

**AGENDA  
PALOS VERDES PENINSULA TRANSIT AUTHORITY  
REGULAR MEETING  
OCTOBER 23, 2014  
ROLLING HILLS ESTATES CITY HALL, 4045 Palos Verdes Drive North  
Rolling Hills Estates, CA 90274**

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**Time Estimates:** The time noted next to an agenda item is only an estimate of the amount of time that will be spent during the meeting on that particular item. Accordingly, these estimates should not be relied on in determining when a matter will be heard, especially since agenda items are often re-ordered during a meeting and may be discussed at any time.

**4:00 P.M. REGULAR SESSION**

**(5 mins) CALL TO ORDER:**

**ROLL CALL:**

**FLAG SALUTE:**

**CONFIRM POSTING OF THE AGENDA BY ROLLING HILLS ESTATES CITY CLERK:**

**PUBLIC COMMENTS:** (All matters listed under the Consent Calendar are considered to be routine and will be enacted by one vote. There will be no discussion of these items unless members of the Board request specific items to be removed from the Consent Calendar for separate action.

**(5 mins) APPROVAL OF CONSENT CALENDAR:**

1. Minutes of the July 24, 2014 Board Meeting Page 3
2. Register of Standing demands and Previously Authorized demands under Resolution 94/95-01 and per attached listing: Page 6

	Checks	Amount
July	5238-5252	\$128,772.18
August	5253-5277	\$138,597.06
September	5278-5300	\$122,274.99
<b>TOTAL</b>		<b>\$389,644.23</b>

**Recommended Action:** Approve Consent Calendar items

If you need special assistance to participate in an Authority meeting under the Americans with Disabilities Act (ADA) or as a person with limited English proficiency (LEP) under Executive Order 13166, please contact the Secretary (310-544-7108) with request for reasonable accommodation at least forty-eight hours prior to the meeting.

**(10 mins) ADMINISTRATOR REPORT:**

**(45 mins) REGULAR BUSINESS:**

**I. MONTHLY & REGULAR REPORTS**

A. Operations Report Page 8

1. Review of ridership data for the period ending 09/30/14

**Recommendation:** Receive and file report

B. Finance

1. Financial Statements as of September 30, 2014 Page 12

**Recommendation:** Receive and file statements.

**II. NEW BUSINESS**

A. TAP Program Update and Agreements Page 17

**RECOMMENDED ACTION:** Approve Cooperative TAP Participant and TAP Seller Agreements

B. Request for Proposal (RFP) for Transit Services Page 52

**Recommendation:** Receive and file report.

**III. OLD BUSINESS**

C. Bus Advertising Update Verbal

**(5 mins) FUTURE AGENDA ITEMS:** (This section of the agenda is designated for individual Board Members to request that an item be placed on a future PVPTA meeting agenda.)

**(10 mins) CHAIR AND MEMBER ITEMS REPORT:**

A. METRO South Bay Governance Council Update Verbal

B. PVPUSD Update Verbal

**ADJOURNMENT: Rolling Hills Estates City Hall, January 22, 2015**

**DRAFT**  
**MINUTES**  
**PALOS VERDES PENINSULA TRANSIT AUTHORITY**

**Thursday, July 24, 2014**

The meeting was called to order at 4:28 p.m. by Chairperson Susan Brooks at Rolling Hills Estates City Hall, 4045 Palos Verdes Drive North Rolling Hills Estates, CA 90274

**REGULAR SESSION:**

Board roll call was answered as follows:

**PRESENT:** Susan Brooks, John Addleman, Rosemary Humphrey  
**ABSENT:** Anthony Misetich, Britt Huff, Jim Goodhart

Also present were Martin Gombert, PVPTA; RHE; Nicole Jules, RPV; and Sheri-Repp Loadsman, PVE

**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Chairperson Susan Brooks.

**CONFIRM POSTING OF THE AGENDA BY ROLLING HILLS ESTATES CITY CLERK**

City of Rolling Hills Estates confirmed the posting of the Authority Agenda.

**APPROVAL OF CONSENT CALENDAR (1-2):**

Member Addleman moved approval of the Consent Calendar, seconded by Member Humphrey.

The motion passed on the following roll call vote:

**AYES:** Addleman, Brooks, Humphrey  
**NOES:** None  
**ABSENT:** None

**PUBLIC COMMENTS: (Audience Comments regarding Items not on the Agenda)**

None

## MONTHLY AND REGULAR REPORTS:

- A.1 Operations Report: Mr. Gombert presented the operations report for the period ending June 30, 2014. There were several comments by Board Members.

Member Humphrey moved to receive and file the Operations Report, seconded by Member Addleman.

The motion passed on a unanimous vote.

- B.1 Financial Report: Mr. Martin Gombert, Administrator reviewed the financial report for the period ending June 30, 2014. There was discussion.

Member Humphrey moved to receive and file the Operations Report, seconded by Member Addleman.

The motion passed on the following roll call vote:

**AYES:** Addleman, Brooks, Humphrey  
**NOES:** None  
**ABSENT:** None

- B.2 Credit Card Policy: Administrator Gombert presented the Credit Card Acceptance Policy and answered several questions from Board Members.

Member Addleman moved to approve the Credit Card Acceptance Policy, seconded by Member Humphrey.

The motion passed on the following roll call vote:

**AYES:** Addleman, Brooks, Humphrey  
**NOES:** None  
**ABSENT:** None

## NEW BUSINESS

### II.A TAP Mobile Validator MOU & License Agreement

This item was removed from the Agenda.

## **OLD BUSINESS**

### Succession Planning

Administrator Gombert reviewed this item and there was discussion by Board Members.

## **ADMINISTRATOR ITEMS**

None

## **CHAIR AND MEMBER ITEMS**

There was a brief updated on Metro items provided by Member Addleman.

## **ADJOURNMENT**

At 5:18 p.m. Chairperson Brooks moved to adjourn the Board Meeting until October 23, 2014.

**Palos Verdes Peninsula Transit Authority**  
**Checks Written for Month**  
**July 2014**

	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Original Amount</u>	<u>Paid Amount</u>
Jul 14	07/22/2014	5238	Administrative Services Co-Op	June 2014 Dial-A-Ride	\$ (14,118.00)	\$ (14,118.00)
	07/22/2014	5239	Arrowhead Mountain Spring Water	Invoice 140G024293722	-39.11	-39.11
	07/22/2014	5240	AT&T	Phone Charges	-267.00	-267.00
	07/22/2014	5241	Clean Energy	CNG Fuel	-7,991.20	-7,991.20
	07/22/2014	5242	County Sanitation Districts of LA County	Parking Lot Lease	-6,869.33	-6,869.33
	07/22/2014	5243	Gayle Albin-Bailey	Bookkeeping Services	-375.00	-375.00
	07/22/2014	5244	Mutual Liquid Gas & Equipment Co., Inc.	June 2014	-2,938.29	-2,938.29
	07/22/2014	5245	Transportation Concepts Inc.	Fixed Route Transportation	-78,214.74	-78,214.74
	07/22/2014	5246	Verizon California	Phone Charges	-149.99	-149.99
	07/22/2014	5247	Verizon California 310 544-7108	310 544-7108	-148.34	-148.34
	07/22/2014	5248	Verizon California 310 544-7109	310 544-7109	-52.08	-52.08
	07/22/2014	5249	White Wings Cleaning Service	Office Cleaning	-75.00	-75.00
	07/22/2014	5250	Xerox	Copy Services	-52.48	-52.48
	07/22/2014	5251	John Absmeier	DAR Refund	-84.00	-84.00
	07/31/2014	5252	Mobility Advancement Group	Administrative Services for July 2014	-17,397.62	-17,397.62

