

**JOINT EXERCISE OF POWERS  
AGREEMENT**

**AMONG THE COUNTY OF LOS ANGELES, THE BOARD OF TRUSTEES OF THE  
CALIFORNIA STATE UNIVERSITY, AND THE CITIES OF ALHAMBRA, LOS  
ANGELES AND MONTEREY PARK**

This **JOINT EXERCISE OF POWERS AGREEMENT**, dated as of the \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and among the COUNTY OF LOS ANGELES (the "County"), a political subdivision of the State of California, the BOARD OF TRUSTEES OF THE CALIFORNIA STATE UNIVERSITY, the State of California acting in its higher education capacity, on behalf of CALIFORNIA STATE UNIVERSITY, LOS ANGELES ("CAL STATE L.A.") and the cities of ALHAMBRA ("Alhambra"), LOS ANGELES ("Los Angeles"), and MONTEREY PARK ("Monterey Park"), each a municipal corporation of the State of California; collectively known as the Cal State L.A. Metrolink Station Authority ("Authority");

**WITNESSETH:**

**WHEREAS**, the County of Los Angeles, Cal State L.A. and cities of Alhambra, Los Angeles and Monterey Park (collectively the "Contracting Parties") together with the Los Angeles County Metropolitan Transportation Authority ("LACMTA") and the Southern California Regional Rail Authority, entered into that certain Memorandum of Understanding dated as of May 4, 1992, as amended, to provide for the design and construction of a Metrolink train station adjacent to Cal State L.A. ("Station"), on land owned in part by LACMTA and in part by Cal State L.A.; and

**WHEREAS**, when the design and construction of the Station was completed and the Station began operating, Metro initially agreed to provide Station operation and management services until October 31, 1995; and

**WHEREAS**, the Contracting Parties thereafter entered into the original Joint Exercise of Powers Agreement to provide for the continued operation and management of the Station by November 1, 1995 and continuing through September 2015; and

**WHEREAS**, the parties have determined the Station is a valuable public service and the Joint Exercise of Powers Agreement should be continued through and including June 30, 2036;

**NOW THEREFORE**, the Contracting Parties hereby agree as follows:

Section 1. Purpose of Agreement. This Agreement is made pursuant to the provisions of Chapter 5 of Division 7 of Title 1 of the California Government Code, commencing with Section 6500 (the "Act"), for the purpose of continuing through and including June 30, 2036, the jointly exercised powers common to the Contracting Parties, namely the power to operate and manage, or to contribute revenue to the operation and management of, the Station. The powers to be exercised pursuant to this Agreement do not include any power which any of the Contracting Parties might have with respect to the operation or maintenance of trains, tracks or railroad rights-of-way. The terms of this agreement supersede any and all terms described in the Joint Exercise of Powers Agreement effective November 1, 1995 through September 30, 2015.

Section 2. Separate Agency. The Contracting Parties, on the one hand, and the Authority, on the other, agree that the Authority is a separate and distinct entity from any of the Contracting Parties. The Authority shall defend, indemnify and hold harmless the Contracting Parties and each of them and their respective officers, employees, agents, attorneys, and contractors from any and all losses, liabilities, claims, causes of action, costs, expenses and reasonable attorney fees, of whatsoever kind or nature, arising from or in connection with the acts or omissions of the Authority, the condition of or operations involving the Station, or this agreement, including, without limitation, injury to, or death of, any person, or injury or damage or destruction of property.

Section 3. Authority Commission. The Authority shall be governed by a Commission (the "Commission") consisting of one representative of each Contracting Party. The Commission shall include five members, as follows: (1) the Director of Public Works of the County, or his/her designee; (2) the President of Cal State L.A., or his/her designee; (3) the City Manager of Alhambra, or his/her designee; (4) the General Manager of the Department of Transportation of Los Angeles, or his/her designee; and (5) the City Manager of Monterey Park, or his/her designee. Each member of the Commission is hereinafter referred to as a "Commissioner."

Section 4. Meetings of the Commission. The Commission shall hold at least one regular meeting per year, and there shall be such special meetings as the President of the Authority or a quorum of the Commission may request depending on the pressure of business. The date(s) upon which, and the hour and place at which, any regular meeting shall be held shall be fixed by resolution of the Commission; provided, that all meetings shall be held within the County of Los Angeles. A majority of the members of the Commission shall constitute a quorum, and no action other than meeting adjournment shall be taken by the Commission except upon the affirmative vote of a majority of all the members of the Commission.

