Reduce cost**

Secure free and guaranteed advertising space and no print/production costs to the agency.

## **3. Increase revenue generation**

Maximize agency's vast and growing capital assets to generate additional revenue.

# Two Proposals



Intersection Parent, Inc	Outfront Media Group, LLC
<ul style="list-style-type: none"><li>• National media and technology company (formerly Titan Outdoor)</li><li>• Privately held company</li></ul>	<ul style="list-style-type: none"><li>• Incumbent contractor (formerly CBS Outdoor)</li><li>• Publicly traded company</li></ul>
Clients: CTA, NJ Transit, SEPTA, BART, City of Philadelphia, LinkNYC, LinkU.K.	Clients: NYC MTA, MBTA, WMATA, LA Metro, LADOT, CALTRAIN

# Staff Recommendation – Two Contracts

- **Award two contracts – one to each proposer**
- **Metro benefits from the strengths and expertise of each contractor**
  - Extensive experience and longevity in commendable performance of one firm
  - Innovation and forward-thinking technology to enhance the customer experience

# Award Recommendation - Bus



## **Metro Bus System Contract**

- \$262.25M in revenue to Metro over 10 years
- 35 years commendable service history for Metro
- Solid payment history with Metro
- Intricate knowledge of agency and Bus Operations
- No training or transition needed
- Utilizes certified DBE for installation management

# Award Recommendation - Rail

## Intersection

### **Metro Rail System Contract**

- \$42.9M in revenue to Metro over 10 years
- \$19.7M in capital investment
- Improves the customer experience through innovation, utilizing digital advertising and customer information
- Delivers amenities for customers and station communities: free Wi-Fi, USB charging, 911 calls, interactive tablet, service disruptions, time-sensitive messaging
- Embraces advancing the participation of DBEs, SBEs and women-owned businesses on our municipal contracts



# Procurement Summary



Metro®

# Procurement: Schedule

April 2017	<b>Request for Proposals issued</b>
June 2017	<b>Questions received, responses posted</b>
August 2017	<b>Two Proposals received</b>
September 2017	<b>Oral Presentations</b>
October 2017	<b>Evaluations</b>
October 2017	<b>Best and Final Offers requested and submitted</b>

# Procurement: Evaluation Team

## **Scoring Committee**

- Marketing
- Countywide Planning
- Office of Management & Budget
- Operations
- Signage & Environmental Design

## **Advisors (non-scoring)**

- Marketing, Vendor/CA
- Universal Studios Hollywood (non-Metro)

# Procurement: Evaluation Criteria

## **Qualifications of Firm**

**30 percent**

- Technical expertise
- Strength & stability of firm
- Past performance

## **Business Plan & Case Studies**

**35 percent**

- Understanding the scope of work
- Details of business/work plan
- Optional deliverables, case studies

## **Revenue**

**35 percent**

- Minimum guarantee

# Procurement: Final Scoring

## Bus System

- |                             |       |
|-----------------------------|-------|
| • Outfront Media Group, LLC | 78.48 |
| • Intersection Parent, Inc  | 77.36 |

## Rail System

- |                             |       |
|-----------------------------|-------|
| • Intersection Parent, Inc  | 82.62 |
| • Outfront Media Group, LLC | 74.82 |



# Enhancing the Customer Experience



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# Enhancing the Customer Experience

## **Opportunity to enhance the customer experience by leveraging innovative technology and digital content**

- Digital customer information panels that are versatile, replacing static map cases.
- Provides new amenities for customers & station communities such as free Wi-Fi, USB charging, free 911 and nationwide calls, and interactive tablet
- No capital cost to Metro – digital equipment funded by advertising revenues

# Intersection

- 55-inch wide screens
- Placed on Metro property only
- Metro customer information
- Community information

## Link LA Customer Info Kiosks



*Renderings for illustrative purposes only.  
Subject to change based on street conditions  
and siting criteria.*