Jul 14 **\$ (128,772.18)**

	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Original Amount</u>	<u>Paid Amount</u>
Aug 14	08/13/2014	5253	City of Rolling Hills Estates	Temporary Sign Deposit Fee	\$ (25.00)	\$ (25.00)
	08/19/2014	5254	Elaine Allaire	Refund - TaxiCard #070852/PVPTA MS #5670	-60.00	-60.00
	08/19/2014	5255	Administrative Services Co-Op	July 2014 Dial-A-Ride	-17,608.03	-17,608.03
	08/19/2014	5256	Arrowhead Mountain Spring Water	Invoice 14H0024293722	-11.98	-11.98
	08/19/2014	5257	AT&T	Account No. 0206360576001	-115.63	-115.63
	08/19/2014	5258	California Banner and Sign Co	Disabled Customers Sign	-37.25	-37.25
	08/19/2014	5259	Clean Energy	CNG Fuel	-6,969.17	-6,969.17
	08/19/2014	5260	County Sanitation Districts of LA County	September 2014 Parking Lot Lease	-6,869.33	-6,869.33
	08/19/2014	5261	Darold D. Pieper	Invoice 20167, Legal Services	-200.00	-200.00
	08/19/2014	5262	Mutual Liquid Gas & Equipment Co., Inc.	July 2014, Propane Fuel	-1,769.43	-1,769.43
	08/19/2014	5263	NextBus, Inc.	1 Year service	-24,360.00	-24,360.00
	08/19/2014	5264	Office Depot	Account 34585368	-224.19	-224.19
	08/19/2014	5265	Palos Verdes On the Net	Invoice 2014-51 July-Sept	-1,430.00	-1,430.00
	08/19/2014	5266	Pitney Bowes - Purchase Power	Acct. 8000-9090-0212-1536	-1,419.57	-1,419.57
	08/19/2014	5267	Pitney Bowes Global Financial Services	7/20/14-10/20/14	-236.92	-236.92
	08/19/2014	5268	The Artist's Studio	Advertisement	-195.00	-195.00
	08/19/2014	5269	Those Designers	Ridgecrest school route changes	-75.00	-75.00
	08/19/2014	5270	Transportation Concepts Inc.	July Fixed Route Bus Service	-58,635.34	-58,635.34
	08/19/2014	5271	Verizon California	118744825	-149.99	-149.99
	08/19/2014	5272	Verizon California 310 544-7108	310 544-7108	-143.01	-143.01
	08/19/2014	5273	Verizon California 310 544-7109	310 544-7109	-51.82	-51.82
	08/19/2014	5274	Wells Fargo	Acct 4484610002154188	-173.31	-173.31
	08/19/2014	5275	Western Graphix	ID Card Supplies	-133.80	-133.80
	08/19/2014	5276	Xerox	Copy Charges	-302.92	-302.92
	08/31/2014	5277	Mobility Advancement Group	Administrative Services for August 2014	-17,400.37	-17,400.37

Aug 14 **\$ (138,597.06)**

	<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Original Amount</u>	<u>Paid Amount</u>
Sep 14	09/18/2014	5278	Linda Zhang	Refund - 2014 Annual Pass #2357	\$ (590.00)	\$ (590.00)
	09/18/2014	5279	Administrative Services Co-Op	August 2014 Dial-A-Ride	-16,653.00	-16,653.00
	09/18/2014	5280	AT&T	Account No. 0206360576001	-144.09	-144.09
	09/18/2014	5281	Clean Energy	CNG Fuel	-6,920.09	-6,920.09
	09/18/2014	5282	County Sanitation Districts of LA County	October 2014, Parking Lot Lease	-6,869.33	-6,869.33
	09/18/2014	5283	Decals By Design	Invoice 8365 - Bus Graphics	-2,317.62	-2,317.62
	09/18/2014	5284	Gayle Albin-Bailey	July Bookkeeping Services	-150.00	-150.00
	09/18/2014	5285	MFR Graphics	ID Card Supplies	-915.60	-915.60
	09/18/2014	5286	Mutual Liquid Gas & Equipment Co., Inc.	August 2014 Propane Fuel	-2,343.74	-2,343.74
	09/18/2014	5287	Networker Services, Inc.	Invoice 32311, Cable installation	-956.51	-956.51
	09/18/2014	5288	Palos Verdes Peninsula Directory	Senior Transportation Services Ad	-495.00	-495.00
	09/18/2014	5289	Pitney Bowes - Purchase Power	Acct. 8000-9090-0212-1536	-62.31	-62.31
	09/18/2014	5290	Transit Information Products	Schedule Updates	-81.75	-81.75
	09/18/2014	5291	Transportation Concepts Inc.	VOID:	0.00	0.00

**Palos Verdes Peninsula Transit Authority**  
**Checks Written for Month**  
 July 2014

<u>Date</u>	<u>Num</u>	<u>Name</u>	<u>Memo</u>	<u>Original Amount</u>	<u>Paid Amount</u>
09/18/2014	5292	Verizon California	118744825	-149.99	-149.99
09/18/2014	5293	Verizon California 310 544-7108	310 544-7108	-145.52	-145.52
09/18/2014	5294	Verizon California 310 544-7109	310 544-7109	-52.40	-52.40
09/18/2014	5295	Wells Fargo	Acct 4484610002154188	-36.93	-36.93
09/18/2014	5296	Xerox	Copying Charges	-359.43	-359.43
09/26/2014	5298	Drivecam	50% deducted from Transportation Concepts August	-10,212.00	-10,212.00
09/26/2014	5299	Transportation Concepts Inc.	August Fixed Route bus service	-55,424.81	-55,424.81
09/30/2014	5300	Mobility Advancement Group	Administrative Services for September 2014	-17,394.87	-17,394.87
<b>Sep 14</b>					<b>\$ (122,274.99)</b>

## MEMORANDUM

**TO:** AUTHORITY MEMBERS  
**FROM:** Martin Gombert, Administrator  
**DATE:** October 18, 2014  
**SUBJECT:** Operations Report for the period ending September 30, 2014

### PV TRANSIT

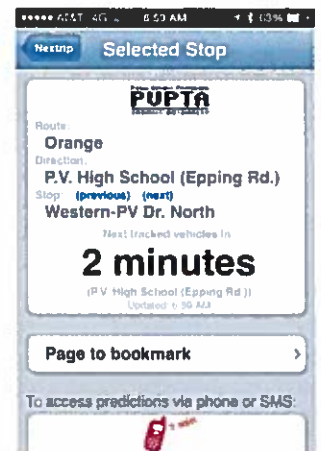
PV Transit ridership for the period ending September 30<sup>th</sup> totaled 27,756, virtually the same as previous year's totals.

Shown below is a summary of ridership by route for September 2014. Ridership has increased significantly on the Silver Route and we have started operating a third PM trip to reduce overcrowding. Last year we experienced overcrowding on the Green Route at the beginning of the year and an extra bus was added in the afternoon. Due to a slight decline in ridership on our busiest route, this extra bus is no longer needed.

	Blue	Gold	Green EV	Green	Silver	White	Orange	225/226	TOTAL
09/14 Passengers	1,527	613	733	5,445	1,383	1,881	2,118	3,731	17,431
09/14 Rev. Hours	227	134	61	494	114	240	106	534	1,911
<b>Passenger Per Hour-September 2014</b>	<b>6.72</b>	<b>4.56</b>	<b>12.08</b>	<b>11.03</b>	<b>12.09</b>	<b>7.82</b>	<b>19.97</b>	<b>6.99</b>	<b>9.12</b>

The Nextbus system has been operating since the start of service in September and has proved an excellent customer relations tool to answer questions on bus service and to investigate service issues.

