

FUNDING AGREEMENT
Metro ExpressLanes Net Toll Revenue Reinvestment Funds

This Funding Agreement ("Agreement") is dated February 1, 2017 for reference purposes only, and is by and between the Los Angeles County Metropolitan Transportation Authority ("LACMTA") and City of Carson ("Grantee") for Carson Rapid Bus Priority System – Metro ExpressLanes Net Toll Revenue Re-Investment Grant ID# MX201426 as described in this Agreement and the attachments hereto (the "Project").

WHEREAS, LACMTA operates the ExpressLanes on the I-10 and I-110 corridors. LACMTA is the agency responsible for administering the net toll revenues and reinvesting net toll revenues in the corridors in where generated; and

WHEREAS, on October 22, 2015, the Board of Directors of LACMTA approved the Metro ExpressLanes Round2 Net Toll Revenue Reinvestment Guidelines, based on lessons learned from Round 1 of the grant program and established Round 2 of a competitive discretionary grant program to reinvest ExpressLanes net toll revenue ("Net Toll Revenue Reinvestment Funds") in transit use, roadway improvements, and system connectivity/active transportation in the I-10 and I-110 corridors; and

WHEREAS, on August 25, 2016, the Board of Directors of LACMTA approved the ExpressLanes Net Toll Revenue Reinvestment Grant Expenditure Plan, authorizing the award of Net Toll Revenue Reinvestment Grant funds to Grantee; and

WHEREAS, LACMTA and GRANTEE desire to agree to the terms and conditions of this Agreement.

NOW, THEREFORE, the parties hereby agree as follows:

The terms and conditions of this Agreement consist of the following and each is incorporated by reference herein as if fully set forth herein:

1. Part I - Specific Terms of the Agreement
2. Part II - General Terms of the Agreement
3. Attachment A - Project Funding
4. Attachment B – Project Schedule and Budget
5. Attachment C - Scope of Work
6. Attachment D - Reporting and Expenditure Guidelines
7. Attachment D1 - Quarterly Progress/Expenditure Report
8. Attachment E – Project Milestones Schedule
9. Attachment F – Lapsing Policy
10. Any other attachments or documents referenced in the above documents

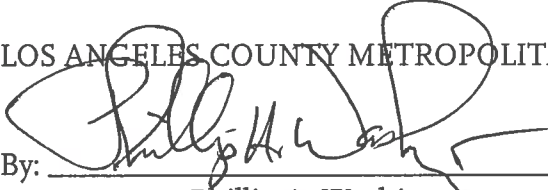
EXHIBIT NO. 1

In the event of a conflict, the Specific Terms of this Agreement and Attachments A, B, C, D, D1, E and F shall have precedence in that order and shall prevail over the General Terms of this Agreement.

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

LACMTA:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By:  _____ Date: 3/15/2017
Phillip A. Washington
Chief Executive Officer

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By:  _____ Date: 2/1/17
Deputy

GRANTEE:

