

Council Meeting of
November 20, 2007

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Public Works - Approval of Amendment No. 1 to Memorandum of Understanding MOU.P0008082 with the Los Angeles County Metropolitan Transportation Authority for the Hawthorne Boulevard at Sepulveda Boulevard Intersection Capacity Enhancement. Expenditure: None

RECOMMENDATION

The Public Works Director recommends that the City Council approve Amendment No. 1 to Memorandum of Understanding MOU.P0008082 with the Los Angeles County Metropolitan Transportation Authority to extend the lapsing date for the grant funds from June 30, 2007 to June 30, 2008 for the Hawthorne Boulevard at Sepulveda Boulevard Intersection Capacity Enhancement.

Funding

Not Applicable.

BACKGROUND AND ANALYSIS

In May 2005, the City Council approved Memorandum of Understanding MOU.P0008082 ("MOU") with the Los Angeles County Metropolitan Transportation Authority ("METRO") to provide grant funds in the amount of \$302,082 for the Hawthorne Boulevard at Sepulveda Boulevard Intersection Capacity Enhancement. The project provided a designated westbound right-turn lane on Sepulveda Boulevard at the intersection with Hawthorne Boulevard. For cost effectiveness, construction was combined with the Sepulveda Boulevard Rehabilitation (Hawthorne Boulevard to west City limit), T-48 and completed in September 2007.

The original MOU identified June 30, 2007 as the lapse date for the grant funds. However, in May 2007, staff notified METRO that additional time (4 months) was needed to complete the work. METRO had no objections, but indicated that an amendment would be needed to extend the lapse date for the grant funds. Therefore, METRO prepared Amendment No. 1 to Memorandum of Understanding MOU.P0008082 with the METRO (Attachment A) which extends the lapse date for the grant funds until June 30, 2008. There are no other changes to the original MOU (Attachment B).

All work associated with the Hawthorne Boulevard at Sepulveda Boulevard Intersection Capacity Enhancement has been completed and with approval of Amendment No. 1 to the MOU, staff will be able to request from METRO the final reimbursement of construction costs associated with the grant funds.

Respectfully submitted,

ROBERT J. BESTE
Public Works Director



By: Craig Bilezerian
Project Manager

CONCUR:



Robert J. Beste
Public Works Director



LeRoy J. Jackson
City Manager

Attachments: A. Amendment No. 1 to Memorandum of Understanding MOU.P0008082
B. Memorandum of Understanding MOU.P0008082

AMENDMENT No. 1 TO MEMORANDUM OF UNDERSTANDING
BETWEEN CITY OF TORRANCE AND
THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

This Amendment No. 1 to Memorandum of Understanding (this "Amendment"), is dated as of September 18, 2007, by and between City of Torrance ("Grantee"), and the Los Angeles County Metropolitan Transportation Authority ("MTA").

RECITALS:

A. Grantee and MTA entered into that certain Memorandum of Understanding No. MOU.P0008082, dated March 1, 2005, (the "Existing MOU"), which Existing MOU provides for the Hawthorne Boulevard at Sepulveda Boulevard Intersection Capacity Enhancements; and

B. Whereas, MTA Board in Report 11 dated July 18, 2007 authorized the amendment of the lapsing date of funds programmed for ALL Fiscal years to June 30, 2008; and

C. Grantee and MTA desire to amend the Existing MOU as provided herein.

AGREEMENT:

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Part 2, Paragraph 8.1(iv) of the Existing MOU is hereby amended by deleting it in its entirety and replacing it with the following: "Funds programmed for FY 2004-05 are subject to lapse on June 30, 2008. Grantee shall expend these Funds by the lapsing date".

2. Part 1, Paragraph 8 of Existing MOU is hereby amended to change MTA's project manager to Fulgene Asuncion, MS: 99-22-3.

3. Except as expressly amended hereby, the Existing MOU remains in full force and effect as originally executed. All rights and obligations of the parties under the Existing MOU that are not expressly amended by this Amendment shall remain unchanged.

IN WITNESS WHEREOF, the parties have caused this Amendment No. 1 to be duly executed and delivered as of the above date.

CITY OF TORRANCE

Frank Scotto
Mayor

Date: _____

Approved as to form:

John L. Fellows
City Attorney

Date: _____

ATTEST:

Sue Herbers
City Clerk of the City of Torrance

Date: _____

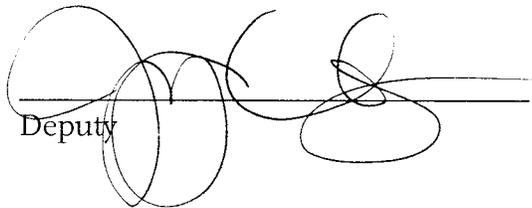
LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY

Roger Snoble
Chief Executive Officer

Date: _____

Approved as to form:

Raymond G. Fortner, Jr.
County Counsel


Deputy

Date: 10/16/07

MOU.P0008082
 FTIP#: LAOC8082

**CALL FOR PROJECTS
 PROPOSITION C
 MEMORANDUM OF UNDERSTANDING**

This Memorandum of Understanding ("MOU") is dated for reference purposes only March 1, 2005, and is by and between the Los Angeles County Metropolitan Transportation Authority ("MTA") and City of Torrance ("Grantee") for Hawthorne Boulevard at Sepulveda Boulevard Intersection Capacity Enhancements, MTA Call for Projects ID #8082 and FTIP #LAOC8082 (the "Project").