On October 18<sup>th</sup> Metro contractors are installing TAP Mobile Validators on all buses. Training will be held on October 21<sup>st</sup> and 23<sup>rd</sup> and the system will go live after this time. PV Transit will initially accept Metro EZ Passes, Access passes, and TAP stored value cards. Additional information on the TAP project is presented in another Agenda item.





On the morning of October 3<sup>rd</sup>, we received a request from the Palos Verdes Peninsula Unified School District (PVPUSD) to provide extra bus service for an early release due to high temperatures. This service was provided successfully and the PVPUSD agreed in advance to reimburse the Authority for the cost of this special service.

During the week of October 20<sup>th</sup> PV Transit operated a shuttle for the City of Ranch Palos Verdes to the San Ramon storm drain project ribbon cutting ceremony and a shuttle service for the Candidates Forum held at the Palos Vedes Golf Club.

PV Transit has not experienced any accidents in 2014.

### **DIAL-A-RIDE**

Dial-A-Ride ridership totaled 2,248 for the period ending September 30<sup>th</sup>, a 10% increase over previous year's totals.

Copies of the ridership graphs for both fixed route and dial-a-ride service are attached.

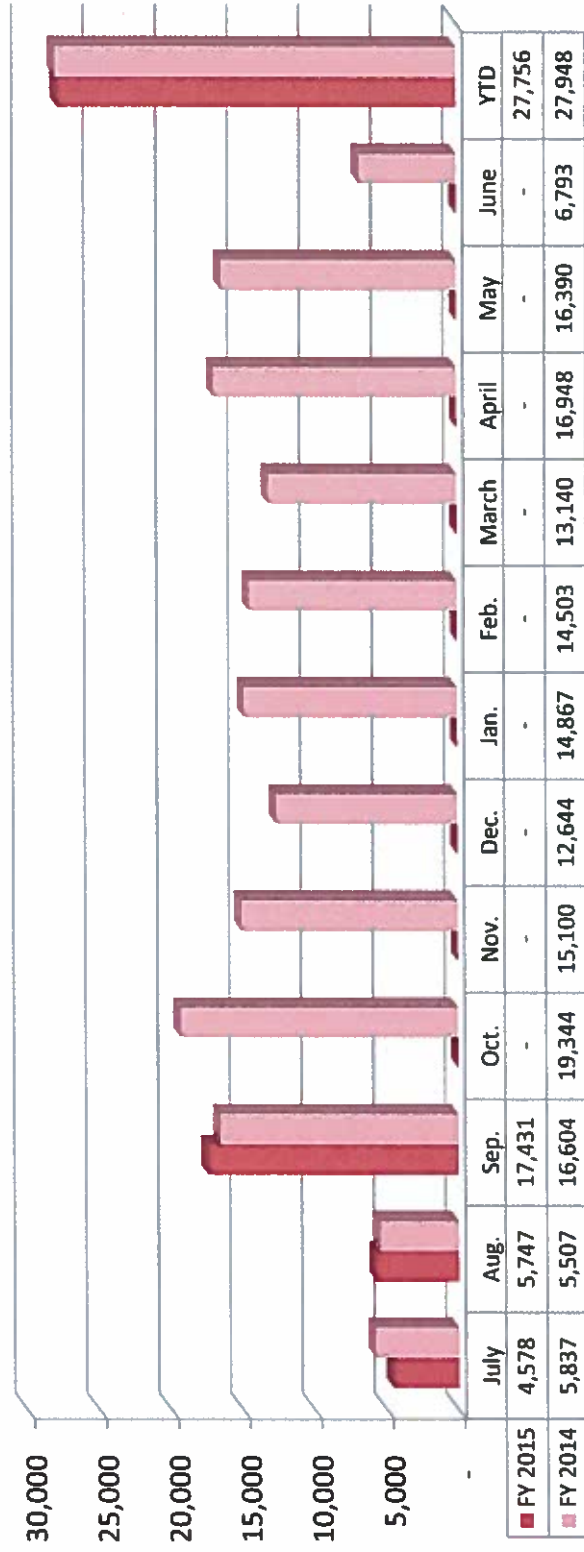
### **GONVERMENT RELATIONS**

During the past three months staff has attended meeting of Metro's Local Transit Service Subcommittee (LTSS), Access Services Board Meetings, and Metro's Bus Operations Subcommittee (BOS).

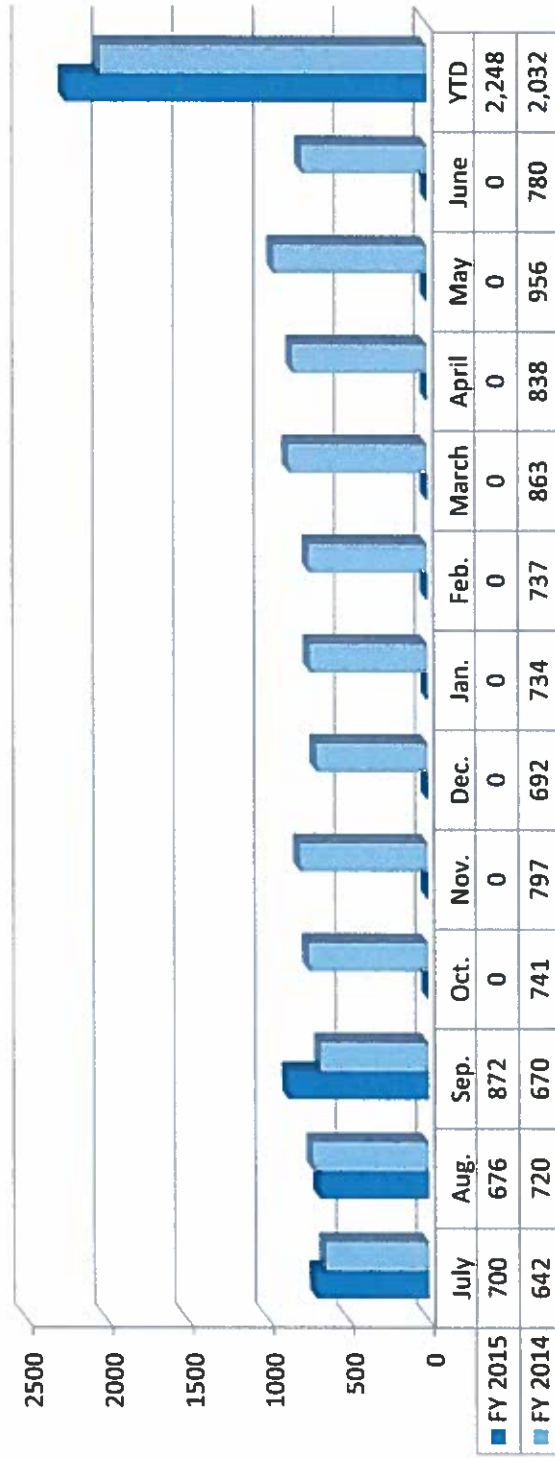
### **RECOMMENDATION**

Receive and file report.

## PV TRANSIT RIDERSHIP



## Dial-A-Ride/Lift Ridership Palos Verdes Peninsula Transit Authority



**MEMORANDUM**

TO: AUTHORITY MEMBERS  
FROM: Martin Gombert, Administrator  
DATE: October 18, 2014  
SUBJECT: Financial Statements for the period ending September 30, 2014

Attached are the *draft* Financial Statements for the period ending September 30, 2014.

