

Council Meeting of
January 26, 2010

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

Members of the Council:

SUBJECT: Transit – Approve Proposition 1B Transit Modernization Program Bridge Funding Memorandum of Understanding.

RECOMMENDATION:

Recommendation of the Transit Director that City Council approve a Memorandum of Understanding (MOU) with the Los Angeles County Metropolitan Transportation Authority (LACMTA) for the allocation of Proposition 1B Transit Modernization Bridge funds for the period from July 1, 2009 to June 30, 2015.

FUNDING:

None required for this action.

BACKGROUND:

The Public Transportation Modernization, Improvement, and Service Enhancement Account Program (PTMISEA) was created by Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006. Of the nearly \$20 billion available to Transportation, \$3.6 billion dollars was allocated to PTMISEA to be available to transit operators over a ten-year period.

PTMISEA funds may be used for transit rehabilitation, safety or modernization improvements, capital service enhancements or expansions, new capital projects, bus rapid transit improvements, or rolling stock (buses and rail cars) procurement, rehabilitation or replacement. Funds in this account are appropriated annually by the Legislature to the State Controllers Office (SCO) for allocation in accordance with Public Utilities Code formula distributions: 50% allocated to Local Operators based on fare-box revenue and 50% to Regional Entities based on population.

In fiscal year 2007/08, Senate Bill 88 identified the Department of Transportation as the administering agency. The Legislature appropriated \$600 million to the Program. In fiscal year 2008/09 the Legislature extended the procedures in SB 88 for another year, and appropriated \$350 million. The 2009/2010 Governor's Budget includes \$350 million of PTMISEA.

ANALYSIS:

PTMISEA Bond funds are currently frozen due to the State Budget crisis, and will continue to be frozen until bond funding becomes available again. Funding for Torrance Transit is a part of this "frozen" status and we currently await our award from the SCO.

As the regional transit operator, the Los Angeles County Metropolitan Transportation Authority (LACMTA) has agreed to provide bridge funding to municipal transit agencies to make up for the funding freeze and the shortfall in the State Transit Assistance fund (as originally distributed under the Formula Allocation Procedure). Under this Memorandum of Understanding (ATTACHMENT A), Torrance Transit is eligible to receive \$203,413 for Fiscal Year 2009/10.

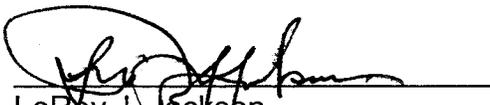
As specified in the agreement, the funds must be used for transit improvement purposes. Once funding is unfrozen, Transit will dedicate these funds to our Fleet Modernization Project (to purchase Hybrid replacement buses) and towards the development of a Regional Transit Center in Torrance.

Respectfully submitted,



Kim Turner
Transit Director

CONCUR:



LeRoy J. Jackson
City Manager

Attachments: A) MOU for Proposition 1B PTMISEA Funds

MOU # MOU.PC09TOR7

**MEMORANDUM OF UNDERSTANDING
FOR
PROPOSITION 1B TRANSIT MODERNIZATION BRIDGE FUNDING**

This Memorandum of Understanding for Proposition 1B Transit Modernization Bridge Funding (“MOU”) is entered into as of July 1, 2009, by and between the Los Angeles County Metropolitan Transportation Authority (“LACMTA”) and City of Torrance (“Grantee”).

WHEREAS, on November 4, 1980, the voters of the County of Los Angeles approved by majority Proposition A, an ordinance establishing a one-half percent sales tax for public transit purposes; and

WHEREAS, on November 6, 1990, the voters of the County of Los Angeles approved by majority Proposition C, an ordinance establishing a one-half percent sales tax for public transit purposes; and

WHEREAS, LACMTA is the agency responsible for administering the Proposition A and Proposition C taxes; and

WHEREAS, the State of California has Proposition 1B Transit Modernization Program (“PTMISEA”) funds which will be allocated to Los Angeles County municipal operators according to the State Transit Assistance Fund (STA) formula. The amount operators would receive under the STA formula may be less than the amount such operator would have received using the current Formula Allocation Procedure (“FAP”) distribution levels; and