WHEREAS, as part of the 2001 Call for Projects, the MTA Board, at its meeting on July 26, 2001, authorized a grant to Grantee, subject to the terms and conditions contained in this MOU.

NOW, THEREFORE, the parties hereby agree as follows:

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

1. Part I - Specific Terms of the MOU
2. Part II - General Terms of the MOU
3. Attachment A - Programmed Budget
4. Attachment B - Financial Plan
5. Attachment C - Scope of Work
6. Attachment D - Reporting and Expenditure Guidelines
7. Attachment D1 - Quarterly Progress/Expenditure Report

In the event of a conflict, the Special Grant Conditions, if any, shall prevail over the Specific Terms of the MOU and the Specific Terms of the MOU shall prevail over the General Terms of the MOU.

C 2005-084

COPY

Call for Projects – Hawthorne Blvd. At Sepulveda Blvd. Capacity Enhancements, Project #8082; Memorandum of Understanding (MOU); MOU.P0008082

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

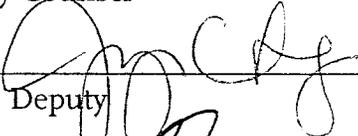
MTA:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

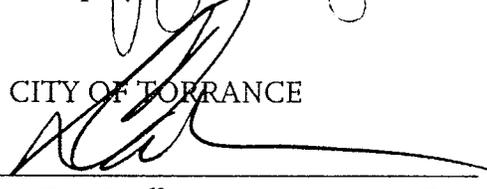
By:  7-1-05
Roger Snoble Date
Chief Executive Officer

APPROVED AS TO FORM:

Raymond G. Fortner, Jr.
County Counsel

By:  3/22/05
Deputy Date

GRANTEE: CITY OF TORRANCE

By:  5/18/05
Dan Walker Date
Mayor

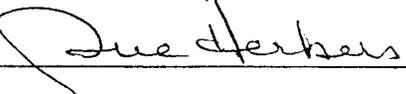
APPROVED AS TO FORM:

John L. Fellows
City Attorney

By:  5/18/05
Date

ATTEST:

Sue Herbers
City Clerk of the City of Torrance

By:  5/19/05
Date

PART I
SPECIFIC TERMS OF THE MOU

1. Title of the Project (the "Project"): HAWTHORNE BOULEVARD AT SEPULVEDA BOULEVARD CAPACITY ENHANCEMENTS

2. To the extent the Funds are available, the MTA shall make to Grantee a one-time grant of the funds in the amount of: \$302,082 (the "Funds") for the Project. MTA Board action of February 26, 2004, granted the Funds to Grantee for the Project for one year, Fiscal Year (FY) 2004-2005.

3. This one time grant shall be paid on a reimbursement basis. The Grantee must provide the appropriate supporting documentation with the Quarterly Progress/Expenditure Report. Grantee Funding Commitment must be spent in the appropriate proportion to the Funds with each quarter's expenditures. The MTA will withhold ten percent (10%) of the grant amount as retainage pending an audit of expenditures and completion of scope of work.

4. The Programmed Budget (the "Programmed Budget") documents the sources of funds programmed for the Project as approved by the MTA and is attached to this MOU as Attachment A. The Programmed Budget includes the total programmed budget for the Project, including funds programmed by the MTA and the Grantee Funding Commitment (local match). The Programmed Budget also includes the fiscal years in which all funds for the Project are programmed.

5. The Financial Plan (the "Financial Plan") documents the proposed cash flow for the Project and is attached to this MOU as Attachment B. The Financial Plan is the entire financial plan for the Project, and shows the total sources of funds programmed to the Project, including the Grantee Funding Commitment for this Project as well as the fiscal year and quarter the funds for the Project will be expended. To the extent Grantee updates the Financial Plan, such update shall be submitted to the MTA Project Manager and provided MTA concurs with such updated Financial Plan in writing, Attachment B shall be automatically replaced with the latest MTA approved Financial Plan.

6. Grantee shall complete the Project as described in the Scope of Work. The Scope of Work (the "Scope of Work") for the Project is attached to this MOU as Attachment C. The Scope of Work includes a description of the Project and a detailed description of the work to be completed including, Project milestones consistent with the lapsing policy. The Scope of Work also includes a set schedule, which must be adhered to. Work shall be delivered in accordance with that schedule unless otherwise agreed to by the parties in writing. If a Grantee is consistently behind schedule in meeting milestones or in delivering the Project, then MTA will have the option to

Call for Projects – Hawthorne Blvd. At Sepulveda Blvd. Capacity Enhancements, Project #8082; Memorandum of Understanding (MOU); MOU.P0008082

terminate this MOU for default as described in Part II, Section 9. **No changes in the Project schedule will be allowed without written concurrence from the MTA.**

7. No changes to the (i) grant amount, (ii) Programmed Budget, (iii) the Scope of Work, or (iv) the lapse date of the Funds shall be allowed without a written amendment to this MOU, approved and signed by the MTA Chief Executive Officer or his/her designee and the Grantee. Modifications that do not materially affect the terms of this MOU, such as redistributing Funds among existing budget line items or non-material schedule changes must be formally requested by the Grantee and approved by the MTA in writing. Non-material changes are those changes, which do not affect the grant amount, Programmed Budget, Financial Plan, the Scope of Work or the lapse date of the Funds.