All meetings of the Commission, including all regular, special and adjourned meetings, shall be called, noticed, held and conducted in accordance with the Ralph M. Brown Act (commencing with section 54950 of the California Government Code).

Section 5. Officers of the Authority. The Authority shall continue to maintain the offices of President, Vice-President, Secretary, Treasurer, and Controller. No Commissioner may hold more than one office simultaneously. The President, Vice-President and Secretary shall be Commissioners. The chief financial officer of Alhambra shall act *ex officio* as the Treasurer and Controller of the Authority.

The President of the Authority shall preside over meetings of the Commission. The Vice-President of the Authority shall preside over meetings of the Commission in the absence of the President. The Secretary of the Authority shall cause minutes of the meetings of the Commission to be kept and shall, promptly after each meeting of the Commission, cause a copy of the minutes of such meeting to be forwarded to each Commissioner. The Commission may appoint one or more deputies to act on behalf of any officer, and each deputy shall have such duties as may be prescribed by the Commission. The officers of the Authority shall, in addition to the duties set forth in this Agreement, have such additional duties as may be prescribed by the Commission.

Section 6. Legal Counsel. The Authority and the Commission may request legal advice from the counsel to any Contracting Party, or from such other counsel as the Commission may employ to represent or advise the Authority or the Commission with respect to any matter.

Section 7. Exercise of Powers. The Authority, acting through the Commission, continues to be authorized to do all acts necessary or desirable to exercise the powers specified in Section I of this Agreement, including but not limited to the following: to obtain any necessary or desirable rights of possession or entry with respect to the Station site, whether by lease, license or otherwise; to make and enter into contracts; to provide for landscaping, maintenance and operation of the Station by contract; to maintain and operate the Station or any portion thereof directly through the personnel of any Contracting Party; to acquire (by purchase, lease, gift or otherwise), hold and dispose of real and personal property; to incur debts, liabilities and other obligations which shall not constitute debts, liabilities or obligations of the Contracting Parties or any of them; to insure or obtain insurance for itself and all of the Contracting Parties; to provide or obtain security services for the station; to sue and be sued in its own name; to defend and indemnify the Contracting Parties; to grant concessions and collect revenue therefrom; and to exercise any other power under the Act, subject only to such restrictions as are imposed upon Cal State L.A. in the exercise of similar powers.

The Commission shall continue to have the power to adopt, implement and revise such rules and regulations as may be necessary or appropriate to effect the purposes of this Agreement and which are not inconsistent with this Agreement, including but not limited to the power to determine the procedure for designation of a designee for any Commissioner.

Section 8. Insurance. The Commission shall continue to maintain, from a company authorized to do business in the State of California, throughout the term of this Agreement, comprehensive general liability insurance coverage protecting the Authority and the Contracting Parties against claims for damages including death, personal injury, bodily injury or property damage arising from the condition of, or operations involving, the Station, or the Authority's activities hereunder.

Such insurance shall provide protection with a combined single limit of not less than \$5 million per occurrence and \$10 million in the aggregate, and shall name each Contracting Party as an additional insured (or loss payee), as its interests may appear.

Section 9. Fiscal Year. The fiscal year of the Authority (the "Fiscal Year") shall commence on July 1 each year and end on June 30 of the following year. The first part of this agreement will begin on October 1, 2015, immediately following expiration of the prior agreement, and end on June 30, 2016. The financial obligation of each party shall be prorated accordingly. Thereafter, each year of this agreement will coincide with the fiscal year, July 1<sup>st</sup> to June 30<sup>th</sup>.

Section 10. Payment or Reimbursement. Not later than 120 days before the beginning of each Fiscal Year, each Contracting Party shall submit to the Commission an estimate of its expenses for such Fiscal Year with respect to the administration of this Agreement. No later than 90 days before the beginning of each Fiscal Year, the Commission shall, by resolution, adopt a budget for the Authority for such Fiscal Year, specifying the amount of expenses for which each Contracting Party may seek reimbursement hereunder. The Commission may, by resolution, revise the Authority's budget at any time during the Fiscal Year, as circumstances warrant. The Authority shall, upon request, pay or reimburse any Contracting Party for its reasonable expenses incurred and payments made in connection with the administration of this Agreement, within the limits established by the Commission in the Authority's annual budget.

