

## TOD Planning Grant Program Round 5

### GRANT AGREEMENT

This Grant Agreement ("Agreement") is dated [INSERT PROCESSING START DATE] for reference purposes only, and is by and between the Los Angeles County Metropolitan Transportation Authority ("LACMTA") and [INSERT GRANTEE NAME] ("Grantee") for [INSERT PROJECT TITLE] - LACMTA Transit Oriented Development (TOD) Planning Grant Program ID# 9200000000TOD17XX as described in this Agreement and the attachments hereto ("Project").

WHEREAS, August 1, 2017, the County of Los Angeles ("County") adopted a policy establishing evaluation criteria for proposed Enhanced Infrastructure Financing District (EIFD) and Community Revitalization and Investment Authority (CRIA) projects in the formation of limited tax increment financing districts.

WHEREAS, LACMTA Board of Directors, approved at its meeting on April 27, 2017, the release of Round 5 TOD Planning Grant Program and Guidelines which included the Transit Supportive Planning Toolkit and the creation of the Transit Oriented Communities (TOC) Tax Increment Financing (TIF) Pilot Program.

WHEREAS, as part of Round 5 of the TOD Planning Grant Program, the LACMTA Board of Directors, at its meeting on [INSERT APPROVAL DATE], authorized a grant to Grantee, as part of the TOC TIF Pilot Program, subject to the terms and conditions contained in 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 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 Schedule and Budget
4. Attachment B - Scope of Work
5. Attachment C - Reporting and Expenditure Guidelines
6. Attachment D - Quarterly Progress/Expense Report
7. Attachment E - TOD Planning Grant Program and Lapsing Guidelines
8. Attachment F - The County's EIFD/CRIA Board adopted Policy

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

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: \_\_\_\_\_  
Phillip A. Washington  
Chief Executive Officer

APPROVED AS TO FORM:

MARY C. WICKHAM  
County Counsel

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

GRANTEE:

[INSERT GRANTEE NAME]

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[INSERT NAME]  
[INSERT TITLE]

APPROVED AS TO FORM (OPTIONAL):

[INSERT GRANTEE'S LEGAL COUNSEL'S SIGNATURE BLOCK IF APPROPRIATE]

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[INSERT NAME]  
[INSERT TITLE]

**PART I**  
**SPECIFIC TERMS OF THE AGREEMENT**

1. The Title of the Project is [INSERT PROJECT TITLE] - LACMTA TOD Planning Grant Program ID# 9200000000TOD17[XX].
2. To the extent the Funds are available, LACMTA shall make to Grantee a one-time grant of Measure R 2% System Improvement and/or Measure R 3% Metrolink, based on Project eligibility and funds available, in the amount of \$[INSERT GRANT AMOUNT] (the "Funds") for the Project in accordance with the terms of this Agreement. LACMTA Board of Directors' action of [INSERT APPROVAL DATE] 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/Expense Report, Attachment D.
4. Grantee shall contribute the Grantee Funding Commitment (local match), if any, to the Project in the amounts and toward the Scope of Work, all as specified in Attachment A. In each Quarterly Progress/Expense Report (Attachment D), Grantee shall report on the use of the local match which should be consistent with Attachment A. 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 9 and 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.
5. Grantee shall complete the Project as described in the "Scope of Work," attached to this Agreement as **Attachment B**. The Scope of Work includes a description of the Project and a detailed description of the work and tasks to be completed, including project deliverables, by Grantee. Project work shall adhere to the Project Schedule and Budget attached to this Agreement as **Attachment A**, consistent with the most recently adopted LACMTA TOD Planning Grant Guidelines that includes lapsing policies is referenced collectively, the "Guidelines" attached to this Agreement as **Attachment E**. If Grantee is consistently behind schedule in meeting milestones or in delivering the Project, in accordance with Attachments A and E, then LACMTA shall have the option to terminate this Agreement for default as described in Part II, Sections 9 and 10 and deobligate funds as described in Part II Section 8.
6. Eligible Project expenses are defined in the Reporting and Expenditure Guidelines attached to this Agreement as **Attachment C**. The form of the Quarterly Progress/Expense Report is attached as **Attachment D**. LACMTA shall withhold five percent (5%) of eligible expenditures per invoice as retention pending an audit of expenditures and completion of the Scope of Work (Attachment B).
7. The duration of the grant, as evidenced in **Attachment A**, shall be thirty-six (36) months and all eligible costs shall be incurred during this period. Pursuant to Section IX in the Guidelines, the funds may be deobligated if the Project is not completed within thirty-six

(36) months from the fully executed agreement date. To the extent this Agreement is inconsistent with any term of the Guidelines, the Guidelines shall govern.