8. MTA's Address:

Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012
Attention: Mr. Alan E. Patashnick, Project Manager-South Bay Area Team

9. Grantee's Address:

Craig Bilezerian, Project Manager
City of Torrance
Public Works Department—Engineering Division
20500 Madrona Avenue
Torrance, CA 90503

10. MAINTENANCE OF EFFORT -- MOE

On September 26, 2002, the MTA Board decided that prior to receiving Proposition C 10% or 25% grant funds through the Call for Projects, Grantee must meet a Maintenance of Effort (MOE) requirement consistent with the California Streets and Highways Code Section 2182.1. With regard to enforcing the MOE, the MTA will follow the State of California MOE requirement, including, without limitation, suspension and re-implementation.

PART II
GENERAL TERMS OF THE MOU

1. **TERM:**

1.1 The term of this MOU shall commence on the date this MOU is fully executed and, shall terminate upon the occurrence of all of the following, unless terminated earlier as provided herein: (i) the date the agreed upon Scope of Work has been completed and signed-off by the MTA Project Manager; (ii) all MTA audit and reporting requirements have been satisfied; and (iii) the final disbursement of the Funds has been made to the Grantee. All eligible Project expenses as defined in the Reporting and Expenditure Guidelines (Attachment D), incurred after the MOU is executed shall be reimbursed in accordance with the terms and conditions of this MOU unless otherwise agreed to by the parties in writing.

1.2 **Should MTA determine there are insufficient Funds available for the Project, MTA may terminate this MOU by giving written notice to Grantee at least thirty (30) days in advance of the effective date of such termination. If this MOU is terminated pursuant to this section, MTA will not reimburse Grantee any costs incurred after the termination date, except those necessary to return any facilities modified by the Project's construction to a safe state. The MTA's share of these costs will be consistent with the established funding percentages outlined in the MOU.**

2. **INVOICE BY GRANTEE:** Unless otherwise stated in this MOU, the Quarterly Progress/Expenditure Report, with supporting documentation of expenses and Project progress as described in Part II, Sections 5.1 of this MOU, and other documents as required, shall satisfy MTA invoicing requirements.

Send invoice with supporting documentation to:

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

Re: MTA Project ID# 8082 and MOU.P0008082
Mr. Alan E. Patashnick, Project Manager

3. **USE OF FUNDS:**

3.1 The 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 (Attachment D) and the most recently adopted MTA Proposition C Guidelines for the type of Proposition C funds granted by the MTA hereunder (the "Guidelines").

3.2 Attachment C shall constitute the agreed upon Scope of Work between MTA and the Grantee for the Project. The Funds, as granted under this MOU, can only be

used towards the completion of the Scope of Work originally adopted by the MTA Board. Any Scope of Work changes must be approved in writing by the MTA.

3.3 Grantee shall not use the Funds to substitute for any other funds or projects not specified in this MOU. Nor shall the Funds be used for any expenses or activities above and beyond the approved Scope of Work (Attachment C) without an amendment to the MOU approved and signed by the MTA Chief Executive Officer or his designee.

3.4 The 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, the MTA requires that such activities be procured in accordance with the Grantee's contracting procedures and consistent with State law. The Grantee will also use the Funds in the most cost-effective manner when the Funds are used to pay "in-house" staff time. This effective use of funds provision will be verified by the MTA through on-going Project monitoring and through any interim audits and the MTA final audit.

3.5 If Grantee desires to use the Funds to purchase/lease equipment (i.e., vehicles, computers, etc.) necessary to perform or provide the services disclosed in the Scope of Work, Grantee must obtain MTA's written consent prior to purchasing/leasing specific equipment. Equipment purchased/leased without such prior written consent shall be deemed an unallowable expenditure of the Funds. If a facility, equipment (such as computer hardware or software), vehicle or property, purchased or leased using the Funds, ceases to be used for the proper use as originally stated in the Scope of Work, or the Project is discontinued, any Funds expended for that purpose must be returned to the MTA as follows: the Grantee will be required to repay the Funds in proportion to the useful life remaining in accordance with the Guidelines and in an equal proportion of the grant to Grantee Funding Commitment ratio.

4. **DISBURSEMENT OF FUNDS:** Disbursements shall be based on a reimbursement basis in accordance with the Quarterly Progress/Expenditure Report. If the MTA makes disbursements by wire transfer at the written request of Grantee, a fee of twenty-five dollars per transfer will be deducted from each disbursement. The Grantee must provide the appropriate supporting documentation with its Quarterly Progress/Expenditure Report. Grantee Funding Commitment must be spent in the appropriate proportion to MTA Funds with each quarter's payment.