The first report presented is Management Analysis-Budget vs. Actual. The results of this report are analyzed below. The following two reports are Profit and Loss YTD Comparison and Balance Sheet generated by the Quick Books accounting software.

**Budget vs. Actual**

Total expenses through September 30, 2014 totaled \$536,322, 1.34% above budgeted amounts.

Fuel expenses totaled \$36,792, 12% above budget. The declining price of natural gas should mitigate these expenses in the next several months. Staff will be applying for the Alternative Fuel Credit (Form 8849) for propane fuel purchased the last half of 2013. This is the final credit we can claim as this tax credit expired on December 31, 2013 and has not been renewed by Congress.

Fixed Route operating fees were \$9,289 above budget (3.64%) due to a slightly higher number of revenue hours operated during the year.

Dial-A-Ride operating fees were 1.35% below budget.

**Charges for Services**

Passenger revenue totaled \$140,264 for the fiscal year. This was \$4,924 above budget (3.64%).

**Government Revenue**

PV Transit is current with all grant payments from Metro and member agencies as of September 30, 2014.

Attachments  
-Financial Statements

**Palos Verdes Peninsula Transit Authority**  
**Management Analysis**  
**Budget vs. Actual**  
**YTD September 30, 2014**

	<u>YTD 9/30/14</u>	<u>Budget</u>	<u>\$ Over Budget</u>	<u>% Diff</u>
<b>Operating Revenue</b>				
<b>Charges for Services</b>				
Fixed Route	\$ 128,314	\$ 122,108	\$ 6,206	5.08%
Dial-A-Ride	\$ 11,950	\$ 13,233	\$ (1,283)	-9.69%
Charters	\$ -	\$ -	\$ -	0.0%
<b>TOTAL OPERATING REVENUE</b>	<b>\$ 140,264</b>	<b>\$ 135,340</b>	<b>\$ 4,924</b>	<b>3.64%</b>
<b>Operating Expenses</b>				
<b>Operator Fees</b>				
Fixed Route	\$ 264,600	\$ 255,311	\$ 9,289	3.64%
Dial-A-Ride	\$ 49,542	\$ 50,219	\$ (677)	-1.35%
<b>Subtotal</b>	<b>\$ 314,141</b>	<b>\$ 305,530</b>	<b>\$ 8,611</b>	<b>2.82%</b>
Contract Administration	\$ 51,853	\$ 52,800	\$ (947)	-1.79%
Fuel Purchases	\$ 36,792	\$ 32,744	\$ 4,048	12.36%
Marketing and Promotions	\$ 2,527	\$ 4,500	\$ (1,973)	-43.85%
Facility Leasing	\$ 19,766	\$ 20,924	\$ (1,157)	-5.53%
Other operating Expenses	\$ 17,734	\$ 16,360	\$ 1,373	8.39%
Depreciation	\$ 93,510	\$ 96,377	\$ (2,867)	-2.97%
<b>Subtotal</b>	<b>\$ 222,181</b>	<b>\$ 223,704</b>	<b>\$ (1,523)</b>	<b>-0.68%</b>
<b>TOTAL EXPENSE</b>	<b>\$ 536,322</b>	<b>\$ 529,234</b>	<b>\$ 7,089</b>	<b>1.34%</b>
<b>OPERATING LOSS</b>	<b>\$ (396,058)</b>	<b>\$ (393,893)</b>	<b>\$ (2,165)</b>	<b>0.55%</b>

**Palos Verdes Peninsula Transit Authority**  
**Profit & Loss**  
July through September 2014

	<u>Jul - Sep 14</u>
<b>Ordinary Income/Expense</b>	
<b>Income</b>	
504.04 · Route 225/226 Operating Support	38,548.00
500.00 · Charges for Services	<u>140,264.17</u>
<b>Total Income</b>	<u>178,812.17</u>
<b>Expense</b>	
621.03 · Facility Leasing	19,766.13
620.00 · Operator fees	314,141.19
660.00 · Marketing and promotions	2,526.75
650.00 · Fuel Purchases	36,791.67
640.00 · Depreciation	93,510.00
630.00 · Contract administration	51,853.11
680.00 · Other Operating Expense	<u>17,733.54</u>
<b>Total Expense</b>	<u>536,322.39</u>
<b>Net Ordinary Income</b>	-357,510.22
<b>Other Income/Expense</b>	
<b>Other Income</b>	
551.01 · LA County Grant	376,000.00
556.00 · MTA Funding	0.00
900.00 · Interest Income	24.65
920.00 · Member contributions	<u>469,254.00</u>
<b>Total Other Income</b>	<u>845,278.65</u>
<b>Net Other Income</b>	<u>845,278.65</u>
<b>Net Income</b>	<u><u>487,768.43</u></u>
<b>Net Assets, Beginning of year</b>	<u>3,042,899.89</u>
<b>Net Assets, Ending of year</b>	<u><u>3,530,668.32</u></u>

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Palos Verdes Peninsula Transit Authority  
**Balance Sheet**  
As of September 30, 2014

	<u>Sep 30, 14</u>
<b>ASSETS</b>	
<b>Current Assets</b>	
<b>Checking/Savings</b>	
101.00 · Cash and cash equivalents	1,062,569.67
<b>Total Checking/Savings</b>	<u>1,062,569.67</u>
<b>Accounts Receivable</b>	
120.00 · Due from other governments	976,052.61
<b>Total Accounts Receivable</b>	<u>976,052.61</u>
<b>Other Current Assets</b>	
140.00 · Prepaid Expense	16,870.90
1499 · Undeposited Funds	13,564.00
<b>Total Other Current Assets</b>	<u>30,434.90</u>
<b>Total Current Assets</b>	2,069,057.18
<b>Fixed Assets</b>	
212.00 · Accum. Depreciation - Vehicles	-2,109,393.15
212.10 · Accum Deprec Infrastructures	-4,412.17
15900 · Leasehold Improvements	12,449.00
16400 · Vehicles	4,134,472.99
<b>Total Fixed Assets</b>	<u>2,033,116.67</u>
<b>TOTAL ASSETS</b>	<u><u>4,102,173.85</u></u>
<b>LIABILITIES &amp; EQUITY</b>	
<b>Liabilities</b>	
<b>Current Liabilities</b>	
<b>Accounts Payable</b>	
310.00 · Vouchers Payable	563,991.79
<b>Total Accounts Payable</b>	<u>563,991.79</u>
<b>Credit Cards</b>	
Wells Fargo Business Card	194.74
<b>Total Credit Cards</b>	<u>194.74</u>
<b>Total Current Liabilities</b>	564,186.53
<b>Long Term Liabilities</b>	
355.00 · Deferred Rent	7,319.00
<b>Total Long Term Liabilities</b>	<u>7,319.00</u>
<b>Total Liabilities</b>	571,505.53

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Palos Verdes Peninsula Transit Authority  
**Balance Sheet**  
As of September 30, 2014

	<u>Sep 30, 14</u>
<b>Equity</b>	
3900 · Retained Earnings	3,042,899.89
Net Income	<u>487,768.43</u>
<b>Total Equity</b>	<u>3,530,668.32</u>
 <b>TOTAL LIABILITIES &amp; EQUITY</b>	 <u><u>4,102,173.85</u></u>

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**MEMORANDUM**

TO: AUTHORITY MEMBERS  
 FROM: Martin Gombert, Administrator  
 DATE: October 18, 2014  
 SUBJECT: TAP Program Update and Agreements

**INTRODUCTION**

For the past several years PV Transit has been working with Metro to install Transit Access Pass ("TAP") equipment in PV Transit vehicles. Starting last year Metro significantly accelerated this program. Metro had originally scheduled to install TAP equipment on PV Transit vehicles in July but that schedule was pushed back to October. The TAP program will significantly improve the fare collection process and improve customer service.