CITY OF CARSON

By:  _____ Date: 3/6/17
Kenneth C. Farfing
City Manager

PART I
SPECIFIC TERMS OF THE AGREEMENT

1. Title of the Project (the "Project"): Carson Rapid Bus Priority System. LACMTA ExpressLanes Net Toll Revenue Reinvestment Grant ID# MX201426.
2. To the extent the Funds are available, LACMTA shall make to Grantee a one-time grant of the Net Toll Revenue Reinvestment Funds, in the amount of \$584,150 (the "Funds") for the Project in accordance with the terms of this Agreement. LACMTA Board of Directors' action of August 25, 2016, granted the Funds to Grantee for the Project.
3. This one-time grant shall be on a reimbursement basis. Grantee must provide the appropriate supporting documents with the Quarterly Progress/Expenditure Report, attached to this Agreement as Attachment D1.
4. The "Project Funding" documents all sources of funds programmed for the Project as approved by LACMTA and is attached as Attachment A. The Project Funding includes the total programmed budget for the Project, including the Funds programmed by LACMTA and the Grantee Funding Commitment (local match). The Project Funding also includes the fiscal years in which all the funds for the Project are programmed.
5. Grantee shall contribute the Grantee Funding Commitment (local match), if any, to the Project in the amounts and toward the work scopes, all as specified in Attachments B and E. In each Quarterly Progress/Expenditure Report, Grantee shall report on the use of Grantee Funding Commitment which should be consistent with Attachments B and E. If Grantee does not meet its local match commitment, it shall be considered a default under this Agreement and LACMTA will have the remedies available to it under Part II, Section 10. Any changes in the Grantee Funding Commitment must be made by mutual agreement of the parties and documented in an amendment to this Agreement.
6. Grantee shall complete the Project as described in the "Scope of Work," attached to this Agreement as Attachment C. The Scope of Work includes a description of the Project, a detailed description of the work to be completed by Grantee. Project work shall be delivered in accordance with the Schedule and Budget, attached to this Agreement as Attachment B, and the Project Milestones Schedule, attached to this Agreement as Attachment E, consistent with the Lapsing Policy, attached to this Agreement as Attachment F. If Grantee is consistently behind schedule in meeting milestones or in delivering the Project in accordance with Attachments B and E, then LACMTA will have the option to terminate this Agreement for default as described in Part II, Sections 9 and 10.
7. Eligible Project expenses are defined in the Reporting and Expenditure Guidelines (Attachment D). The form of the Quarterly Progress/Expenditure Report is attached as Attachment D1. LACMTA will withhold 'ten percent (10%)' of eligible expenditures per invoice as retainage pending an audit of expenditures and completion of the Scope of Work.
8. The duration of the Project, as evidence in Attachment B, shall be thirty-six (36) months and all eligible costs shall be incurred during this period. However, the Funds may be

deobligated if Grantee fails to use the Funds in accordance with Lapsing Policy. To the extent the Lapsing Policy is inconsistent with any other term of this Agreement, the Lapsing Policy shall govern.

9. Amendments to this Agreement shall be in writing executed by the parties. No changes to the (i) grant amount, (ii) Project Funding, (iii) the Scope of Work, or (iv) the lapse date of the Funds shall be allowed without a written amendment to this Agreement, approved and signed by the LACMTA Chief Executive Officer or his/her designee and Grantee.

10. Notice will be given to the parties at the address specified below unless otherwise notified in writing of change of address. Any notice required or permitted to be delivered hereunder shall be deemed to be delivered upon receipt by the correct address by United States mail, postage prepaid, certified or registered mail, return receipt requested, or by Federal Express or other reputable overnight delivery service addressed to the parties hereto as follows:

LACMTA's Address:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012
Attention: Silva Mardrussian; Mail Stop 99-9-2
Email: mardrussians @metro.net

Grantee's Address:

City of Carson
701 E. Carson Street
Carson, CA 90745
Attention: Gilbert Marquez (310) 952-1700 ext. 1813
gmarquez@carson.ca.us

PART II
GENERAL TERMS OF THE AGREEMENT

1. TERM:

1.1 The term of this Agreement shall commence on the date this Agreement is fully executed and, shall expire upon the occurrence of all of the following, unless terminated earlier as provided herein: (i) the agreed upon Scope of Work has been completed; (ii) all LACMTA audit and reporting requirements have been satisfied; and (iii) the final disbursement of the Funds has been made to Grantee. The parties understand and agree there are certain covenants and agreements which specifically remain in effect after expiration or termination of this Agreement.

1.2 Should LACMTA determine there are insufficient Funds available for the Project; LACMTA may terminate this Agreement by giving written notice to Grantee at least thirty (30) days in advance of the effective date of such termination. If this Agreement is terminated pursuant to this section, LACMTA will not reimburse Grantee any costs incurred after the effective date of such termination.

2. INVOICE BY GRANTEE:

2.1 Unless otherwise stated in this Agreement, the Quarterly Progress/Expenditure Report, with supporting documentation of expenses and Project progress as described in Part II, Section 4.1 of this Agreement, and other documents as required by LACMTA, shall satisfy LACMTA invoicing requirements. Expenses that are not invoiced within sixty (60) days after the Lapsing Date as defined in Part II, Section 8.1 below are not eligible for reimbursement.