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

5.1 Grantee shall submit the Quarterly Progress/Expenditure Report 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 10 days of the due date and/or submit incomplete reports, MTA will not reimburse Grantee until the completed required reports are received, reviewed, approved and reconciled to the Financial Plan. The Quarterly Progress/Expenditure Report shall include all appropriate documentation (such as contractor invoices, timesheets, receipts, etc.). 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/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.

5.2 MTA, and/or its designee, shall have the right to conduct audits of the Project, as needed, such as financial and compliance audits; interim audits; pre-award audits and performance audits. MTA will commence a final audit within six months of formal notification by the Grantee of completion of the scope of work; provided, however, the Project must be ready for final audit (meaning all costs and charges have been paid by the Grantee and invoiced to the MTA, and such costs, charges and invoices are properly documented and summarized in the accounting records to enable an audit without further explanation or summarization). 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 the MTA for any expenditure not in compliance with the Scope of Work and/or not in compliance with other terms and conditions as defined by this MOU and the Guidelines. When applicable, MTA shall consider the Federal Acquisition Regulations (FAR) to determine whether costs incurred are allowable. The findings of the MTA audit are final. When MTA audit findings require Grantee to return monies to MTA, Grantee agrees to return the monies within thirty (30) days after the final audit is sent to the Grantee.

5.3 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 the MTA 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 the MTA auditors or authorized representatives to the extent deemed necessary by the MTA to adequately permit evaluation of expended costs. Such records subject to audit shall also include, without limitation, those records deemed necessary by the MTA 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 years following final payment under this Agreement.

5.4 Grantee shall cause all contractors to comply with the requirements of Part II, Section 5, paragraphs 5.2 and 5.3 above. Grantee shall cause all contractors to cooperate fully in furnishing or in making available to the MTA records which 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 the MTA auditors or authorized representatives related to the Project.

5.5 The MTA or any of its duly authorized representatives, upon reasonable written notice shall be afforded access to all of the records of the 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.

5.6 The MTA or any of its duly authorized representatives, upon reasonable written notice, shall have access to the offices of the Grantee and its contractors, shall have access to all necessary records, including reproduction, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the terms and conditions of this MOU.

5.7 In addition to the MTA's other remedies as provided in this MOU, the MTA shall withhold the Funds and/or recommend not to award future Call for Projects grants to Grantee if the MTA audit has determined that Grantee failed to comply with the Scope of Work (such as misusing Funds or failure to return Funds owed to the MTA in accordance with the MTA audit findings) and/or is severely out of compliance with other terms and conditions as defined by this MOU and the Guidelines, including the access to records provisions of Part II, Section 5.

6. **ONE TIME GRANT:** 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 the MTA.

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

7.1 **The obligation for MTA to grant the Funds for the Project is subject to sufficient Funds being made available for the Project by the MTA Board. If such Funds are not made available for the Project, this MOU shall be void and have no further force and effect, and MTA shall have no obligation to provide the Funds for the Project, unless otherwise agreed to in writing by the MTA.**

7.2 Grantee shall fully fund and contribute the Grantee Funding Commitment, as identified in the Program Budget (Attachment A), towards the cost of the Project. If the Funds identified in Attachment A are insufficient to complete the Project, Grantee agrees to secure and provide such additional non-MTA programmed funds necessary to complete the Project.

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

7.4 Grantee shall be eligible for the Funds up to the grant amount specified in Part I, Section 2 of this MOU subject to the terms and conditions contained herein and in the Guidelines. **Any Funds expended by Grantee prior to the execution of this MOU (prior to the MTA Chief Executive Officer's signature) shall not be reimbursed nor shall they be credited toward the Grantee Funding Commitment requirement, without the prior written consent of the MTA. Grantee Funding Commitment funds expended prior to the year the Funds are awarded shall be spent at Grantee's own risk.**

7.5 If the Grantee receives outside funding for the Project in addition to the Funds identified in the Programmed Budget at the time this grant was awarded, this MOU shall be amended to reflect such additional funding. If, at the time of final voucher, funding for the Project (including the Funds, the Grantee Funding Commitment, 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 MOU as specified in the Programmed Budget and both the Funds and the 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 MOU within ninety (90) days of receiving formal transmittal of the MOU from MTA, or by December 31 of the first Fiscal Year in which the Funds are programmed, whichever date is later; and
- (ii) meeting the Project milestones due dates as agreed upon by the MTA and Grantee in Attachment C (Scope of Work) of this MOU. 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 the MTA 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
- (iii) submitting the Quarterly Progress/Expenditure Report as described in Part II, Section 5.1 of this MOU; and
- (iv) expending the Funds granted under this MOU for allowable costs within 36 months from July 1 of the Fiscal Year in which the Funds are programmed, unless otherwise stated in this MOU. All Funds programmed for FY 2004-2005 are subject to lapse by June 30, 2007.