This memorandum provides an update to the TAP project and presents two TAP Agreements for review and approval.

**SCHEDULE**

Shown below is the latest TAP project schedule.

Action	Date
Install Mobile Validators (MV) on Authority Vehicles	October 18, 2014
TAP training for PV Transit staff	October 21, 2014
Approve TAP Agreements with Metro	October 23, 2014
Install CPOS Device in Authority Office	First week of November
TAP goes live on Authority Vehicles	First week of November
PV Transit transfers passes to TAP	February 2015

**TAP IMPLEMENTATION**

Starting in November TAP MV units will be activated on PV Transit buses and the following TAP fares will be accepted:

- EZ Pass (Adult and Senior/Disabled only)

PV Transit currently accepts approximately 70-90 EZ Passes daily on Route 225-225.

- TAP stored value (Base Fare)

Customers can pay the \$2.50 PV Transit cash fare with a TAP card (stored value). Customers with a TAP card (stored value) can also use it to ride any transit system that accepts TAP cards. In the South Bay this includes Metro, Torrance Transit, Gardena Bus Lines, Los Angeles Department of Transportation, Long Beach Transit, and other transit systems throughout Southern California.

- TAP (transfers)

Customers transferring from other bus systems will tap their TAP card and pay a twenty-five cent transfer charge. 10-20 customers transfer from neighboring transit systems on an average weekday.

Starting in January 2015 PV Transit will transition monthly, semester and annual passes to TAP. The rolling start to this program is designed to give PV Transit staff and customers experience with TAP products prior to a full implementation.

### TAP Card Sales

TAP cards are currently sold by over 400 vendors in Southern California and three Ralphs stores on Western Avenue, Rolling Hills Road, and Hawthorne Boulevard. Customers can also reload TAP cards on-line.

PV Transit will be installing a TAP CPOS (compact point-of-sale) device in the Authority's office by early November. This will allow the Authority to add value to any TAP card and sell PV Transit passes. The Authority has also contacted member agencies to see if they are interested in installing TAP CPOS devices at City Halls.

**The TAP card will replace PV Transit tokens starting in January 2015.** The Authority will continue to accept any outstanding bus tokens.

### **TAP AGREEMENTS**

Metro has presented two Agreements for review and approval by the Board of Directors.

1. Cooperative TAP Participant Agreement

This Agreement establishes the roles and responsibilities of the parties (Metro and PV Transit) regarding the TAP program. The TAP Mobile Validator License Agreement (appendix) grants the Authority a license to use Mobile Validator (MV) units.

## 2. TAP Seller Agreement

This Agreement outlines the responsibilities of the parties (Metro and PV Transit) regarding the sale of TAP products. The CPOS License Agreement (Exhibit A) grants the Authority the right to use the Compact Point of Sales (CPOS) device.

Both Agreements have been reviewed by the Authority's counsel.

### **FINANCIAL IMPACT**

The Authority will sell TAP cards and PV Transit passes at the Authority's office using the CPOS device. The Authority will retain all revenue from the sale of PV Transit monthly, semester, and annual passes.

The revenue collected by the Authority for the sale of TAP cards (stored value) will be reimbursed to Metro on a monthly basis. Revenue collected from TAP cards used on Authority vehicles will be reimbursed to the Authority the 16<sup>th</sup> day of the following month.

### **RECOMMENDED ACTION**

Approve Cooperative TAP Participant Agreement and TAP Seller Agreement.

## COOPERATIVE TAP PARTICIPANT AGREEMENT

This COOPERATIVE TAP PARTICIPANT AGREEMENT (“**Agreement**”) is entered into as of October 23, 2014, 2014 (the “**Effective Date**”), by and between the Los Angeles County Metropolitan Transportation Authority, a California county transportation authority existing under the authority of §§ 130050.2 *et seq.* of the California Public Utilities Code (“**LACMTA**”), and the Palos Verdes Peninsula Transit Authority, a Joint Powers Authority (“**Participant**”). LACMTA and Participant are sometimes hereinafter referred to individually as “**Party**” or collectively as “**Parties**”.

### RECITALS

A. The Transit Access Pass (“**TAP**”) program is a regional smart card program developed as a cooperative effort amongst participating public transit operators (“**TAP Participants**”) in Los Angeles County (the “**Region**”) providing for the electronic payment of inter- and intra- fares via the use of TAP devices on such TAP Participants’ buses and railcars (the “**TAP System**”);

B. The TAP System was approved by LACMTA Board Action on May 28, 1997 to serve as the Region’s universal fare system, enabling TAP Participants to share a common fare media for use amongst public transit patrons riding on TAP Participants’ buses and/or rail system;

C. The back-office operations of the TAP System are managed by the Regional TAP Service Center (the “**RTSC**”);

D. LACMTA is (i) the contracting entity responsible for the daily operations of the RTSC; (ii) the owner and distributor of any application that resides on the TAP card; and (iii) the owner of the software and data stored on the TAP cards or devices that are used for all transit fare collection purposes;

E. LACMTA has established a regional third party TAP vendor network for the sale and reloading of TAP fare products to TAP cards;

F. LACMTA and TAP Participants recognize that a one-fare media for transit payment among TAP Participants has a beneficial impact on the customers served, and on the ability of TAP Participants to improve service with enhanced data;

G. As such, TAP Participants (including LACMTA) have created a TAP Operating Group (“**TOG**”), comprised of one primary representative and one alternate from each TAP Participant, and a TAP Working Group to work towards, among other things, unifying fare media into the TAP program;

H. The rules for participation in the TOG and TAP System are outlined in the Regional TAP Program and Service Center Operating Rules and the TAP Financial Positions/Settlement Agreement (collectively, the “**TAP Regional Operating Rules**”) which, among other things, set forth the process for reconciling the revenues and costs of participating in the TAP System, including the monthly clearing and settlement process by which TAP Participants receive fare revenue from the Region or make a payment to the Region for the sale of regional or other TAP Participant fare products (the “**Positions and Settlement Process**”);

I. Amendments to the TAP Regional Operating Rules can only be approved by majority ruling of TAP Participants’ General Managers, with concurrence of the LACMTA CEO;

J. LACMTA (as the contracting entity responsible for the daily operations of RTSC) has agreed to license mobile validator TAP devices (one or more, collectively, “**Mobile Validator**”) to TAP Participants who (a) meet the requirements set forth in the TAP Regional Operating Rules and (b) agree to the terms of (i) a TAP Mobile Validator License Agreement and (ii) this Agreement;

K. Concurrently herewith, LACMTA and Participant are entering into that certain TAP Mobile Validator License Agreement dated of even date herewith, substantially in the form attached hereto as Exhibit A (the “**MV License Agreement**”);

L. LACMTA and Participant each desire to agree to the terms and conditions under which the Participant shall participate in the TAP System.

NOW, THEREFORE, in consideration of the above Recitals, and the agreements, representations, warranties, covenants, and conditions contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, LACMTA and Participant, intending to be legally bound hereby, agree as follows:

## **AGREEMENT**

1. PURPOSE. The Parties agree that this Agreement, among other things, establishes the respective roles and responsibilities of the Parties in connection with Participant’s participation in the TAP System.

