

MEETING DATE: 11/10/08

AGENDA ITEM: Approval to Exchange Federal Surface
Transportation Program - Local Funds (STPL) for
Flexible Los Angeles County Metropolitan
Transportation Authority STP-L Local
Transportation Funds

ATTACHMENTS

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Enclosure B

EXCHANGE AGREEMENT AND ASSIGNMENT OF FEDERAL SURFACE
TRANSPORTATION PROGRAM – LOCAL FUNDS

This Exchange Agreement and Assignment of Federal Surface Transportation Program – Local Funds (“AGREEMENT”), is made and entered into as of October 8, 2008, by and between Culver City (the “CITY”) and the Los Angeles County Metropolitan Transportation Authority (“LACMTA”).

RECITALS:

- A. CITY is eligible for and has available Federal Surface Transportation Program-Local funds (the “STP-L Funds”).
- B. CITY desires to exchange \$ 712,572 of CITY’s STP-L Funds for a like amount of LACMTA STP-L Local Transportation Funds (the “LACMTA Funds”).
- C. LACMTA is willing to exchange \$ 712,572 in LACMTA Funds for a like amount of CITY’s STP-L Funds subject to the terms and conditions contained herein.
- D. An exchange of CITY’s STP-L Funds with LACMTA Funds is beneficial to and in the general interest of CITY and LACMTA.

NOW THEREFORE, in consideration of the mutual benefits to be derived by CITY and LACMTA and of the promises contained herein, it is hereby agreed as follows:

AGREEMENT:

- 1. CITY hereby assigns to LACMTA \$ 712,572 of CITY’S STP-L Funds. LACMTA shall be authorized to deduct such amount from CITY’s STP-L Fund balance. This assignment shall be automatically effective upon full execution of this AGREEMENT without the necessity of the execution, delivery or recording of any further instrument whatsoever. Notwithstanding the foregoing, at LACMTA’s request, CITY shall execute and deliver such documents and instruments as may be required to evidence such assignment of STP-L Funds.
- 2. LACMTA hereby accepts CITY’s assignment of CITY’s STP-L Funds for use on Federal-aid-eligible project(s), to be determined by LACMTA in its sole and absolute discretion.
- 3. Upon receipt of (i) a fully executed AGREEMENT, (ii) CITY’s written certification of the amount of CITY’s STP-L Fund Balance, as defined herein, which CITY’s STP-L Fund Balance shows that CITY has sufficient STP-L funds to meet its obligations hereunder, and (iii) LACMTA’s deduction of the CITY’s STP-L Funds as

provided in paragraph 1 above, LACMTA shall pay CITY \$ 698,321 of LACMTA Funds which includes the deduction for the processing fee described in paragraph 5 below . For purposes of this AGREEMENT, the CITY's STP-L Fund Balance shall mean the amount of funds contained in CITY's STP-L Fund account as of the date this AGREEMENT is fully executed plus CITY's FY2009 apportionment share of STP-L Funds. If the STP-L Fund Balance is insufficient to satisfy CITY's exchange obligations hereunder, CITY hereby authorizes LACMTA to deduct from CITY's future STP-L Funds until LACMTA has in the aggregate received the amount of CITY's STP-L Funds specified in paragraph 1 above.

4. LACMTA will make all disbursements electronically unless an exception is requested in writing. CITY must complete an Automated Clearing House (ACH) form as provided in Exhibit A. Disbursements via ACH will be made at no cost to CITY.

5. CITY shall pay LACMTA a two (2) percent processing and administrative fee ("Processing Fee") in connection with the exchange contemplated by this AGREEMENT. The Processing Fee shall be assessed against the total amount of LACMTA Funds payable to CITY. The CITY hereby authorizes LACMTA to deduct the Processing Fee from the amount LACMTA is to pay CITY hereunder.

6. CITY shall expend the LACMTA Funds on STP-L Eligible Projects within three (3) years from the date this Agreement is fully executed. For purposes of this Agreement, STP-L Eligible Projects shall mean any transportation capital improvements that would normally qualify for the STP-L program, provided however, any federal regulations and standards relating to procurement and other project delivery issues that might apply may be substituted with applicable state and local regulations, standards and policies; and "expend" as used in this section shall mean that the LACMTA Funds have been encumbered by an awarded contract.

7. LACMTA, and/or its designee, shall have the right to conduct audits of CITY'S use of the LACMTA Funds to determine compliance with terms and conditions of this AGREEMENT. CITY shall establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). CITY shall reimburse LACMTA for any expenditure not in compliance with this AGREEMENT. CITY's records shall include, without limitation, any supporting evidence deemed necessary by LACMTA to substantiate CITY's use of LACMTA Funds. These records must be retained by CITY for three years following CITY's last use of the LACMTA Funds.

8. The term of this AGREEMENT shall commence on the date this AGREEMENT is fully executed and, shall terminate once the CITY has expended all the LACMTA Funds and all LACMTA audit and reporting requirements have been satisfied.

9. CITY shall fully indemnify, defend and hold LACMTA and its officers, agents and employees harmless from and against any liability and expenses, including, without limitation, defend costs, any costs or liability on account of bodily injury, death or

personal injury of any person or for damages of any nature whatsoever arising out of (i) a breach of CITY's obligations under this AGREEMENT; or (ii) any act or omission of CITY or its officers, agents, employees, contractors or subcontractors in the use of the LACMTA Funds.

10. LACMTA shall fully indemnify, defend and hold CITY and its officers, agents and employees harmless from and against any liability and expenses, including, without limitation, defend costs, any costs or liability on account of bodily injury, death or personal injury of any person or for damages to or loss of risk of property, any environmental obligations, any legal fees and any claims for damages of any nature whatsoever arising out of (i) a breach of LACMTA's obligations under this AGREEMENT; or (ii) any act or omission of LACMTA or its officers, agents, employees, contractors or subcontractors in the use of CITY'S STP-L Funds.

11. This AGREEMENT may be amended or modified only by mutual written consent of LACMTA and CITY.

12. Any correspondence, communication, or contact concerning this AGREEMENT shall be directed to the following:

CITY:

LACMTA:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, California 90012
Attn: Frank Flores

13. This AGREEMENT shall be interpreted and governed by the laws of the State of California.

14. This AGREEMENT constitutes the entire understanding between the parties with respect to the subject matter herein.

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IN WITNESS WHEREOF, the parties hereto have caused this AGREEMENT to be executed by their respective officers as of the date stated below.

CITY:

[INSERT CITY NAME]

By: _____

Name: _____

Its: _____

Date: _____

LACMTA:

Los Angeles County Metropolitan Transportation Authority

By: _____

ROGER SNOBLE
Chief Executive Officer

DATE

Approved as to form:

Raymond G. Fortner, Jr.
County Counsel

By: _____

DEPUTY