If the Grantee fails to meet any of the above conditions, the Project shall be considered lapsed and will be submitted to the MTA Board for deobligation. **Expenses that are not invoiced within 60 days after the lapsing date are not eligible for reimbursement.**

8.2 In the event that the timely use of the Funds is not demonstrated as described in Part II, Section 8.1 of this MOU, the Project will be reevaluated by the MTA as part of its annual Call for Projects Recertification/Deobligation process and the Funds may be deobligated and reprogrammed to another project by the MTA Board. **If one year of Project funding is lapsed, subsequent year(s) funding will also be lapsed, effectively deobligating the**

entire Project. In the event that all the Funds are reprogrammed, this MOU shall automatically terminate.

9. **DEFAULT:** A Default under this MOU 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 fails to perform satisfactorily or makes a material change, as determined by the MTA at its sole discretion, to the Financial Plan, the Scope of Work, or the Programmed Budget without the MTA's prior written consent or approval as provided herein.

10. **REMEDIES:**

10.1 In the event of a Default by Grantee, the MTA 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 to the satisfaction of the MTA, the MTA shall have the following remedies: (i) MTA may terminate this MOU; (ii) the MTA may make no further disbursements of Funds to the Grantee; and/or (iii) the MTA may recover from Grantee any Funds disbursed to Grantee prior to and after the Default that are disallowed by the MTA audit.

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

10.3 The remedies described herein are non-exclusive. The MTA 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. **MARKETING AND MEDIA:**

11.1 The Grantee shall coordinate with the MTA regarding all Project-related publicity (such as literature, advertisements, brochures, video, radio and public service announcements, construction site signs, press releases, and all other materials related to the Project) proposed to be used by the Grantee for advertising or public relations purposes prior to publication. The Grantee shall not allow MTA-related copy to be published in its advertisements and public relations programs without prior coordination with the MTA.

11.2 Grantee shall notify MTA Media Relations of all press events related to the Project in such a manner that allows MTA to participate in such events, at MTA's sole discretion.

11.3 Grantee agrees that all literature, advertisements, brochures, video, radio, and public service announcements, press releases, construction site or permanent signs,

any software developed with the Funds and all other materials relating to the Project and/or distributed to the public will contain recognition of the MTA's contribution as well as the approved METRO logo. If applicable, Grantee agrees to display the METRO logo on its buses, shuttle buses, vans, and taxis utilized for services provided under the Project. The METRO logo is a trademark of the MTA that shall be reproduced and displayed in accordance with specific graphic guidelines available from the MTA Design Studio. Grantee agrees to follow directions of the MTA Design Studio to comply with this Section of the MOU.

12. OTHER TERMS AND CONDITIONS:

12.1 This MOU, along with its Attachments and the Guidelines, constitutes the entire understanding between the parties, with respect to the subject matter herein. The MOU shall not be amended, nor any provisions or breach hereof waived, except in writing signed by the parties who agreed to the original MOU 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 MOU as though fully set forth herein.

12.2 If applicable, Grantee is obligated, to continue using the Project dedicated to the public transportation purposes for which the Project was initially approved. The Project right-of-way, the Project facilities constructed or reconstructed on the Project site, and/or Project property purchased excluding construction easements and excess property (whose proportionate proceeds shall be distributed in an equal proportion of the grant to Grantee Funding Commitment ratio) shall remain dedicated to public transportation use in the same proportion and scope and to the same extent as described in this MOU. Equipment acquired as part of the Project, including office equipment, transit vehicles, shall be dedicated to that use for their full economic life cycle, including any extensions of that life cycle achieved by reconstruction, rehabilitation, or enhancements.

12.3 In the event that there is any legal court (e.g., Superior Court of the State of California, County of Los Angeles, or the U.S. District Court for the Central District of California) proceeding between the parties to enforce or interpret this MOU, 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.

12.4 Neither the MTA nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason to 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 and subcontractors under this MOU. Grantee shall fully indemnify, defend and hold the MTA, 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 any claims for damages of any nature whatsoever arising out of the Project, including without limitation: (i) misuse of the Funds by Grantee, or its officers, agents, employees or subcontractors; (ii) breach of the Grantee's obligations under this MOU; or (iii) any act or

omission of the Grantee, or its officers, agents, employees or subcontractors in the performance of the work or the provision of the services, in connection with the Project including, without limitation, the Scope of Work, described in this MOU.

12.5 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 MOU.

12.6 Grantee shall comply with and insure that work performed under this MOU 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 the MTA. Grantee acknowledges responsibility for obtaining copies of and complying with the terms of the most recent federal, state, or local laws and regulations and MTA requirements including any amendments thereto.

12.7 Grantee agrees that the applicable requirements of this MOU and the Guidelines shall be included in every contract entered into by Grantee or its contractors relating to work performed under this MOU and the MTA shall have the right to review and audit such contracts.

12.8 Grantee shall not assign this MOU, or any part thereof, without prior approval of the MTA Chief Executive Officer or his designee, and any assignment without said consent shall be void and unenforceable.