2. TERM. The term (“**Term**”) of this Agreement shall commence on the Effective Date and shall terminate on the date on which this Agreement is terminated pursuant to Section 5 of this Agreement.

3. PARTICIPANT RESPONSIBILITIES. Participant acknowledges and agrees to the following terms and conditions at all times during its participation in the TAP System:

- a. Participant shall abide by the latest approved TAP Operating Rules.

b. Participant shall comply with the Positions and Settlement Process by timely making and accepting payments as required and set forth in the Positions and Settlement Process.

c. Participant acknowledges and agrees that LACMTA, as set forth in the TAP Operating Rules, is (i) the contracting entity responsible for the daily operations of the RTSC; (ii) the owner and distributor of any application that resides on the TAP card; and (iii) the owner of the software and data stored on the TAP cards or devices that are used for all transit fare collection purposes.

d. Participant authorizes LACMTA to contract with third party vendors, in its sole discretion, for the sale of prepaid TAP cards, TAP stored value, TAP pass products, TAP rides, and other transit fares/products (“**TAP Fare Products**”), and, upon Participant’s request and agreement of a third party vendor, any prepaid Participant-specific fare products (“**Participant Fare Products**”) (the TAP Fare Products and the Participant Fare Products may be referred to collectively hereafter as the “**Fare Products**”).

e. Participant authorizes LACMTA, as the contracting entity responsible for the daily operations of the RTSC, to:

i. manage and operate all of the functions of the RTSC, as set forth in the TAP Operating Rules, in its sole discretion, including the ability to contract RSTC functions to third parties;

ii. remit funds collected from any third party vendor for the sale of TAP Fare Products and/or Participant Fare Products, as applicable, to Participant, consistent with the Positions and Settlement Process, and Participant shall not hold LACTMA liable for any funds deemed uncollectable from such third party vendor.

f. Participant acknowledges and agrees that the TAP System is a fare collection system, and under no circumstances shall LACMTA be responsible for Participant’s operation of its public transit services.

#### 4. LACMTA RESPONSIBILITIES.

a. LACMTA shall make Participant Fare Products available for sale/reload at select third party vendor locations upon written request of the Participant and upon agreement of such third party vendor.

b. LACMTA shall remit all TAP funds collected from a third party vendor selling TAP Fare Products to the Participant through the Positions and Settlement Process, but shall not be held liable for any funds deemed uncollectable.

5. TERMINATION. This Agreement shall terminate upon the occurrence of any of the following:

a. Thirty (30) days after written notice from a Party that such Party intends to terminate this Agreement, without cause;

b. Thirty (30) days after written notice from a Party that such Party intends to terminate this Agreement because of a breach of the Agreement by the Party receiving the notice if such breach is not cured within said thirty (30) day period; provided, however, that, in the event that the breach is of a nature which cannot reasonably be cured within thirty (30) days, the Agreement shall not terminate so long as the breaching Party has commenced to cure the breach within the thirty (30) day period and diligently prosecutes the completion of the cure to conclusion thereafter; or

c. The bankruptcy or insolvency of a Party or the commencement of proceedings of any kind by or against a Party under the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act.

6. INDEMNIFICATION. Participant shall indemnify, defend (with counsel acceptable to LACMTA) and hold harmless LACMTA and its subsidiaries and their respective officers, agents, employees, and directors (collectively, “LACMTA Parties”) 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 (collectively, “Claims”) arising out of Participant’s actions pursuant to this Agreement and/or participation in the TAP System, except as caused by LACTMA’s gross negligence. LACMTA shall, under no circumstance, be liable for special, incidental, exemplary or consequential damages suffered by Participant in connection with Participant’s actions pursuant to this Agreement and/or participation in the TAP System, including, but not limited to loss of projects, anticipated revenue, interest, loss of use or other such claims arising from any causes whatsoever, whether or not such loss or damage is based on contract, warranty, tort (including negligence), indemnity or otherwise.

## 7. MISCELLANEOUS.

a. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California applicable to agreements made and to be performed wholly within the State of California.

b. Attorney’s Fees. Should any Party institute any action or proceeding to enforce or interpret this Agreement or any provision hereof, for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing Party in any such action or proceeding shall be entitled to receive from the other Party all costs and expenses, including reasonable attorneys’ and other fees, incurred by the prevailing Party in connection with such action or proceeding. The term “attorneys’ and other fees” means and includes attorneys’ fees, accountants’ fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefore. The term “action or proceeding” means and includes actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

c. Notice. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been delivered, if hand delivered or deposited with a reputable overnight courier (such as Federal Express, UPS, DHL, or similar courier), postage prepaid, return receipt required, or three business days after deposit into U. S. Mail, certified or registered, postage prepaid and return receipt requested, and shall be addressed as follows, unless otherwise notified in writing of change of address:

If to Participant: Palos Verdes Peninsula Transit Authority  
P.O. Box 2656, Palos Verdes Peninsula, CA 90274  
Martin Gombert, Administrator  
Telephone: 310-544-7108  
Email: pvtransit@palosverdes.com  
Facsimile: 310-544-7109

If to LACMTA: Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza, Mail Stop 99/04/03  
Los Angeles, CA 90012  
ATTN: David Sutton, Deputy Executive Officer, TAP  
Telephone: (213) 922-5633  
Email: SuttonD@metro.net  
Facsimile: (213) 922-4036

d. Time of Essence. Time is of the essence of this Agreement and each and every term and provision hereof.

e. No Assignment. Participant 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.

f. Successors and Assigns. This Agreement shall inure solely to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns (Participant's assigns, as approved by pursuant to Subsection 7e of this Agreement).

g. Entire Agreement. This Agreement supersedes all prior agreements between the Parties with respect to its subject matter and constitutes (along with the MV License Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

h. Modification. The Agreement shall not be amended, except in writing signed by the Parties who agreed to the original Agreement or the same level of authority.



i. Further Assurances. Subject to agreement by the Parties of the terms thereof, the Parties each agrees to execute any and all other documents and to take any further actions reasonably necessary to consummate the transactions reasonably contemplated hereby.

j. Remedies. The obligations and duties of the Parties hereunder, including their representations, warranties, covenants and agreements, may be enforced by any and all available remedies, including without limitation, specific performance, injunction, damages and declaratory relief.

k. Several Liability. The Parties acknowledge and agree that this Agreement is not an agreement pursuant to or subject to Government Code Section 895 et seq., and that (a) Participant shall have liability hereunder only for those obligations of the Participant in connection with its participation in the TAP System and shall have no liability with respect to LACMTA's responsibilities in connection with the TAP System and (b) LACMTA shall have liability hereunder only for the obligations of LACMTA, and shall have no liability with respect to Participant's operation of its public transit services or Participant's obligations in connection with its participation in the TAP System.

l. Nonwaiver of Rights. No failure or delay of a Party in the exercise of any right given to such Party hereunder shall constitute a waiver thereof unless the time specified herein for exercise of such right has expired, nor shall any single or partial exercise of any right preclude other or further exercise thereof or of any other right.

m. Construction. Headings at the beginning of each paragraph or subparagraph are solely for the convenience of the Parties and not a part of this Agreement. Except as otherwise provided in this Agreement, all exhibits referred to herein are attached hereto and are incorporated herein by this reference. Any reference to a Section herein includes all subsections thereof. This Agreement shall not be construed as if it had been prepared by only one Party, but rather as if all Parties had prepared the same.

n. Severability. If any provision of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed severed from this Agreement, and the remaining parts hereof shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable provision had never been part of this Agreement.

o. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect. Additionally, this Agreement may be executed in counterparts which, when taken together, shall form the entire Agreement of the Parties.

p. Relationship. Participant, in the performance of the work described in this Agreement, is not a contractor nor an agent, partner or employee of LACMTA. Participant 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. Participant shall not represent itself as an

agent, partner, employee of LACMTA and shall have no powers to bind LACMTA in contract or otherwise.