WHEREAS, on September 24, 2009, the LACMTA Board approved \$8.3 million in bridge funding as part of the FY 2009 State Proposition 1B Transit Modernization Program for Los Angeles County transit operators to receive Prop 1B funds derived from either available Proposition C 40% Discretionary/Proposition A 40% Discretionary Growth Over Inflation or other available local funds from LACMTA’s FY 10 Budget. Therefore, for those municipal operators whose State allocation of Prop 1B funds is less than the amount such operator would have received using the current FAP Levels, LACMTA will bridge that gap and pay eligible municipal operators funds equal to the difference between such amounts (the “PTMISEA Bridge Funds”); and

WHEREAS, Grantee is an included and/or eligible municipal operator under Prop 1B and pursuant to the LACMTA Board motion is entitled to receive the Funds from LACMTA as provided herein; and

WHEREAS, LACMTA and Grantee desire to agree to the terms and conditions of the grant of PTMISEA Bridge Funds described herein.

NOW THEREFORE, in consideration of the mutual term and conditions contained herein, LACMTA and Grantee hereby agree as follows:

ARTICLE 1 - TERM

- 1.1 This MOU will be in effect from July 1, 2009 through June 30, 2015 unless terminated earlier as provided herein.

ARTICLE 2 - ALLOCATION OF THE FUNDS AND INVOICE PROCEDURE

- 2.1 For FY 2009, to the extent the PTMISEA Bridge Funds are available, LACMTA staff, in conjunction with the Eligible/Included Operators developed two hundred three thousand four hundred and thirteen dollars (\$203,413) as the Grantee's share of the PTMISEA Bridge Funds to be used for Grantee's Eligible Projects, as defined in Section 3.2 below. The allocation for PTMISEA Bridge Funds were developed according to the FAP. PTMISEA Bridge Funding for remaining years of the PTMISEA program is subject to approval by the LACMTA Board.
- 2.2 Subject to allocation of State PTMISEA Funds and availability of local bridge funding, LACMTA will disburse the PTMISEA Bridge Funds authorized by the LACMTA Board after this MOU has been fully executed and Grantee has submitted to LACMTA all of the following: (i) a copy of Grantee's project application/allocation request submitted to Caltrans; (ii) documentation showing that the PTMISEA Bridge Funds are being used to help advance the State's policy goals of providing mobility choices for all residents, reducing congestion, and protecting the environment; and (iii) evidence of Caltrans' approval needed to receive PTMISEA funds from the State Controller, as prescribed by Caltrans' Prop 1B Guidelines. (the "Prop 1B Guidelines").
- 2.3 LACMTA will disburse the PTMISEA Bridge Funds specified in Section 2.1 above after it receives an invoice from Grantee and all required documentation as provided herein. Invoices shall be consistent with the Funding Plan which Grantee submits as part of its allocation request to Caltrans for the PTMISEA funds.

ARTICLE 3 - USE OF FUNDS

- 3.1 Grantee shall utilize the PTMISEA Bridge Funds on State or LACMTA approved Eligible Projects in accordance with the terms and conditions contained herein and in a manner consistent with the State's Prop 1B Guidelines including timely use of funds. Grantee must demonstrate timely use of the PTMISEA Bridge Funds by expending the PTMISEA Bridge Funds granted under this MOU for allowable costs within 36 months from July 1 of the Fiscal Year in which the PTMISEA Bridge Funds are programmed, unless otherwise stated in this MOU. For example, all PTMISEA Bridge Funds programmed for FY 2008 - 09 are subject to lapse by

June 30, 2012, and PTMISEA Bridge Funds programmed for FY 2009 - 10 are subject to lapse by June 30, 2013. PTMISEA Bridge Funds remaining unexpended after the lapse date will revert to LACMTA for reallocation at LACMTA's sole discretion.

- 3.2 "Eligible Projects" are defined as transit capital projects (including a minimum operable segment of a project) which
- (i) has one or more of the following purpose:
 - a. Rehabilitation, safety, or modernization improvements.
 - b. Capital service enhancements or expansions.
 - c. New capital projects.
 - d. Bus rapid transit improvements.
 - e. Rolling stock procurement, rehabilitation or replacement; and
 - (ii) has a useful life not less than the required useful life for capital assets pursuant to the State General Obligation Bond Law, GC Section 16727 (a); and
 - (iii) must be consistent with Grantee's most recently adopted short-range transit plan or publicly adopted plan that programs or prioritizes funds for transit capital improvements, including a transportation improvement program or a certified board endorsement.
- 3.3 If the funds identified in the Funding Plan which Grantee submits as part of its allocation request are insufficient to complete the State or LACMTA approved Eligible Project, Grantee shall secure and provide its own funding necessary to complete the Eligible Project.
- 3.4 Grantee shall be responsible for any and all cost overruns for the State or LACMTA approved Eligible Project.