Send invoice with supporting documentation to:

Los Angeles County Metropolitan Transportation Authority
Accounts Payable
P. O. Box 512296
Los Angeles, CA 90051-0296

Re: LACMTA Grant ID# MX201426 and Agreement# 920000000MX201426
Attention Silva Mardrussian, 9th Floor, MS 99-9-2

3. USE OF FUNDS:

3.1 Grantee shall utilize the Funds to complete the Project as described in the Scope of Work and in accordance with the Reporting and Expenditure Guidelines and the most recently adopted Metro ExpressLanes Net Toll Revenue Reinvestment Guidelines (the "Guidelines"). Grantee shall be eligible for the Funds up to the grant amount specified in Part I, Section 2 of this Agreement subject to the terms and conditions contained herein and in the Guidelines.

3.2 Grantee shall not use the Funds to substitute for any other funds or projects not specified in this Agreement. Further, Grantee shall not use the Funds for any expenses or activities beyond the approved Scope of Work (Attachment C).

3.3 Grantee must use the Funds in the most cost-effective manner. If Grantee intends to use a consultant or contractor to implement all or part of the Project, LACMTA requires that such activities be procured in accordance with Grantee's contracting procedures and consistent with State law. Grantee will also use the Funds in the most cost-effective manner when the Funds are used to pay "in-house" staff time. Grantee staff or consultant with project oversight roles cannot award work to companies in which they have a financial or personal interest. This effective use of funds provision will be verified by LACMTA through on-going Project monitoring and through any LACMTA interim and final audits.

3.4 Grantee's employee, officers, councilmembers, board members, agents, or consultants (a "Grantee Party") are prohibited from participating in the selection, award, or administration of a third-party contract or sub-agreement supported by the Funds if a real or apparent conflict of interest would be involved. A conflict of interest would include, without limitation, an organizational conflict of interest or when any of the following parties has a financial or other interest in any entity selected for award: (a) a Grantee Party, (b) any member of a Grantee Party's immediate family, (c) a partner of a Grantee Party; (d) any organization that employs or intends to employ any of the above. This conflict of interest provision will be verified by LACMTA through on-going Project monitoring and through any LACMTA interim and final audits.

3.5 If the Project requires the implementation of an Intelligent Transportation Systems ("ITS") project, Grantee shall ensure the Project is consistent with the Regional ITS Architecture. ITS projects must comply with the LACMTA Countywide ITS Policy and Procedures adopted by the LACMTA Board of Directors including the submittal of a completed, signed self-certification form. For the ITS policy and form, see http://www.metro.net/projects/call_projects/.

3.6 If any parking facilities are designed and/or constructed using the Funds, Grantee shall coordinate with LACMTA parking program staff (see METRO.net for staff listing) in the planning, design and management of the facility and shall ensure that its implementation is consistent with the LACMTA adopted parking policy. For the parking policy, see http://www.metro.net/projects/call_projects/.

3.7 Grantee is obligated to continue using the Project consistent with the ExpressLanes Net Toll Revenue Reinvestment purposes for which the Project was approved. Any Project right-of-way and real property purchased to implement the Project shall remain dedicated to public transportation use. The obligations set forth in this section shall survive termination of this Agreement.

3.8 If Grantee desires to use the Funds to purchase or lease equipment including, without limitation, vehicles, office equipment, computer hardware or software, or other personal property ("Equipment") necessary to perform or provide the services set forth in

the Scope of Work, Grantee must obtain LACMTA's written consent prior to purchasing or leasing any Equipment. Equipment purchased or leased without such prior written consent shall be deemed an unallowable expenditure of the Funds. Equipment acquired as part of the Project shall be dedicated to that Project use for their full economic life cycle, including any extensions of that life cycle achieved by reconstruction, rehabilitation, or enhancements.

3.9 If an Equipment ceases to be used for the proper use as originally stated in the Scope of Work, Grantee will be required to return to LACMTA the Funds used to purchase or lease such Equipment in proportion to the useful life remaining and in equal proportion of the Funds to Grantee Funding Commitment ratio. The obligations set forth in this section shall survive termination of this Agreement.

3.10 If any software is developed with the Funds and if Grantee ceases to use the software for public purposes or Grantee sells, conveys, licenses or otherwise transfers the software, LACMTA shall be entitled to a refund or credit, at LACMTA's sole option, equivalent to the amount of the Funds spent developing the software. Such refund or credit shall not be required, subject to LACMTA approval of the intended use, if Grantee reinvests the proceeds of such sale, conveyance, license or transfer into the Project to offset operating or systems management costs. The obligations set forth in this section shall survive termination of this Agreement.