[Signatures on Next Page]

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: \_\_\_\_\_  
Arthur T. Leahy  
Chief Executive Officer

APPROVED AS TO FORM:

RICHARD D. WEISS  
Acting County Counsel

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

**PARTICIPANT:**

PALOS VERDES PENINSULA TRANSIT AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Martin Gombert  
Administrator

APPROVED AS TO FORM (OPTIONAL):

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

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

**Exhibit A**

**Form of  
Mobile Validator License Agreement**

[Attached]

## TAP© MOBILE VALIDATOR LICENSE AGREEMENT

This **TAP MOBILE VALIDATOR LICENSE AGREEMENT** (“**Agreement**”) is entered into as of October 23, 2014 (the “**Effective Date**”), by and between the Los Angeles County Metropolitan Transportation Authority, a California county transportation authority existing under the authority of §§ 130050.2 *et seq.* of the California Public Utilities Code (“**LACMTA**”), and Palos Verdes Peninsula Transit Authority, a Joint Powers Authority (“**Licensee**”). LACMTA and Licensee are sometimes hereinafter referred to individually as “**Party**” or collectively as “**Parties**”.

### RECITALS

A. The Transit Access Pass (“**TAP**”) program is a regional smart card program developed as a cooperative effort amongst participating public transit operators (“**TAP Participants**”) in Los Angeles County (the “**Region**”) providing for the electronic payment of inter- and intra- fares via the use of TAP devices on such TAP Participants’ buses and railcars (the “**TAP System**”);

B. The TAP System was approved by LACMTA Board Action on May 28, 1997 to serve as the Region’s universal fare system, enabling TAP Participants to share a common fare media for use amongst public transit patrons riding on TAP Participants’ buses and/or rail system;

C. The back-office operations of the TAP System are managed by the Regional TAP Service Center (the “**RTSC**”);

D. LACMTA is (i) the contracting entity responsible for the daily operations of the RTSC; (ii) the owner and distributor of any application that resides on the TAP card; and (iii) the owner of the software and data stored on the TAP cards or devices that are used for all transit fare collection purposes;

E. LACMTA has established a regional third party TAP vendor network for the sale and reloading of TAP fare products to TAP cards;

F. LACMTA and TAP Participants recognize that a one-fare media for transit payment among TAP Participants has a beneficial impact on the customers served, and on the ability of TAP Participants to improve service with enhanced data;

G. As such, TAP Participants (including LACMTA) have created a TAP Operating Group (“**TOG**”), comprised of one primary representative and one alternate from each TAP Participant, and a TAP Working Group to work towards, among other things, unifying fare media into the TAP program;

H. The rules for participation in the TOG and TAP System are outlined in the Regional TAP Program and Service Center Operating Rules and the TAP Financial Positions/Settlement Agreement (collectively, the “**TAP Regional Operating Rules**”) which, among other things, set

forth the process for reconciling the revenues and costs of participating in the TAP System, including the monthly clearing and settlement process by which TAP Participants receive fare revenue from the Region or make a payment to the Region for the sale of regional or other TAP Participant fare products ( the “**Positions and Settlement Process**”);

I. Amendments to the TAP Regional Operating Rules can only be approved by majority ruling of TAP Participants’ General Managers, with concurrence of the LACMTA CEO;

J. Licensee and LACMTA have entered into that certain Cooperative TAP Participant Agreement dated October 23, 2014 (“**Cooperative TAP Participant Agreement**”) which, among other things, establishes the respective roles and responsibilities of the Parties in connection with Participant’s participation in the TAP System;

K. In order to process TAP card transactions, Licensee will use a TAP Mobile Validator supplied by LACMTA. The “**Mobile Validator**” consists of and is defined hereunder to include all hardware, software, program documentation and any program updates supplied by LACMTA necessary to process TAP card transactions.

L. LACMTA desires to license Mobile Validator(s) to Licensee and Licensee desires to license the Mobile Validator(s) on the terms and conditions contained in this Agreement, which, among other things, establish the respective roles and responsibilities of the Parties in connection with Licensee’s use of the Mobile Validator in connection with its participation in the TAP System;

NOW, THEREFORE, in consideration of the above Recitals, and the agreements, covenants, and conditions contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, LACMTA and Licensee, intending to be legally bound hereby, agree as follows

#### **AGREEMENT**

1. **GRANT OF LICENSE.** Subject to the terms and conditions contained herein, LACMTA hereby grants to Licensee and Licensee hereby accepts a non-exclusive, non-transferable, revocable license (“**License**”) to use twenty-six (26) Mobile Validator(s) (collectively, the “**MV**”) supplied by LACMTA for the sole purpose of processing TAP card transactions in accordance with the TAP Regional Operating Rules and this Agreement.

2. **TERM.** The term (“**Term**”) of this Agreement shall commence on the Effective Date and shall terminate on the date on which this Agreement is terminated pursuant to Section 13 of this Agreement.

3. **USE.** Licensee agrees that the MV will not be subjected to unnecessarily rough usage, that it will be used in accordance with its design, and that its use will conform with the TAP Regional Operating Rules and the terms of this Agreement.

4. **PROHIBITED ACTIVITIES.** Licensee shall not:

- a. Copy, reproduce, tamper with, remove, alter, or otherwise modify the MV (in whole or in part) or any associated software provided to Licensee or loaded in the MV;
- b. Sell, license, sublicense, disclose, distribute or otherwise transfer the MV, in whole or in part, or any associated MV software to any third party;
- c. Remove or modify any program markings or any notice of LACMTA's proprietary rights;
- d. Alter, modify, or change the MV hardware;
- e. Decode, reverse engineer or disassemble the MV and associated software; or
- f. Disclose performance results of MV to public entities without the consent of the LACMTA. This does not include Agency Data collected by the MV, only information related to the MV itself.
- g. Use or permit the use of the MV for illegal purposes.

5. LICENSEE RESPONSIBILITIES. Licensee agrees to the following in its use of the MV:

- a. Licensee shall pay the data fees assessed for each MV licensed for Licensee's use, on a monthly basis, consistent with the Positions and Settlement Process set forth in the TAP Regional Operating Rules;
- b. Licensee shall set up each MV to accept TAP stored value, EZ transit pass (per the rules of the EZ transit pass program), and inter-agency transfers that are valid for travel on the Licensee's services. The stored value ride price is a unique price per Licensee's own fare rules, and set via the fare table configuration, as may be modified from time to time;
- c. Licensee shall use the MV in the manner for which it was intended and keep the MV in good repair and operating condition, consistent with the terms of this Agreement.

6. LACMTA RESPONSIBILITIES.

- a. LACMTA shall license the MV to Licensee, and will provide the basic initial equipment installation service at no cost to Licensee, provided that any additional cost of installation unique to Licensee's buses or other vehicles providing Licensee's services (as determined in LACMTA's sole discretion) shall be borne solely by Licensee.
- b. LACMTA will have spare replacement Mobile Validator(s) available to Licensee to replace a malfunctioning device within forty eight (48) hours of notification by Licensee of a faulty device, subject to supply and availability, as determined by LACMTA.

c. LACMTA agrees to provide fare table support (i.e., changing TAP fares) for Licensee-specific fare products, upon forty-five (45) days' notice given by Licensee.

d. LACMTA will provide MV software updates to Licensee throughout the Term, at LACMTA's sole discretion.