# Intersection

- Agency/community info
- Emergency messaging
- Free Wi-Fi
- Free calls including 911
- Interactive tablet
- USB charging

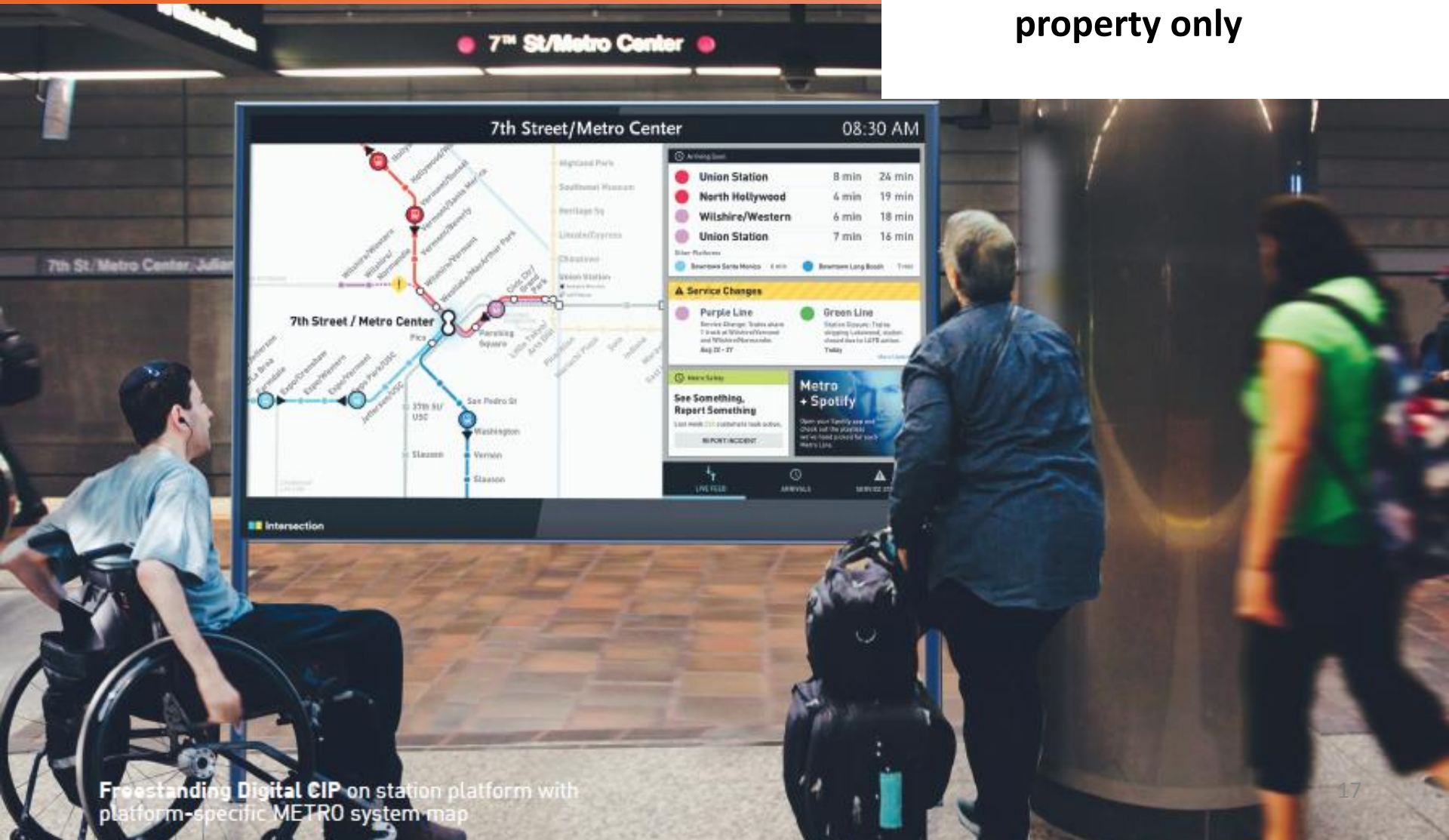
## Customer Amenities



# Customer Information Panels

## Intersection

- 70-inch screens
- Placed on Metro property only



Freestanding Digital CIP on station platform with platform-specific METRO system map