3.11 If any Project facilities or any real property purchased to implement the Project is no longer used or is no longer needed for the Project, including construction easements or excess property, Grantee will be required to return to LACMTA the Funds used to design, construct or acquire such Project facilities or real property in equal proportion of the grant to Grantee Funding Commitment ratio. The obligations set forth in this section shall survive termination of this Agreement.

3.12 If Grantee desires to use any Project facility or any real property purchased to implement the Project to generate revenue, Grantee shall first obtain LACMTA's written consent prior to entering into any such revenue generating arrangement. Grantee shall provide LACMTA with the applicable information regarding the transaction, including without limitation, the property at issue, the proposed use of the property, the amount of revenue, any impact to the Project and the proposed use of the revenue. LACMTA consent may be conditioned on whether bond funds were used, and how Grantee plans to use the revenue, including, without limitation, sharing any net revenues with LACMTA. If Grantee fails to obtain LACMTA's prior written consent, Grantee shall be considered in default and LACMTA shall have all rights and remedies available at law or in equity, including, without limitation the return of the Funds to cover the cost of the property in question. The obligations set forth in this section shall survive termination of this Agreement.

3.13 Grantee understands that this Agreement does not provide any rights for Grantee to use LACMTA real property needed for the Project. If the Project requires use of LACMTA Property, Grantee will need to enter into a separate agreement with LACMTA in accordance with LACMTA real property policies and procedures. Nothing in this Agreement obligates LACMTA to provide Grantee with any real estate right.

4. **DISBURSEMENT OF FUNDS:**

4.1 Grantee shall submit the Quarterly Progress/Expenditure Report, attached to this Agreement as Attachment D1, within sixty (60) days after the close of each quarter on the last day of the months November, February, May and August. Should Grantee fail to submit such reports within ten (10) days of the due date and/or Grantee submits incomplete reports, LACMTA will not reimburse Grantee until the completed required reports are received, reviewed, and approved. The Quarterly Progress/Expenditure Report shall include all appropriate documentation (such as contractor invoices, timesheets, receipts, etc.) with a clear justification and explanation of their relevance to the Project for reimbursement. If no activity has occurred during a particular quarter, Grantee will still be required to submit the Quarterly Progress/Expenditure Report indicating no dollars were expended that quarter. If a request for reimbursement exceeds \$500,000 in a single month, then Grantee can submit such an invoice once per month with supporting documentation.

4.2 Disbursements shall be made on a reimbursement basis in accordance with the provisions of this Agreement.

4.3 LACMTA will make all disbursements electronically unless an exception is requested in writing. Disbursements via Automated Clearing House (ACH) will be made at no cost to Grantee. Grantee must complete the ACH form and submit such form to LACMTA before grant payments can be made. ACH Request Forms can be found at http://www.metro.net/projects/call_projects/call_projects-reference-documents/.

4.4 Grantee must provide detailed supporting documentation with its Quarterly Progress/Expenditure Report.

4.5 Grantee shall demonstrate that the Grantee Funding Commitment has been spent in direct proportion to the Funds invoiced with each quarter's expenditures.

4.6 Expenses that are not invoiced within sixty (60) days after the lapsing date specified in Part II, Section 8.1 below are not eligible for reimbursement.

4.7 Any Funds expended by Grantee prior to the execution of this Agreement shall not be reimbursed nor shall they be credited toward the Grantee Funding Commitment requirement, without the prior written consent of LACMTA. Grantee Funding Commitment dollars expended prior to the year the Funds are awarded shall be spent at Grantee's own risk.

5. **REPORTING AND AUDIT REQUIREMENTS/PAYMENT ADJUSTMENTS:**

5.1 LACMTA, and/or its designee, shall have the right to conduct audits of the Project, as deemed appropriate, such as financial and compliance audits; interim audits; pre-award audits; performance audits; and final audits. LACMTA will commence a final audit within six (6) months of receipt of an acceptable final invoice, provided the Project is ready for final audit (meaning all costs and charges have been paid by Grantee and invoiced to LACMTA, and such costs, charges and invoices are properly documented and summarized in the accounting records to enable an audit without further explanation or summarization,