ARTICLE 4 - AUDIT AND REPORTING REQUIREMENTS

- 4.1 Grantee agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with conditions defined by this MOU. Grantee shall maintain all documents and records related to the State or LACMTA approved Eligible Projects, this MOU and the use of the PTMISEA Bridge Funds for three (3) years after the end of the fiscal year in which the PTMISEA Bridge Funds were expended. LACMTA may audit, as provided, herein, up to three (3) years after the end of the fiscal year in which the PTMISEA Bridge Funds were expended.
- 4.2 Each year, upon completion of the State or LACMTA Approved Eligible Projects funded from Prop 1B Funds and/or the PTMISEA Bridge Funding, Grantee shall

submit a report to LACMTA showing full and final costs of each Eligible Project. To the extent excess PTMISEA Bridge Funds remain, such excess PTMISEA Bridge Funds shall be returned to LACMTA, up to the amount of the PTMISEA Bridge Funds unless allocated to another State or LACMTA approved Eligible Project.

- 4.3 In the event a State or LACMTA approved Eligible Project is cancelled or terminated, all interest and other income earned by the PTMISEA Bridge Fund will be returned to LACMTA unless allocated to another State or LACMTA approved Eligible Project.

ARTICLE 5 – MISCELLANEOUS

- 5.1 This grant shall be a one-time grant subject to the terms and conditions agreed to herein and in the Prop 1B Guidelines. Except as otherwise provided in this MOU, the grant does not imply nor obligate any future funding commitment on the part of LACMTA.
- 5.2 Grantee understands and agrees that in programming the PTMISEA Bridge Funds and entering into this MOU, LACMTA is acting pursuant to its statutory authority and shall have no liability in connection with the use of the PTMISEA Bridge Funds on State or LACMTA approved Eligible Projects. Grantee shall fully indemnify, defend and hold LACMTA, its directors, officers, employee and agents 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, legal fees and any claims for damages of any nature whatsoever arising out of each Eligible Project including, without limitation, (i) any breach of Grantee's obligations under this MOU; (ii) use of the PTMISEA Bridge Funds by Grantee or its officers, agents, employees or subcontractors; (iii) any act or omission of Grantee or its officers, agents, employees, contractors or subcontractors in the performance and/or provision of the State or LACMTA approved Eligible Project(s).
- 5.3 Grantee shall comply with all applicable local, state and federal laws and regulations and the Prop 1B Guidelines in the use of the PTMISEA Bridge Funds and the implementation of the State and LACMTA approved Eligible Projects.
- 5.4 LACMTA reserves the right to terminate this MOU and withhold the PTMISEA Bridge Funds if it is determined that Grantee has not complied with all the terms and conditions contained herein or in the Guidelines.
- 5.5 No amendment or modification to this MOU shall be binding upon either

party unless such amendment or modification is in writing duly executed by both parties. This MOU shall not be amended or modified by any acts or conduct of the parties.

5.6 Grantee is not a contractor, agent or employee of LACMTA. Grantee shall not represent itself as a contractor, agent or employee of LACMTA and shall have no power to bind LACMTA in contract or otherwise.

5.7 This MOU and the Prop 1B Guidelines constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous agreements and understandings.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be duly executed as of the dates below with all the formalities required by law.

CITY OF TORRANCE

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY

By: _____

By: _____

Name: _____

Arthur T. Leahy
Chief Executive Officer

Title: _____

Date: _____

Date: _____

ATTEST:

APPROVED AS TO FORM:

By: _____

Robert E. Kalunian
ACTING COUNTY COUNSEL

Date: _____

By:  _____
Deputy

Date: 11/23/2009

APPROVED AS TO FORM:

JOHN L. FELLOWS III
City Attorney

By: _____

Patrick Q. Sullivan
Assistant City Attorney

Date: _____