8. Grantee shall ensure that the grant-funded work is focused on studying the feasibility of forming TIF Districts related to EIFD and CRIA, or another comparable TIF program that examines areas around transit station(s) that are supported by a Transit Supportive Regulatory document. Additionally, Grantee shall adhere to the County’s EIFD/CRIA board policies and criteria (**Attachment F**). If upon review of the Quarterly Progress/Expense Report (Attachment D), LACMTA finds that the Project study does not adhere to the County’s Board policies or its boundaries which are inconsistent with scope of work (Attachment B) and transit supportive regulatory plan that supports TOD principles, LACMTA may find Grantee to be in default and shall have the remedies as described in Part II, Section 9 and 10. LACMTA may also deobligate funds as described in PART II, Section 8.

9. Amendments to this Agreement shall be in writing executed by the parties. No changes to the (i) grant amount, (ii) Project Funding, (iii) Scope of Work (Attachment B), or (iv) 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. Notwithstanding the forgoing, Grantee may transfer funds between line items within the Scope of Work and Budget or make non-material schedule changes, subject to LACMTA written approval without a formal amendment to this Agreement. In order to transfer funds or make non-material schedule changes, Grantee shall submit a memo to LACMTA describing (i) the amount of proposed transfer of funds, and between which line items; (ii) how the proposed transfer will affect the Scope of Work; and (iii) how the Scope of Work and deliverables are still achievable if the proposed transfer is effectuated. LACMTA will have fifteen (15) working days to approve or disapprove the proposed change, and such approval or disapproval may be provided either by written memo or by email.

10. Notice shall 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 at 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  
Attention: Desiree P. Rabinov, 23<sup>nd</sup> Floor, Mail Stop 99-23-4  
One Gateway Plaza  
Los Angeles, CA 90012

Grantee's Address:

[INSERT GRANTEE NAME]  
Attention: [RESPONSIBLE STAFF PERSON’S NAME, EMAIL ADDRESS]  
[ADDRESS 1]  
[CITY, STATE, ZIP]

**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 (Attachment B) 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 termination date.

### 2. INVOICE BY GRANTEE:

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

Send invoices with supporting documentation to:

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

Re: LACMTA Agreement# 9200000000TOD17XX

Attention: Desiree P. Rabinov, 23<sup>rd</sup> Floor, Mail Stop 99-23-4

### 3. USE OF FUNDS:

3.1 Grantee shall utilize the Funds to complete the Project as described in the Scope of Work (Attachment B) and in accordance with the Reporting and Expenditure Guidelines (Attachment C) and the most recently adopted Guidelines (Attachment E). 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 above and beyond the approved Scope of Work (Attachment B).

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 may change budgetary amount per task within the Scope of Work (Attachment B), subject to LACMTA approval as set forth in Part I, Section 9 hereof.

3.5 Grantee's employees, 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.

#### 4. **DISBURSEMENT OF FUNDS:**

4.1 Grantee shall submit the Quarterly Progress/Expense Report (Attachment D) within forty-five (45) days after the close of each quarter. Should Grantee fail to submit such reports within ten (10) days of the due date or if Grantee submits incomplete reports, LACMTA will not reimburse Grantee until the completed required reports are received, reviewed, and approved. The Quarterly Progress/Expense Report (Attachment D) shall include all appropriate supporting documentation (such as contractor invoices, timesheets, receipts, etc.) as set forth in the Guidelines. All supporting documents must include a clear justification and explanation of their relevance to the Project. If no activity has occurred during a particular quarter, Grantee will still be required to submit the Quarterly Progress/Expense Report (Attachment D), indicating that no dollars were expended that quarter. If a request for reimbursement exceeds \$500,000 in a 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/tod/>.

4.4 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.

4.5 Any Funds expended by Grantee prior to the execution of this Agreement by LACMTA shall not be reimbursed.

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

5.1\*<sup>1</sup> LACMTA and/or its designee shall have the right to conduct audits of the Project, as it deem 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 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 period 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 Expense Guidelines (Attachment C) 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 Reports/Expense Report (Attachment D) 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"). Grantee's 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 3 years following final payment under this Agreement. Payment of retention amounts shall not occur until after the LACMTA's final audit is completed.

---

<sup>1</sup> See Part II Section 12.6 for asterisk



5.3\* Grantee shall cause all contractors to comply with the requirements of this 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 TOD Planning 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 materially out of compliance with other terms and conditions as defined by this Agreement and the Guidelines, including the access to records provisions of this Part II, Section 5.

5.7\* 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.

5.8 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.

5.9 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 (Attachment B) to allow project completion with other funds available to Grantee. LACMTA shall have the right to review and approve or reject any proposed changes to the Scope of Work (Attachment B).