including actual indirect rates for the period covered by the Agreement under review). Grantee agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). Grantee shall reimburse LACMTA for any expenditure not in compliance with this Agreement and the Guidelines. Grantee's eligible expenditures submitted to LACMTA for this Project shall be in compliance with the Reporting and Expenditure Guidelines (Attachment D) and Office of Management and Budget ("OMB") Circular A-87. The allowability of costs for Grantee's contractors, consultants and suppliers submitted to LACMTA through Recipient's Quarterly Progress/Expenditure Reports shall be in compliance with OMB Circular A-87 or Federal Acquisition Regulations, Subpart 31 (FAR), whichever is applicable. Any use of the Funds which is expressly prohibited under this Agreement shall be an ineligible use of the Funds and may be disallowed by LACMTA audit. Findings of the LACMTA audit are final. When LACMTA audit findings require Grantee to return monies to LACMTA, Grantee shall return such monies within thirty (30) days after the final audit is sent to Grantee.

5.2 Grantee's records shall include, without limitation, accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files (including documentation covering negotiated settlements), invoices, and any other supporting evidence deemed necessary by LACMTA to substantiate charges related to the Project (all collectively referred to as "records") shall be open to inspection and subject to audit and reproduction by LACMTA auditors or authorized representatives to the extent deemed necessary by LACMTA to adequately permit evaluation of expended costs. Such records subject to audit shall also include, without limitation, those records deemed necessary by LACMTA to evaluate and verify, direct and indirect costs, (including overhead allocations) as they may apply to costs associated with the Project. These records must be retained by Grantee for three (3) years following final payment under this Agreement. Payment of retention amounts shall not occur until after the LACMTA's final audit is completed.

5.3 Grantee shall cause all contractors to comply with the requirements of Part II, Sections 5.1 and 5.2 above. Grantee shall cause all contractors to cooperate fully in furnishing or in making available to LACMTA all records deemed necessary by LACMTA auditors or authorized representatives related to the Project.

5.4 LACMTA or any of its duly authorized representatives, upon reasonable written notice, shall be afforded access to all of the records of Grantee and its contractors related to the Project, and shall be allowed to interview any employee of Grantee and its contractors through final payment to the extent reasonably practicable.

5.5 LACMTA or any of its duly authorized representatives, upon reasonable written notice, shall have access to the offices of Grantee and its contractors, shall have access to all necessary records, including reproduction at no charge to LACMTA, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the terms and conditions of this Agreement.

5.6 In addition to LACMTA's other remedies as provided in this Agreement, LACMTA shall withhold the Funds and/or recommend not to award a future Net Toll Revenue

Reinvestment Grant to Grantee if the LACMTA audit has determined that Grantee failed to comply with the Scope of Work (such as misusing Funds or failure to return Funds owed to LACMTA in accordance with LACMTA audit findings) and/or is severely out of compliance with other terms and conditions as defined by this Agreement and the Guidelines, including the access to records provisions of Part II, Section 5.

5.7 When business travel associated with the Project requires use of a vehicle, the mileage incurred shall be reimbursed at the mileage rates set by the Internal Revenue Service, as indicated in the United States General Services Administration Federal Travel Regulation, Privately Owned Vehicle Reimbursement Rates.

5.8 Grantee shall certify monthly invoices by reviewing all contractor and subcontractor costs and maintaining internal control to ensure that all expenditures are allocable, allowable and reasonable and in accordance with OMB Circular A-87 or FAR Subpart 31 (whichever is applicable) and the terms and conditions of this Agreement.

5.9 Grantee shall also certify final costs of the Project to ensure all costs are in compliance with OMB Circular A-87 or FAR Subpart 31 (whichever is applicable) and the terms and conditions of this Agreement.

5.10 Whenever possible, in exercising its audit rights under this Agreement, LACMTA shall rely on Grantee's own records and audit work to minimize direct audit of contractors, consultants, and suppliers.

6. **ONE TIME GRANT:**

6.1 This is a one-time only grant subject to the terms and conditions agreed to herein and in the Guidelines. This grant does not imply nor obligate any future funding commitment on the part of LACMTA.

7. **SOURCES AND DISPOSITION OF FUNDS:**

7.1 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.

7.2 Grantee shall be responsible for any and all cost overruns for the Project.

7.3 If the Funds are insufficient to complete the Project, Grantee may modify the Scope of Work to allow Project completion with the funds available to Grantee Subject to LACMTA's prior review and approval or rejection of any proposed changes to the Scope of Work.