Section 11. Financial Contribution. Each Contracting Party shall pay, upon demand, its share of the Authority's annual budgeted expenses, calculated as follows:

<u>Contracting Party</u>	<u>Share</u>
County of Los Angeles	25.0%
Cal State L.A.	17.5%
City of Alhambra	22.5%
City of Los Angeles	22.5%
City of Monterey Park	12.5%

As promptly as possible after the execution of this Agreement, the Commission shall, by resolution, adopt a budget for the first Fiscal Year of the renewed Authority (or the remainder

thereof) and authorize the Authority's Treasurer to invoice the Contracting Parties. Each Contracting Party shall pay the entire amount invoiced within forty-five days of invoice receipt.

Beginning in the first full fiscal year of this agreement, the amount owed by each party shall be increased by five percent (5%) if unpaid after September 1, and an additional five percent (5%) (for a total of ten percent (10%)) if unpaid after November 1st. If any amount remains due after November 1st, the Contracting Party's representative on the Commission shall not be entitled to vote until all amounts owing by such Contracting Party to the Authority are paid; provided, that such Contracting Party's representative on the Commission shall not be disregarded for purposes of establishing a quorum or the minimum number of votes necessary to adopt resolutions.

The penalty increase described above may be waived, in whole or part, by a majority of the remaining Contracting Parties, at any time, at their discretion. Waiver on any occasion, for any reason, shall not be considered a precedent for future waivers and the Contracting Parties are not be obliged to waive any penalty increase(s) in the future based on a prior waiver(s).

In no event shall any Contracting Party be obligated to pay more than \$125,000 under this agreement in any Fiscal Year; provided that such amount shall be adjusted as of each July 1, to reflect the most recent published changes in the consumer price index during the prior 12 months for the Los Angeles-Long Beach SMSA, up to a maximum of five percent (5%) in any Fiscal Year.

The Contracting Parties' individual obligations under this Section 11 shall be satisfied only from lawfully available funds, including but not limited to appropriate bond monies, which have been appropriated for such purpose. Each Contracting Party may, but no Contracting Party shall be obligated to, appropriate its general funds to satisfy its obligations to the Authority. In addition to, or in lieu of, the financial contributions described above, each Contracting Party may contribute services or property to the Authority; provided, that any contribution of services or property made in lieu of cash contributions shall only be allowed in such amounts as may be approved by the Commission, and the Commission shall establish the equivalent cash value of all contributions of services and property made in lieu of cash contributions.

In the event a new member joins the Authority (a "New Member"), the required financial contributions of the Contracting Parties (excluding the New Member) under this Section may be revised by unanimous agreement of the Contracting Parties other than the New Member.

Section 12. Accounts and Reports. The Controller of the Authority shall establish and maintain such funds and accounts as may be required by good accounting practice. The books and records of the Authority in the hands of the Controller shall be open to inspection at all reasonable times by representatives of the Contracting Parties, and shall be retained by the Controller for at least five years. The Controller of the Authority shall, within 180 days after the end of each Fiscal Year, give a complete written report of all financial activities for such Fiscal Year to each Contracting Party. In addition, the Controller of the Authority shall assume the duties required under applicable law, including the duties described in Section 6505 of the Act;

provided, that the Commission shall contract with a certified public accountant or public accountant to make an annual audit of the accounts and records of the Authority.

Section 13. Funds. The Treasurer of the Authority shall have the custody of and disburse Authority funds pursuant to the accounting procedures developed under Section 12 of this Agreement and as nearly as possible in accordance with normal City of Alhambra practices. The Controller and Treasurer of the Authority is the person responsible for all funds and other property of the Authority for purposes of Section 6505.1 of the Act. The Contracting Parties hereby find and determine that the Controller and Treasurer shall be liable on his official bond in the amount of \$50,000, and the cost of such bond shall be reimbursed by the Authority.

Section 14. Term and Disposition of Assets. This Agreement shall expire on June 30, 2036, unless terminated earlier, or extended, by mutual agreement of the Contracting Parties. Upon termination of this Agreement, all property, funds and assets of the Authority shall be conveyed to the Contracting Parties in proportion to their respective financial contributions to the Authority during the immediately preceding period of twelve months (excluding the contributions of any former Contracting Party which withdrew from the Authority during such twelve-month period).

The Commission shall determine the value of all assets distributed in kind, which value shall be conclusive and binding on all parties, absent manifest error.

Section 15. Withdrawal from Authority. During the first five years after execution of this Agreement, no Contracting Party may withdraw from the Authority without the unanimous consent of the entire Commission. Commencing five years after execution of this Agreement, any Contracting Party may withdraw from the Authority for any reason, by giving fourteen (14) months' notice of such withdrawal to the other Contracting Parties. In connection with the withdrawal of any Contracting Party, such Contracting Party shall no longer be entitled to a representative on the Commission, and the provisions of this Agreement shall be deemed amended on the effective date of such withdrawal to reflect such withdrawal. No payment of any kind shall be required to be made by the Authority or any Contracting Party to any withdrawing member, either at the time of withdrawal or upon termination of this Agreement and dissolution of the Authority.