# Customer Information Panels

## Intersection

- System maps
- Station maps
- Neighborhood maps
- Arrival information
- Service disruptions

Civic Center /  
Grand Park



# Customer Information Displays

- Digital screens include a self-dimming feature at night
- Light emanating from the screens provides an added safety benefit to riders
- Metro staff can share information in real-time and make updates as a situation evolves
- Digital signage program will apply to all Metro rail stations, major Orange Line and Silver Line stations, the El Monte Transit Hub and the Harbor Gateway Transit Hub

# Digital Conversion Plan

## Proposed Rollout Approach

- The contractor will audit Metro's system and provide a list of stations, their readiness for digital conversion, and logistics needs.
- Proposed design for each station/hub will be reviewed and approved by relevant Metro departments.
- Metro will reach out to cities prior to digital conversion.

## Schedule

- Year 1: Audit the system, proposal approvals
- Years 2-5: Digital rollout



# Reducing Costs & Increasing Revenue Generation



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# Background/History

- Expanded advertising identified as significant tactic to increase revenue in the Risk Allocation Matrix (RAM) approved by the Board in January 2016.
- System Advertising Policy was revised and now includes digital advertising, and was approved by the Board in February 2017.
- Metro's current Bus & Rail Advertising contract has been extended to allow time for new contract approval.



# Reducing Cost & Increase Revenue

## **Reduce Cost**

- Secure free and guaranteed advertising space and no print/production costs to the agency.

## **Increase Revenue**

- Maximize agency's vast and growing capital assets to generate additional revenue.