7.4 At any time, if Grantee receives outside funding for the Project in addition to the Funds identified in the Project Funding at the time this grant was awarded, this

Agreement shall be amended to reflect such additional funding. If, at the time of final voucher, funding for the Project (including the Funds and any additional funding) exceeds the actual Project costs, then the cost savings shall be applied in the same proportion as the sources of funds from each party to this Agreement as specified in the Project Funding and both the Funds and Grantee Funding Commitment required for the Project shall be reduced accordingly.

8. TIMELY USE OF FUNDS / REPROGRAMMING OF FUNDS:

8.1 Grantee must demonstrate timely use of the Funds by:

- (i) Executing this Agreement within (6) six months of receiving formal transmittal of the Grant Agreement from LACMTA; and
- (ii) Begin expenditure of funds within twelve (12) months of executing this Agreement; and
- (iii) Meeting the Project milestones due dates as agreed upon by the LACMTA and Grantee as stated in Attachment C (Scope of Work) and Attachment E (Project Milestones Schedule) of this Agreement. Contracts for construction or capital purchase shall be executed within nine (9) months from the date of completion of design. Project design (preliminary engineering) must begin within six (6) months from the identified milestone start date. Funds programmed by LACMTA for Project development or right-of-way costs must be expended by the end of the second fiscal year following the year the Funds were first programmed; and
- (iv) Timely submitting the Quarterly Progress/Expenditure Report as described in Part II, Section 4.1 of this Agreement; and
- (v) Expending the Funds granted under this Agreement for allowable costs within forty-two (42) months from the date the Grant Agreement is executed ("the Lapsing Date").

8.2 In the event that the timely use of the Funds is not demonstrated as described in this Part II, Section 8.1 of this Agreement, the Project will be reevaluated by LACMTA and the Funds may be deobligated and reprogrammed to another project by the LACMTA Board of Directors. If Grantee does not complete one element of the Project, as described in the Scope of Work, due to all or a portion of the Funds lapsing, the entire Project may be subject to deobligation at LACMTA's sole discretion. In the event that all the Funds are reprogrammed, this Agreement shall automatically terminate.

9. DEFAULT:

9.1 A Default under this Agreement is defined as any one or more of the following: (i) Grantee fails to comply with the terms and conditions contained herein or in the Guidelines; (ii) Grantee is consistently behind schedule in meeting milestones or in delivering the Project; or (iii) Grantee fails to perform satisfactorily or makes a material change, as

determined by LACMTA at its sole discretion, to the Financial Plan, the Scope of Work, or the Project Funding without LACMTA's prior written consent or approval as provided herein.

10. **REMEDIES:**

10.1 In the event of a Default by Grantee, LACMTA shall provide written notice of such Default to Grantee with a 30-day period to cure the Default. In the event Grantee fails to cure the Default, or commit to cure the Default and commence the same within such 30-day period, and thereafter diligently continue such cure to completion to the satisfaction of LACMTA, LACMTA shall have the following remedies: (i) LACMTA may terminate this Agreement; (ii) LACMTA may make no further disbursements of Funds to Grantee; and/or (iii) LACMTA may recover from Grantee any Funds disbursed to Grantee as allowed by law or in equity.

10.2 Effective upon receipt of written notice of termination from LACMTA pursuant to Section 10.1, Grantee shall not undertake any new work or obligation with respect to this Agreement unless so directed by LACMTA in writing. Any Funds expended after termination shall be the sole responsibility of Grantee.

10.3 The remedies described herein are non-exclusive. LACMTA shall have the right to enforce any and all rights and remedies herein or which may be now or hereafter available at law or in equity.

11. **COMMUNICATIONS:**

11.1 Grantee shall ensure that all Communication Materials contain recognition of LACMTA's and Metro ExpressLanes' contribution to the Project as more particularly set forth in "Funding Agreement Communications Materials Guidelines" available online 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.

11.2 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.

