

**FUNDING AGREEMENT BETWEEN THE SOUTH BAY CITIES COUNCIL OF GOVERNMENTS AND THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY**

This Funding Agreement (the "Agreement") is entered into with an effective date of July 1, 2014, and is by and between the South Bay Cities Council of Governments (the "AGENCY") and the Los Angeles County Metropolitan Transportation Authority ("LACMTA"), hereinafter referred to collectively as the "Parties."

**RECITALS**

**WHEREAS**, LACMTA is the transportation planning and programming AGENCY for Los Angeles County, responsible for the County's Long Range Transportation Plan, the Short Range Transportation Plan and Transportation Improvement Program, and the construction and operation of bus and rail services; and

**WHEREAS**, the AGENCY is a California Joint Power Authority that represents 16 cities and the County of Los Angeles that share the goal of maximizing the quality of life and productivity of the South Bay Subregion. Within this structure, the cities and the County maintain the qualities and characteristics that make them unique and independent, while collectively addressing issues of common interest for a greater good; and

**WHEREAS**, LACMTA is now developing the Subregional Mobility Matrix – South Bay; and

**WHEREAS**, the LACMTA Board of Directors, at its February 27, 2014 meeting, provided up to \$500,000 for each Subregion for the preparation of Subregional Mobility Matrices; and

**WHEREAS**, the LACMTA administratively approved a one-time amount of \$20,000 from the up to \$500,000 to the South Bay Subregion to provide the AGENCY with funds to support the development of the Subregional Mobility Matrix – South Bay, subject to the terms and conditions contained in this Agreement; and

**NOW, THEREFORE**, in consideration for the promises set forth herein, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

## **AGREEMENT**

### **I. TERM OF AGREEMENT**

The term of the agreement shall be for a period from the date of execution of this Agreement through February 28, 2015. LACMTA shall have the right to extend the term as necessary. This is a one-time grant subject to the terms and conditions agreed to herein. This grant does not imply nor obligate any future funding commitment on the part of LACMTA.

The obligation for LACMTA to grant the Funds for the Project is subject to sufficient Funds being made available for the Project by the LACMTA Board of Directors. If such Funds are not made available for the Project, LACMTA shall have no obligation to provide the Funds for the Project, unless otherwise agreed to in writing by LACMTA.

### **II. PROJECT ADMINISTRATION**

A. AGENCY shall perform the work per the tasks and deliverables detailed in Attachment A – Scope of Work.

B. Project Management/Administration is capped at a maximum of 10% of the total project cost.

C. AGENCY shall submit Quarterly Progress Invoice Reports, in the form attached to the Agreement as Attachment B with detailed supporting documentation within sixty (60) days after the close of each quarter. The last Quarterly Progress Invoice Report shall be due no later than April 30, 2015, in order to be eligible for reimbursement under this Agreement. If no activity has occurred during a particular quarter, AGENCY will still be required to submit the Quarterly Progress Invoice Report indicating that no dollars were expended in the month.

D. In the event that any changes to the Work Plan are desired, LACMTA shall notify AGENCY in writing in a timely manner. AGENCY understands and agrees that LACMTA's contribution to the Project is limited to the amount specified in Section III, A, and that the AGENCY shall be fully responsible for any eligible expenditures that exceed LACMTA's contribution. Any unexpended Funds after April 30, 2015, unless an extension is requested in writing by AGENCY and approved by LACMTA, shall no longer be available to the AGENCY.

### **III. PAYMENT**

A. LACMTA shall reimburse AGENCY an aggregate amount not to exceed \$20,000 for amounts invoiced with proper documentation within 30 working days of receipt of an acceptable invoice.

B. LACMTA shall only reimburse eligible expenditures. Equipment including vehicles, computer hardware and software is not eligible expenditures and shall not be reimbursed with the Funds.

#### **IV. INDEMNIFICATION**

Neither LACMTA nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or committed to be done by AGENCY, its officers, agents, employees, contractors and subcontractors under this Agreement. AGENCY shall fully indemnify, defend and hold LACMTA, and its officers, agents and employees harmless from and against any liability and expenses, including without limitation, defense costs, any costs or liability on account of bodily injury, death or personal injury of any person or for damage to or loss of risk of property, any environmental obligation, any legal fees and claims for damages of any nature whatsoever arising out of the Work Plan, including without limitation; (i) use of the Funds by the AGENCY, or its officers, agents, employees, contractor or subcontractors; (ii) breach of the AGENCY's obligations under this Agreement; or (iii) any act of omission of the AGENCY, or its officers, agents, employees, contractors or subcontractors in the performance of the work or the provision of the services, in connection with the Project including, without limitation, the Work Plan, described in this Agreement. The indemnity shall survive termination of this Agreement.