# Outfront – 35 Years of Partnership

- 35 years of commendable service history
- Solid payment history with Metro

**OUTFRONT**  
media

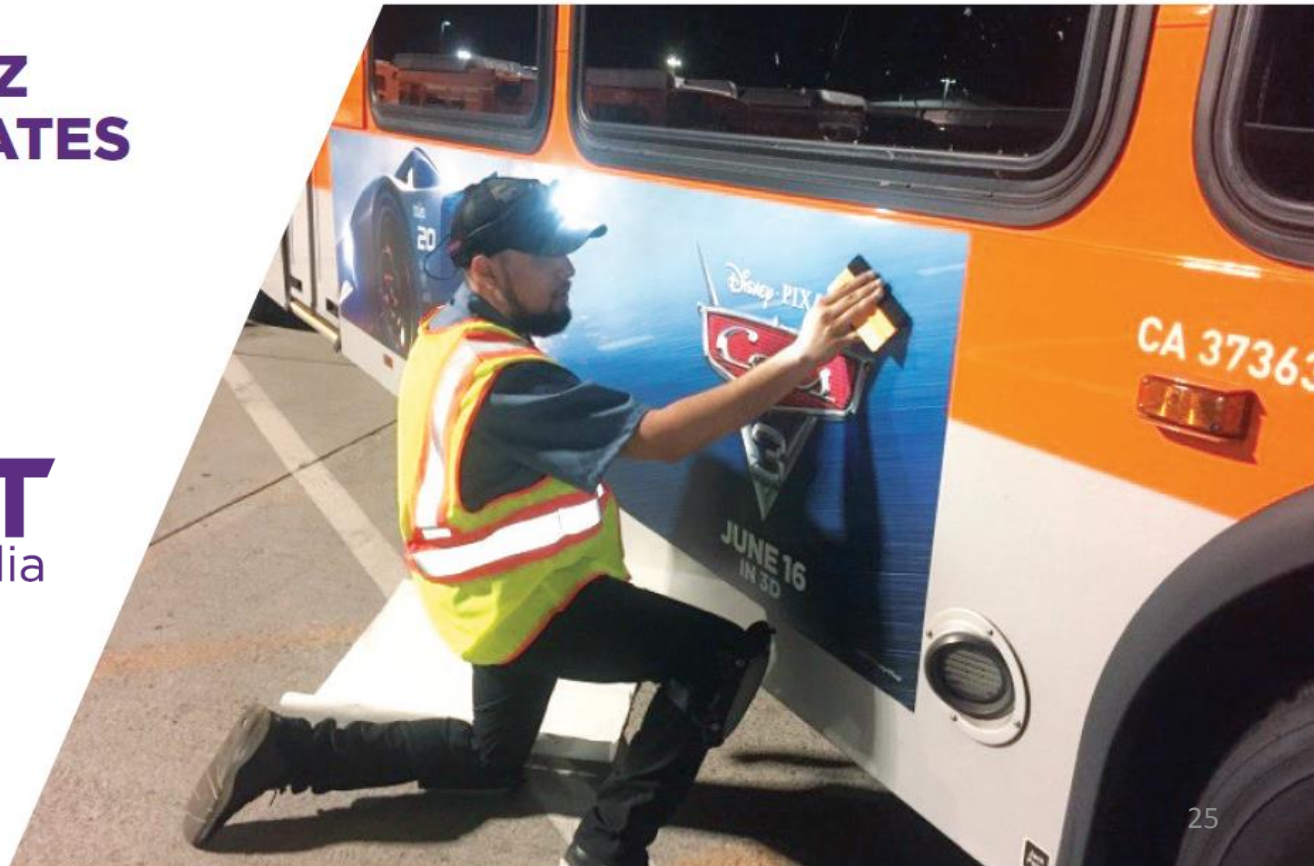


# Outfront – 35 Years of Partnership

- Intricate knowledge of Bus Operations
- Utilize certified DBE for posting management

**J. PEREZ  
ASSOCIATES  
INC.**

**OUTFRONT**  
media



# Minimum Guaranteed Revenues

**Combined revenues to Metro for 10 years**

<b>Bus Revenue</b>	<b>\$262,250,000</b>
<b>Rail Revenue</b>	<b>\$42,902,214</b>
<b>10-Year Total</b>	<b>\$305,152,214</b>

# Rail Capital Investment

## Committed capital investment for rail system

<b>754 Customer Info Panels 57 LinkLA units 10 Station activations</b>	<b>\$19,750,000</b>
<b>143 LinkLA units</b>	<b>\$12,500,000 (optional)</b>

# Annual Agency Cost Savings

## Metro 10% Ad Usage (Production & Media Space Costs)

ITEM	10% METRO ALLOTMENT	PRODUCTION TOTAL COST	MEDIA SPACE TOTAL COST
Rail Full Wraps	14	\$202,500	\$82,500
Bus Full Wraps	12	\$108,000	\$66,000
Rail Kings	762	\$22,860	\$342,900
Bus Kings	4,401	\$132,030	\$1,980,450
Totals		<b>\$465,390</b>	<b>\$2,471,850</b>
		<b>Annual Savings</b>	<b>\$2,937,240</b>

# 10-Year Total Contract Value

<b>Rail Revenue</b>	<b>\$42,902,214</b>
<b>Bus Revenue</b>	<b>\$262,250,000</b>
<b>Capital Investments</b>	<b>\$19,750,000</b>
<b>Agency Cost Savings</b>	<b>\$29,372,400</b>
<b>Total Contract Value (minimum)</b>	<b>\$354,274,614</b>

# Forward-Thinking Contract

- 10 years with midpoint audit at end of 5th year
- Minimum annual guarantee (MAG) commitment
- Revenue share beyond MAG commitment
  - 55% to Metro (years 1-5)
  - 70% to Metro (years 6-10)
- Full audit access and detailed reporting
- Full compliance with Metro's standard terms and conditions, Fire Life Safety, and ADA compliance
- Commitment to install and maintain digital screens





Thank you.  
Questions?



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