11.3 In addition to complying with the LACMTA "Funding Agreement Communications Materials Guidelines," Grantee shall:

- (i) include prominently/in the lead, at a minimum, recognition of Metro ExpressLanes' contribution to the Project on literature, marketing brochures, newsletters, invitations and

- other communication materials by including the phrase "This project was partially funded by Metro ExpressLanes."
- (ii) include in any Joint Agency press release, at a minimum, a recognition of Metro ExpressLanes' contribution to the Project by including the phrase "This project was partially funded by Metro ExpressLanes."
- (iii) notify the LACMTA Project Manager of all planned press events, ribbon cuttings, groundbreakings, and all other public and/or press events related to the Project at a minimum 30 days before such events take place to allow LACMTA to participate in such events, at LACMTA's sole discretion.
- (iv) include prominently/in the lead on all Project Websites, recognition of Metro ExpressLanes' contribution to the Project by including the phrase "This website is partially funded by Metro ExpressLanes," the Metro logo and the Metro ExpressLanes logo, and a link to the Metro ExpressLanes website.
- (v) prominently display the following phrase on all signage for project structures, facilities, and construction sites: "This project made possible by Metro [Metro logo] and Metro ExpressLanes [Metro ExpressLanes logo]"
- (vi) request the most current Metro logo and the most current Metro ExpressLanes logo from the LACMTA Project Manager when creating any and all communications materials containing the Metro logo and Metro ExpressLanes logo.

11.4 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.

11.5 Grantee 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.

11.6 The LACMTA Project Manager shall be responsible for monitoring Grantee compliance with the terms and conditions of this Section. Grantee 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.

12. OTHER TERMS AND CONDITIONS:

12.1 This Agreement, along with its Attachments and the Guidelines, constitutes the entire understanding between the parties, with respect to the subject matter herein. The Agreement shall not be amended, nor any provisions or breach hereof waived, except in writing signed by the parties who agreed to the original Agreement or the same level of authority. Adoption of revisions or supplements to the Guidelines shall cause such revisions

or supplements to become incorporated automatically into this Agreement as though fully set forth herein.

12.2 In the event that there is any court proceeding between the parties to enforce or interpret this Agreement to protect or establish any rights or remedies hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorney's fees.

12.3 Neither LACMTA nor any subsidiary or their respective directors, officers, agents, or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or committed to be done by Grantee under or in connection with any work performed by or service provided by Grantee, its officers, agents, employees, contractors and subcontractors under this Agreement. Grantee shall fully indemnify, defend (with counsel approved by LACMTA) and hold LACMTA, and its subsidiaries and their respective directors, officers, agents and employees harmless from and against any suits and causes of actions, claims, losses, liability, damages, costs and expenses, including without limitation, any costs or liability on account of bodily injury, death or personal injury of any person or for damage to or loss of property, any environmental obligation, and any legal fees in any way arising out of acts or omissions to act related to the Project or this Agreement, without requirement that LACMTA first pay such claim. The obligations set forth in this section shall survive termination of this Agreement.

12.4 Neither party hereto shall be considered in default in the performance of its obligation hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, acts of a public enemy, and government acts beyond the control and without fault or negligence of the affected party. Each party hereto shall give notice promptly to the other of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this Agreement.

12.5 Grantee shall comply with and insure that work performed under this Agreement is done in compliance with Generally Accepted Accounting Principles (GAAP), all applicable provisions of federal, state, and local laws, statutes, ordinances, rules, regulations, and procedural requirements including Federal Acquisition Regulations (FAR), and the applicable requirements and regulations of LACMTA. Grantee acknowledges responsibility for obtaining copies of and complying with the terms of the most recent federal, state, or local laws and regulations, and LACMTA requirements, including any amendments thereto.

12.6 Grantee agrees that those sections of this Agreement marked with an asterisk shall be included in every contract entered into by Grantee or its contractors relating to work performed under this Agreement and LACMTA shall have the right to review and audit such contracts.

12.7 Grantee shall not assign this Agreement, or any part thereof, without prior approval of the LACMTA Chief Executive Officer or his designee, and any assignment without said consent shall be void and unenforceable at the option of LACMTA.

12.8 This Agreement shall be governed by California law. 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.

12.9 The covenants and agreements of this Agreement shall inure to the benefit of, and shall be binding upon, each of the parties and their respective successors and assigns.

12.10 Grantee will advise LACMTA prior to any key Project staffing changes.

12.11 Grantee in the performance of the work described in this Agreement is not a contractor nor an agent or employee of LACMTA. Grantee attests to no organizational or personal conflicts of interest and agrees to notify LACMTA immediately in the event that a conflict, or the appearance thereof, arises. Grantee shall not represent itself as an agent or employee of LACMTA and shall have no powers to bind LACMTA in contract or otherwise.