#### **V. INSURANCE**

AGENCY shall procure and maintain for the duration of the Agreement insurance against claims for injuries to persons, or damages in property which may arise from on in conjunction with the performance of the work hereunder by the AGENCY, their agents, representatives, employees or subcontractors. As respects Professional Liability, coverage must be maintained and evidenced provided, for two years following expiration of the agreement.

#### **MINIMUM SCOPE OF INSURANCE**

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (concurrence form CG0001).
2. Insurances Services Office form number CA 0001 covering Automobile Liability, code 1 (any auto).

3. Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.
4. Professional Liability Insurance.

**MINIMUM LIMITS OF INSURANCE**

Contractor shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or
2. Other form with a general aggregate limit is used, the general aggregate limits shall be twice the required occurrence limit of \$2,000,000. Products/Completed Operations aggregate shall apply separately to this contract/agreement or the aggregate limit shall be twice the required per occurrence limit.
3. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
4. Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance.
5. Professional Liability: \$1,000,000 per occurrence.

**OTHER INSURANCE PROVISIONS**

The insurance policies required per the terms of the agreement are to contain, or be endorsed to contain, the following provisions:

1. Los Angeles County Metropolitan Transportation Authority, its subsidiaries, officials and employees are to be covered as additional insured as respects liability arising out of the activities performed by or on behalf of the AGENCY; products and completed operations of the AGENCY; premises owned, occupied or used by the AGENCY; or automobiles owned, leased, hired or borrowed or the AGENCY. The general liability coverage shall also include contractual, personal injury, independent contractors and broad form property damage liability. The coverage shall contain no special limitations on the scope of protection afforded to LACMTA, its subsidiaries, officials and employees.
2. For any claims related to this project, insurance provided by the AGENCY shall be primary as respects LACMTA, its subsidiaries, officials and employees. Any insurance or self-insurance maintained by LACMTA shall be in excess of any program of insurance afforded by the AGENCY and shall not contribute with it.

3. Any failure to comply with reporting or other provisions of the policies including breaches of warrants shall not affect coverage provided to LACMTA, its subsidiaries, officials and employees.
4. The program of insurance provided by the AGENCY shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
5. Each insurance policy is required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to LACMTA.
6. Worker's Compensation and Employer's Liability policies shall provide a waiver of subrogation in favor of LACMTA.
7. Professional Liability insurance shall be continued, and evidence provided to LACMTA, for two years following expiration of the contract.
8. Coverage provided for two years in the event of cancellation or non-renewal.

**DEDUCTIBLES AND SELF INSURED RETENTIONS**

Notwithstanding anything to the contrary, the insurance requirements contained herein may be met with a program of self insurance.

**ACCEPTABILITY OF INSURERS**

Insurance is to be placed with California admitted, or non-admitted carriers approved by the California Department of Insurance. All carriers must have a current A.M. Best's rating of no less than A-VII, unless otherwise approved by LACMTA.

**VERIFICATION OF COVERAGE**

AGENCY shall furnish LACMTA with original endorsements and certificates of insurance evidencing coverage required by this clause. All documents are to be signed by a person authorized to attest to validity of coverage and protections afforded LACMTA. All documents are to be received and approved by LACMTA before work commences. If requested by LACMTA, AGENCY shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

**SUBCONTRACTORS**

AGENCY shall include all subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. If requested by LACMTA, the AGENCY shall submit copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

## **VI. RECORD RETENTION**

A. AGENCY shall maintain all source documents, books and records connected with its performance and all work performed under this Agreement for three (3) years.

B. LACMTA, and/or its designee, shall have the right to conduct audits of the Project as needed. AGENCY agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). AGENCY shall reimburse LACMTA for any expenditure not in compliance with this Agreement. The allowability of costs for AGENCY's own expenditures submitted to LACMTA for this Project shall be in compliance with Office of Management and Budget (OMB) Circular A-87. The allowability of costs for AGENCY's contractors, consultants and suppliers expenditures submitted to LACMTA through AGENCY's Quarterly Progress Reports and Expenditures shall be in compliance with OMB Circular A-87 or Federal Acquisition Regulation (FAR) Subpart 31 (whichever is applicable). Findings of the LACMTA audit are final. When LACMTA audit findings require AGENCY to return monies to LACMTA, AGENCY agrees to return the monies within thirty (30) days after the final audit is sent to Grantee.