12.9 This MOU shall be governed by California law. If any provision of this MOU 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 MOU shall inure to the benefit of, and shall be binding upon, each of the parties and their respective successors and assigns.

12.11 If any software/Intelligent Transportation Systems (“ITS”) is developed with the Funds and if Grantee ceases to use the software/ITS for public purposes or Grantee sells, conveys, licenses or otherwise transfers the software/ITS, MTA shall be entitled to a refund or credit, at MTA’s sole option, equivalent to the amount of the Funds spent developing the software/ITS. Such refund or credit shall not be required, subject to MTA 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.

12.12 Grantee will advise the MTA prior to any key Project staffing changes.

Call for Projects – Hawthorne Blvd. At Sepulveda Blvd. Capacity Enhancements, Project #8082; Memorandum of Understanding (MOU); MOU.P0008082

12.13 Notice will be given to the parties at the address specified in Part I, unless otherwise notified in writing of change of address.

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

Call for Projects – Hawthorne Blvd. At Sepulveda Blvd. Capacity Enhancements, Project #8082; Memorandum of Understanding (MOU); MOU.P0008082

ATTACHMENT C

SCOPE OF WORK

[NOTE TO GRANTEE: PLEASE BE SURE THAT YOUR SCOPE OF WORK AND PROJECT MILESTONES ARE CONSISTENT WITH THE LAPSING POLICY STATED IN PART II SECTION 8.1.]

Call for Projects – Hawthorne Blvd. At Sepulveda Blvd. Capacity Enhancements, Project #8082; Memorandum of Understanding (MOU); MOU.P0008082

ATTACHMENT E

SPECIAL GRANT CONDITIONS

[NOTE TO GRANTEE: IF APPLICABLE: PLEASE BE SURE THAT YOUR SPECIAL CONDITIONS ARE SPECIFIC TO YOUR PROJECT AND ARE OUTSIDE OF THE BOILER PLATE LANGUAGE]

ATTACHMENT A

Hawthorne Blvd./Sepulveda Blvd. Capacity Enhancements--PID# 8082

**Call for Projects - Memorandum of Understanding (MOU)
PROGRAMMED BUDGET - SOURCES OF FUNDS**

(Call for Projects Funding and Local Match Only)

SOURCES OF FUNDS	FY 2003-04	FY 2004-05	FY 2005-06	FY 2006-07	FY 2007-08	TOTAL BUDGET	% OF BUDGET
MTA Programmed Funds:							
Proposition C 10%							
Proposition C 25%		\$302,082				\$302,082	65.0%
Local Transportation Funds (LTF)							

Grantee Funding Commitment (specify type)							
Local Dollars--Proposition C20%		\$162,660				\$162,660	35.00%
Call for Projects Funding							
Local Match*							

TOTAL PROGRAMMED BUDGET		\$464,742				\$464,742	100.0%

* Current Call requires a 20% local monetary match for the Call for Projects process.

ATTACHMENT B

CFP ID#8082--Hawthorne Blvd./Sepulveda Blvd. Inter. Capacity Enhanc.

Call for Projects - Memorandum of Understanding (MOU)

FINANCIAL PLAN

SOURCES OF FUNDS	PRIOR ALLOCATION	FY 2005 3rd QTR	FY 2005 4th QTR	FY 2006 1st QTR	FY 2006 2nd QTR	FY 2006 3rd Qtr	FY/ QTR	FY/ QTR	FY/ QTR	FUTURE REQUEST	TOTAL BUDGET
LOCAL											
Proposition C 5%											
Proposition C 10%											
Proposition C 25%			\$20,000	\$40,000	\$121,041	\$121,041				\$121,041	\$423,123
Proposition C 40%											
Local Match-Prop C 20%			\$10,860	\$21,000	\$65,400	\$65,400				\$65,400	\$228,060
Other (Specify Source)											
STATE											
STIP											
Other (Specify Source)											
FEDERAL											
CMAQ											
RSTP											
FTA 5307 (Section 9)											
FTA Section 3											
Other (Specify Source)											
TOTAL BUDGET			\$30,860	\$61,000	\$186,441	\$186,441					\$464,742

ATTACHMENT C

**HAWTHORNE BLVD. AT SEPULVEDA BLVD. INTERSECTION
CAPACITY ENHANCEMENT PROJECT
CITY OF TORRANCE, CA**

PROJECT DESCRIPTION/SCOPE

The proposed project would widen Sepulveda Blvd at the intersection with Hawthorne Blvd to provide a designated westbound right-turn lane. Improvements include roadway widening of Sepulveda Blvd (north side) including: new curb and gutter and pavement section, relocation of drainage facilities; a low retaining wall; installation of two new traffic signal poles with associated electrical wiring; relocation of one existing traffic signal pole and associated wiring; new signing and striping; and landscape restoration. The new right-turn lane would reduce delays at the intersection by making the existing through lanes more efficient in moving westbound traffic, as well as accommodating the high demand for right-turns.

For the purposes of the Letter of No Prejudice, the \$162,660 will be allocated to the Design task for \$74,315 and to a portion of the Construction task in the amount of \$88,345.