7.4 If at any time, Grantee receives outside funding for the Project in addition to the Funds identified in the Scope of Work (Attachment B) at the time this grant was awarded, this Agreement shall be amended to reflect such additional funding. If, at the time of final invoice, 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 as specified in the Scope of Work (Attachment B), and the Funds required for the Project shall be reduced accordingly.

## 8. TIMELY USE / RECERTIFICATION / DEOBLIGATION OF FUNDS:

8.1 Grantee must demonstrate timely use of the Funds and effective implementation of project scope of work by:

- (i) Executing this Agreement within sixty (60) days of receiving formal transmittal of the Agreement from LACMTA.
- (ii) Meeting the Project milestone and deliverable due dates as stated in the Project Schedule and Budget (Attachment A) and Scope of Work (Attachment B).
- (iii) Timely submitting of the Quarterly Progress/Expense Reports (Attachment D) as defined in Part II, Section 2 of this Agreement and the Reporting and Expenditure Guidelines (Attachment C); and
- (iv) Expending funds granted within thirty-six (36) months from the date the Grant Agreement is fully executed.
- (v) Procuring contract/consultant to complete grant Scope of Work (Attachment B) within six (6) months of agreement execution with LACMTA.
- (vi) Notifying LACMTA as soon as grantee is aware of any changes and circumstances which alter the eligibility of the Board approved project.

If Grantee fails to meet any of the above conditions, the project shall be considered lapsed and will be submitted to the LACMTA Board of Directors for deobligation.

8.2 In the event that the timely use of the Funds and effective implementation of the project scope of work is not demonstrated as described in Part II, Section 8.1 of this Agreement, the Project will be reevaluated by LACMTA as part of its annual budget recertification of funds and TOD Planning Grant Program deobligation process. 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 (Attachment B) 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; or (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 Scope of Work (Attachment B) 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 to commit to cure the Default and commence the cure 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 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.

11.2 For purposes of this Agreement, "Communications Materials" include, but are not limited to community outreach materials, press events, public and external newsletters, printed materials, advertising, websites radio and public service announcements, electronic media, and construction site signage, as well as the plan or other primary deliverables funded by the Grant. A more detailed definition of "Communications Materials" is found in the Funding Agreement Communications Materials Guidelines.

11.3 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.

11.4 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.

11.5 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 PROGRAM 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 officer 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 and 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 damage to or loss of property, any environmental obligation, and any legal fees, in any way arising out of the acts or omissions to act related to Project or this Agreement, without requirement that LACMTA first pay such claims.

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 ensure 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, 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** and the Guidelines 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 To ensure that future development is designed and constructed to allow for continuous safe operations of the transit network, the Grantee shall consult with Metro throughout the approval and permitting process for proposed development or construction within 100 feet of Metro's right-of-way and shall obtain Metro's written concurrence that such development or construction is compatible with Metro's transit planning and operations.

Furthermore, the Grantee shall include the following language in all Transit Supportive Regulatory Documents funded by the Grant Agreement:

*“The Los Angeles County Metropolitan Transportation Authority (Metro) shall be notified of any planned development or construction activities on properties that are within 100 feet of Metro right-of-way (ROW) property line. Metro must be provided the opportunity early in the entitlement process to review plans and comment, if necessary, to ensure that the project does not impact the safe operation of Metro transit service and/or compromise Metro infrastructure. As the project design advances, Metro may review construction drawings and work plans for potential impacts to the Metro system and to ensure safe operation of cranes, overhead loads, excavation, drainage, worker safety, and other construction activities.*

*Projects adjacent to Metro ROW should include a setback from the Metro property line to accommodate construction and maintenance activities on the private property. Developers should not assume that Metro will grant a right-of-entry permit for construction or maintenance activities on Metro property. For this reason, Metro recommends a minimum five (5) foot setback from the adjacent Metro property line.”*

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

12.9\* 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.

12.10 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 assignees.

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

12.12 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.

12.13 Grantee is required to share their proposed draft RFP, draft consultant contract and draft regulatory documents to LACMTA project staff prior to City approval.

12.14 Quarterly briefings will be conducted with Metro staff throughout the project schedule at significant milestones, i.e., kick off meetings, draft documents, outreach events and committee approvals, etc.

12.15 Grantee shall demonstrate that it can meet project milestones and stay within the budget identified in this Agreement. If at the time Grantee has expended seventy-five percent (75%) of the Grant Funds and Grantee has not demonstrated that the work is sufficiently complete consistent with this Agreement. LACMTA's Project Manager will notify Grantee's Project Manager through written notice that payments will cease until a mutually agreed-to cost control plan is in place. In the case of insufficient funds to complete the Project, no further payments will be made and Grantee will identify and secure additional funds to complete the project identified in Attachment A.