## **VII. COMMUNICATIONS:**

A. AGENCY shall ensure that all Communication Materials contain recognition of LACMTA's contribution to the Project as more particularly set forth in "Funding Agreement Communications Materials Guidelines" available on line or from the LACMTA Project Manager. Please check with the LACMTA Project Manager for the web address. The Funding Agreement Communications Materials Guidelines may be changed from time to time during the course of this Agreement. Grantee shall be responsible for complying with the latest Funding Agreement Communications Materials Guidelines during the term of this Agreement, unless otherwise specifically authorized in writing by the LACMTA Chief Communications Officer.

B. For purposes of this Agreement, "Communications Materials" include, but are not limited to, press events, public and external newsletters, printed materials, advertising, websites radio and public service announcements, electronic

media, and construction site signage. A more detailed definition of “Communications Materials” is found in the Funding Agreement Communications Materials Guidelines.

C. The Metro logo is a trademarked item that shall be reproduced and displayed in accordance with specific graphic guidelines. These guidelines and logo files including scalable vector files will be available through the LACMTA Project Manager.

D. AGENCY shall ensure that any subcontractor, including, but not limited to, public relations, public affairs, and/or marketing firms hired to produce Project Communications Materials for public and external purposes will comply with the requirements contained in this Section.

E. The LACMTA Project Manager shall be responsible for monitoring AGENCY compliance with the terms and conditions of this Section. AGENCY failure to comply with the terms of this Section shall be deemed a default hereunder and LACMTA shall have all rights and remedies set forth herein.

## VIII. MISCELLANEOUS

A. California State law shall govern this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way, unless any of the stated purposes of the Agreement would be defeated.

B. No amendment, modification, alteration or variation of the terms of this Agreement shall be valid unless made in writing and signed by authorized representatives for the Parties hereto and no oral understanding or agreement not incorporated herein shall be binding on any of the Parties.

C. This Agreement contains the entire understandings between the Parties and supersedes any prior written or oral understandings and agreements regarding the subject matter of the Agreement.

D. The covenants and agreements of this Agreement shall inure to the benefits of, and shall be binding upon, each of the Parties and their respective successors and assignees.

E. LACMTA reserves the right to terminate this Agreement by written notice within ten (10) calendar days in the event of AGENCY’s breach or default of any term or condition in this Agreement. LACMTA shall provide a reasonable opportunity for AGENCY to cure prior to termination.

F. Both Parties shall comply with all applicable laws, regulations and policies.

G. Neither AGENCY nor LACMTA shall assign this Agreement, or any part thereof, without the written consent of the other party. Any assignment without such written consent shall be void and unenforceable.

H. Any notice required or permitted under this Agreement shall be in writing and shall be deemed served if sent by registered mail addressed as follows, unless otherwise notified in writing of a change of address:

Fulgene C. Asuncion, Project Manager  
Transit Corridors/Subregional Planning  
Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza, Mailstop: 99-22-4  
Los Angeles, CA 90012

Jacki Bacharach, Executive Director  
South Bay Cities Council of Governments  
20285 Western Ave, Ste. 100  
Torrance, CA 90501.



IN WITNESS WHEREOF, the Parties have caused this FA to be executed by their duly authorized representatives as of the dates indicated below:

LACMTA:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Arthur T. Leahy  
Chief Executive Officer

APPROVED AS TO FORM:

JOHN F. KRATTLI  
County Counsel

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Deputy

AGENCY:

SOUTH BAY CITIES COUNCIL OF GOVERNMENTS

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Dan Medina  
Chair, Board of Directors

APPROVED AS TO FORM:

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Michael Jenkins  
Counsel to the South Bay Cities Council of Governments

## ATTACHMENT A SCOPE OF WORK

### **Project Title: Subregional Mobility Matrix – South Bay – Project Development Support**

#### **Objectives:**

- Support development of the Subregional Mobility Matrix for the South Bay.
- Interface, as appropriate, with LACMTA, Caltrans, the COG Board, committees, and Project Development Team (PDT), as well as individual South Bay cities as needed, as it pertains to development of the Mobility Matrix.
- Facilitate South Bay city involvement in the Project including individual contact with cities, coordination of meetings, collection of comments on materials and reports, etc.
- Participate in Project Development Team Meetings
- Provide technical and policy support

#### **Project Funding Breakdown:**

|  |                 |
|--|-----------------|
| Support Development Tasks                      | \$15,000        |
| Coordination Meetings                          | \$3,000         |
| SBCCOG Project Management/Administrative Tasks | \$2,000         |
|  |                 |
| <b>TOTAL BUDGET</b>                            | <b>\$20,000</b> |