PROJECT BUDGET COMPONENT BREAKDOWN & SCHEDULE

<u>Task</u>	<u>Schedule</u>	<u>Cost</u>
Design	January 2005 – May 2005	\$74,315
Environmental	Completed: January 2005	\$0
Right-Of-Way	Not in Scope	\$0
Advertise for Bid/Award Contract	May 2005 – June 2005	\$0
Construction	June 2005 – November 2005	\$354,500
Construction Engineering	June 2005 – November 2005	\$35,927
Total Non-Reimbursable Cost		\$162,660
Total Reimbursable Cost		\$302,082
Total Project Cost		\$464,742

PROJECT MILESTONES

<u>Quarter Ending</u>	<u>Milestones</u>
03/30/05	Award consultant contract for design engineering services. Initiate design.
06/30/05	Complete design. Advertise for construction. Construction bid opening.
06/30/05	Award Construction Contract. Start Construction.
12/30/05	Construct widening, relocation of utilities, traffic signal modifications and striping.
03/30/06	Project completion.

MOU ATTACHMENT D
REPORTING & EXPENDITURE GUIDELINES

REPORTING PROCEDURES

- Quarterly Progress/Expenditure Report (Attachment D1) is required for all projects. The Grantee shall be subject to and comply with all applicable requirements of the funding agency regarding project-reporting requirements. In addition, Grantee will submit a quarterly report to the MTA at **P.O. Box 512296, Los Angeles, CA 90051-0296**. Please note that letters or other forms of documentation may not be substituted for this form.
- The Quarterly Progress/Expenditure Report covers all activities related to the project and lists all costs incurred. It is essential that Grantee provide complete and adequate response to all the questions. The expenses listed must be supported by appropriate documentation with a clear explanation of the purpose and relevance of each expense to the project. Expenses must reflect the proportionate share of local match, including in-kind, charged to the grant.
- In cases where there are no activities to report, or problems causing delays, clear explanation, including actions to remedy the situation, must be provided.
- Grantees are required to track and report on the project schedule. MTA will monitor the timely use of funds and delivery of projects. Project delay, if any, must be reported each quarter. Projects not delivered in a timely manner will be reevaluated by MTA as part of the annual Call for Projects Recertification process and the Funds may be deobligated and reprogrammed by the MTA Board.
- The Quarterly Progress/Expenditure Report is due to the MTA as soon as possible after the close of each quarter, but no later than the following dates for each fiscal year:

<i>Quarter</i>	<i>Report Due Date</i>
July –September	November 30
October - December	February 28
January - March	May 31
April - June	August 31

Upon completion of the Project a final report that includes project's final evaluation must be submitted.

EXPENDITURE GUIDELINES

- Any activity or expense charged above and beyond the approved Scope-of-Work (LOA Attachment C), **is considered ineligible** and will not be reimbursed by the MTA unless **prior written authorization** has been granted by the MTA Chief Executive Officer or his designee.
- Any expense charged to the grant or local match, including in-kind, must be clearly and directly related to the project.
- Any activity or expense charged as local match cannot be applied to any other MTA-funded or non-MTA-funded projects; activities or expenses related to a previously funded project cannot be used as local match for the current project.
- Administrative cost is the ongoing expense incurred by the Grantee for the duration of the project and for the direct benefit of the project as specified in the Scope-of-Work (Attachment C). Examples of administrative costs are personnel, office supplies, and equipment. As a condition for eligibility, all costs must be necessary for maintaining, monitoring, coordinating, reporting and budgeting of the project. Additionally, expenses must be reasonable and appropriate to the activities related to the project.
- MTA is not responsible for, and will not reimburse any costs incurred by the Grantee prior to the execution of the LOA, unless **written authorization** has been granted by the MTA Chief Executive Officer or her designee.
- The LOA is considered executed when the MTA Chief Executive Officer or her designee signs the document.

DEFINITIONS

- **Local Participation:** Where local participation consists of “in-kind” contributions rather than funds, the following contributions may be included:
 - Costs incurred by a local jurisdiction to successfully complete the project. Examples include engineering, design, rights-of-way purchase, and construction management costs.
 - Donations of land, building space, supplies, equipment, loaned equipment, or loaned building space dedicated to the project.
 - Donations of volunteer services dedicated to the project.
 - A third-party contribution of services, land, building space, supplies or equipment dedicated to the project.

- Allowable Cost: To be allowable, costs must be reasonable, recognized as ordinary and necessary, consistent with established practices of the organization, and consistent with industry standard of pay for work classification.
- Excessive Cost: Any expense deemed “excessive” by MTA staff would be adjusted to reflect a “reasonable and customary” level. For detail definition of “reasonable cost”, please refer to the Federal Register *OMB Circulars A-87 Cost Principals for State and Local Governments; and A-122 Cost Principals for Nonprofit Organizations*.
- In-eligible Expenditures: Any activity or expense charged above and beyond the approved Scope-of-Work is considered in eligible.