Section 16. Reciprocal Indemnification Among the Contracting Parties. Pursuant to Sections 895.2 and 895.4 of the California Government Code, each Contracting Party (referred to in this Section as an "Indemnifying Party") hereby agrees to defend, indemnify and hold

harmless each other Contracting Party and its officers and employees, against any liability or judgment for damages arising out of the Indemnifying Party's negligence, wrongful act or omission, or willful misconduct in connection with the performance of this Agreement. The provisions of Section 2778 of the California Civil Code are made a part hereof as if incorporated herein.

Section 17. Notices. Notices under this Agreement shall be sufficient if given in writing and sent by regular United States Mail, postage prepaid, addressed as follows:

County: Director of Public Works  
County of Los Angeles  
P.O. Box 1460  
Alhambra, California 91802-1460

Cal State L.A.: University President  
California State University, Los Angeles  
5151 State University Drive  
Los Angeles, CA 90032

Alhambra: City Manager  
City of Alhambra  
111 South First Street  
Alhambra, California 91801

Los Angeles: General Manager  
Department of Transportation  
City of Los Angeles  
221 North Figueroa Street, Suite 500  
Los Angeles, California 90012

Monterey Park: City Manager  
City of Monterey Park  
320 West Newmark Avenue  
Monterey Park, California 91754

Any Contracting Party may change its address for notices by giving notice to the other Contracting Parties in the manner provided in this Section 17.

Section 18. New Members. Any public agency (as defined in Section 6500 of the Act) may join the Authority by executing this Agreement (as amended) and agreeing to abide by its terms, provided the Commission unanimously consents to such New Member. The Commission shall prescribe the amount of money that the New Member shall deposit to join the Authority and its share of the Authority's annual expenses, as a prerequisite to its becoming a New Member. The New Member shall designate its representative to serve as a Commissioner and its address for notices, and the provisions of this Agreement concerning membership of the Commission and the requirements of a quorum shall be deemed amended upon the effective date of admission of the New Member. After admission to the Authority, the New Member shall constitute a Contracting Party for all purposes of this Agreement.

Section 19. Interpretation. Section headings in this Agreement are for reference purposes only and shall not affect its meaning or interpretation. Unless the context clearly requires otherwise, words of the masculine gender include correlative words of the feminine and neutral genders, and words in the singular include the plural and vice-versa.

Section 20. Amendments. Except as otherwise provided herein, this Agreement may be amended only by a written instrument executed by all of the Contracting Parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized, as of the date first above written.

**COUNTY OF LOS ANGELES**

By: \_\_\_\_\_  
Mayor, Board of Supervisors

**ATTEST:**

Patrick Ogawa  
Acting Executive Officer-Clerk of  
the Board of Supervisors

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

**APPROVED AS TO FORM:**

Mark J. Saladino  
County Counsel

By: \_\_\_\_\_  
Senior Deputy

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized, as of the date first above written.

**CITY OF ALHAMBRA**

By: \_\_\_\_\_  
Mary K. Swink, City Manager

**ATTEST:**

By: \_\_\_\_\_  
Lauren Myles, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Joseph Montes, City Attorney

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized, as of the date first above written.

**CITY OF LOS ANGELES**

By: \_\_\_\_\_  
Seleta J. Reynolds, General Manager  
Department of Transportation

**ATTEST:**

City Clerk

By: \_\_\_\_\_  
Holly L. Wolcott, City Clerk

**APPROVED AS TO FORM:**

City Attorney

By: \_\_\_\_\_  
Michael Nagle, Deputy City Attorney IV

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized, as of the date first above written.

**CITY OF MONTEREY PARK**

By: \_\_\_\_\_  
Paul Talbot, City Manager

**ATTEST:**

By: \_\_\_\_\_  
Vincent D. Chang, City Clerk

**APPROVED AS TO FORM:**

By: \_\_\_\_\_  
Mark D. Hensley, City Attorney

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officers thereunto duly authorized, as of the date first above written.

**CALIFORNIA STATE UNIVERSITY, LOS ANGELES**

By: \_\_\_\_\_  
President William A. Covino

**APPROVED AS TO FORM:**

California State University  
Office of General Counsel

By: \_\_\_\_\_  
Victor King, University Counsel