MTA MOU ATTACHMENT D1

QUARTERLY PROGRESS / EXPENSE REPORT

GRANTEES ARE REQUESTED TO MAIL THIS REPORT TO P.O. Box #512296, Los Angeles, CA 90051-0296 after the close of each quarter, but no later than November 30, February 28, May 31 and August 31. Please note that letters or other forms of documentation may **not** be substituted for this form. Refer to the Reporting and Expenditure Guidelines (Attachment D) for further information.

FOR MTA USE ONLY	
Invoice #	
Invoice Date	
MOU#	
Quarterly Report #	

SECTION 1: QUARTERLY EXPENSE REPORT

Please itemize grant-related charges for this Quarter on Page 5 of this report and **include totals in this Section.**

	MTA Grant \$	Local Match (Incl. In-Kind) \$	Local Match %	Total \$
Project Quarter Expenditure				
This Quarter Expenditure				
Retention Amount				
Net Invoice Amount (Less Retention)				
Project-to-Date Expenditure				
Funds Expended to Date (Include this Quarter)				
Total Project Budget				
% of Project Budget Expended to Date				
Balance Remaining				

SECTION 2: GENERAL INFORMATION

PROJECT TITLE: _____

MOU #: _____

QUARTERLY REPORT SUBMITTED FOR:

Fiscal Year : 2003-2004 2004-2005 2005-2006
 2006-2007 2007-2008 2008-2009

Quarter : Q1: Jul - Sep Q2: Oct - Dec
 Q3: Jan - Mar Q4: Apr - Jun

DATE SUBMITTED: _____

MTA MODAL CATEGORY:

Freeway RSTI Signal Synchronization
 TDM Bikeway Pedestrian
 Transit TEA

MTA Area Team Representative / Project Mgr.	Name:	
	Area Team:	
	Phone Number:	
	e-mail:	

Project Sponsor Contact / Project Manager	Contact Name:	
	Job Title:	
	Department:	
	City / Agency:	
	Mailing Address:	
	Phone Number:	
	e-mail:	

SECTION 3 : QUARTERLY PROGRESS REPORT

1. DELIVERABLES & MILESTONES

List all deliverables and milestones as stated in the MOU, with start and end dates. Calculate the total project duration. **DO NOT CHANGE THE ORIGINAL MOU MILESTONE START AND END DATES SHOWN IN THE 2ND AND 3RD COLUMNS BELOW.**

Grantees must make every effort to accurately portray milestone dates in the original MOU Scope of Work, since this will provide the basis for calculating any project delay. If milestone start and/or end dates change from those stated in the Original MOU Scope of Work, indicate the new dates under Actual Schedule below and re-calculate the project duration. However, this does not change the original milestones in your MOU. **PER YOUR MOU AGREEMENT, ANY CHANGES TO THE PROJECT SCHEDULE MUST BE FORMALLY SUBMITTED UNDER SEPARATE COVER TO THE MTA FOR WRITTEN CONCURRENCE.**

MOU Milestones	Original MOU Schedule in Scope of Work		Actual Schedule	
	Start Date	End Date	Start Date	End Date
Total Project Duration (Months)				

2. PROJECT COMPLETION

% of Project Completed to Date	
--------------------------------	--

A. Based on the comparison of the original and actual project milestone schedules above, project is (select only one) :

- On schedule per original MOU schedule
- Less than 12 months behind original schedule
- Between 12-24 months behind original schedule
- More than 24 months behind original schedule

B. Was the project design started within 6 months of the date originally stated in the MOU?

- Yes
- No
- Not Applicable

C. Was a construction contract or capital purchase executed within 9 months after completion of design / specifications?

- Yes
- No
- Not Applicable

3. TASKS / MILESTONES ACCOMPLISHED

List tasks or milestones accomplished and progress made this quarter.

4. PROJECT DELAY

If project is delayed, describe reasons for delay (this quarter). Pay particular attention to schedule delays. If delay is for the same reason as mentioned in previous quarters, please indicate by writing "Same as Previous Quarter".

5. ACTION ITEMS TO RESOLVE DELAY

If the project is delayed (as described in #4), include action items that have been, or will be, undertaken to resolve the delay.

SECTION 4: ITEMIZED LISTING OF EXPENSES AND CHARGES THIS QUARTER

All expenses and charges, including grant and local match, must be itemized and listed below. Each item listed must be verifiable by an invoice and/or other proper documentation. The total amounts shown here must be equal to this quarter's expenditures listed on page 1 of this report. All expenses and charges must be reflective of the approved budget and rates as shown in the MOU Attachment C, Scope of Work. Use additional pages if needed.

LINE	ITEM	INVOICE	TOTAL EXPENSES/CHARGES	CHARGED TO GRANT	CHARGED TO LOCAL MATCH
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
TOTAL					

Notes:

1. Local match spent in each quarter, must be in the appropriate proportion to MTA grant.
2. All receipts, invoices, and time sheets, attached and included with this Expense Report must be listed and shown under the Invoice Number column of the Itemized Listing (above).

I certify that I am the responsible Project Manager or fiscal officer and representative of _____ and that to the best of my knowledge and belief the information stated in this report is true and correct.

Signature

Date

Name

Title