7. LOSS/DAMAGE/REPLACEMENT. If the MV is lost, damaged, or stolen, Licensee shall pay a minimum replacement fee of Three Thousand Dollars (\$3,000), or more, as determined by LACMTA (based on the then current market replacement cost for MV and other administrative costs not to exceed 10% of the replacement cost).

8. NO IMPLIED WARRANTY. LACMTA makes no representations or warranties that the MV will perform as indicated or that the MV will be suitable for the purposes for which it (they) is (are) permitted to be used under this Agreement. LACMTA does not guarantee that the MV will perform error-free or uninterrupted or that LACMTA will correct all program errors. The implied warranties of merchantability and of fitness for a particular purpose are expressly waived.

9. TITLE/NO ENCUMBRANCE. LACMTA shall, at all times, retain title, ownership and intellectual property rights to the MV. No title to the MV is transferred hereunder to Licensee. Licensee shall not permit any claim, levy, lien or legal process to be issued against the MV.

10. INSPECTION/AUDIT BY LACMTA. LACMTA, or its agent, shall have the right at any time to inspect or perform audits of the MV to ensure that Licensee's, and/or its agent's, use thereof complies with the terms of this Agreement. Such inspections or audits shall be conducted during normal business hours. Licensee and its agents shall cooperate with LACMTA in any inspection or audit, and shall provide LACMTA with all records reasonably related to Licensee's and its agents' use of the MV.

11. SURRENDER OF MV. Licensee agrees that on termination of this Agreement or at the request of LACMTA for surrender of the MV, Licensee shall have no rights to use the MV, and at such time, (a) Licensor may disable the MV to prevent Licensee from continued use of the MV and (b) Licensee shall, at Licensee's expense, remove the MV from its bus or railcar and deliver the MV in good condition (reasonable wear and tear excepted) to Cubic Transportation Systems at 14100 Shoemaker Avenue, Norwalk, CA 90650, or to such other location as LACMTA may designate.

12. NO ASSIGNMENT. Licensee or its agent may not assign this Agreement or give or transfer the MV, in whole or in part, nor any of the rights, interests or obligations hereunder to another party.

13. TERMINATION. This Agreement shall terminate as between the Parties upon the occurrence of any of the following:

a. Thirty (30) days after written notice from a Party that such Party intends to terminate this Agreement, without cause;



b. Thirty (30) days after written notice from a Party that such Party intends to terminate this Agreement because of a breach of the Agreement by the Party receiving the notice if such breach is not cured within said thirty (30) day period; provided, however, that, in the event that the breach is of a nature which cannot reasonably be cured within thirty (30) days, the Agreement shall not terminate so long as the breaching Party has commenced to cure the breach within the thirty (30) day period and diligently prosecutes the completion of the cure to conclusion thereafter; or

c. The bankruptcy or insolvency of a Party or the commencement of proceedings of any kind by or against a Party under the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act.

d. Upon termination of the Cooperative TAP Participant Agreement, this Agreement will terminate concurrently.

14. INSURANCE. Licensee shall, at Licensee's own expense, maintain liability and fire insurance and such other insurance as necessary for Licensee's protection of the MV. Failure to carry such insurance shall not relieve Licensee of liability as provided in this Agreement.

15. INDEMNIFICATION. Licensee shall indemnify, defend (with counsel acceptable to LACMTA) and hold harmless LACMTA and its subsidiaries and their respective officers, agents, employees, and directors (collectively, "LACMTA Parties") 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 legal fees and any claims for damages of any nature whatsoever arising out of Licensee's actions pursuant to this Agreement, use of the MV, and/or participation in the TAP System, except as caused by LACTMA's gross negligence. LACMTA shall, under no circumstance, be liable for special, incidental, exemplary or consequential damages suffered by Licensee, including, but not limited to loss of projects, anticipated revenue, interest, loss of use or other such claims arising from any causes whatsoever, whether or not such loss or damage is based on contract, warranty, tort (including negligence), indemnity or otherwise.

16. MISCELLANEOUS.

a. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California applicable to agreements made and to be performed wholly within the State of California.

b. Attorney's Fees. Should any Party institute any action or proceeding to enforce or interpret this Agreement or any provision hereof, for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing Party in any such action or proceeding shall be entitled to receive from the other Party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing Party in connection with such action or proceeding. The term "attorneys' and other fees" means and includes attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or

proceeding and preparations therefore. The term “action or proceeding” means and includes actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

c. Notice. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been delivered, if hand delivered or deposited with a reputable overnight courier (such as Federal Express, UPS, DHL, or similar courier), postage prepaid, return receipt required, or three business days after deposit into U. S. Mail, certified or registered, postage prepaid and return receipt requested, and shall be addressed as follows, unless otherwise notified in writing of change of address:

If to Licensee: Palos Verdes Peninsula Transit Authority  
P.O. Box 2656, Palos Verdes Peninsula, CA 90274  
Martin Gombert, Administrator  
Telephone: 310-544-7108  
Email: [pvtransit@palosverdes.com](mailto:pvtransit@palosverdes.com)  
Facsimile: 310-544-7109

If to LACMTA: Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza, Mail Stop 99/04/03  
Los Angeles, CA 90012  
ATTN: David Sutton, Deputy Executive Officer, TAP  
Telephone: (213) 922-5633  
Email: [SuttonD@metro.net](mailto:SuttonD@metro.net)  
Facsimile: (213) 922-4036

d. Time of Essence. Time is of the essence of this Agreement and each and every term and provision hereof.

e. No Assignment. Licensee 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.

f. Successors and Assigns. This Agreement shall inure solely to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns (Licensee’s assigns, as approved by pursuant to Subsection 16e of this Agreement).

g. Entire Agreement. This Agreement supersedes all prior agreements between the Parties with respect to its subject matter and constitutes (along with the Cooperative TAP Participant Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

h. Modification. The Agreement shall not be amended, except in writing signed by the Parties who agreed to the original Agreement or the same level of authority.

i. Further Assurances. Subject to agreement by the Parties of the terms thereof, the Parties each agrees to execute any and all other documents and to take any further actions reasonably necessary to consummate the transactions reasonably contemplated hereby.

j. Remedies. The obligations and duties of the Parties hereunder, including their representations, warranties, covenants and agreements, may be enforced by any and all available remedies, including without limitation, specific performance, injunction, damages and declaratory relief.

k. Nonwaiver of Rights. No failure or delay of a Party in the exercise of any right given to such Party hereunder shall constitute a waiver thereof unless the time specified herein for exercise of such right has expired, nor shall any single or partial exercise of any right preclude other or further exercise thereof or of any other right.

l. Construction. Headings at the beginning of each paragraph or subparagraph are solely for the convenience of the Parties and not a part of this Agreement. Except as otherwise provided in this Agreement, all exhibits referred to herein are attached hereto and are incorporated herein by this reference. Any reference to a Section herein includes all subsections thereof. This Agreement shall not be construed as if it had been prepared by only one Party, but rather as if all Parties had prepared the same.

m. Severability. If any provision of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed severed from this Agreement, and the remaining parts hereof shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable provision had never been part of this Agreement.

n. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect. Additionally, this Agreement may be executed in counterparts which, when taken together, shall form the entire Agreement of the Parties.

o. Relationship. Licensee, in the performance of the work described in this Agreement, is not a contractor nor an agent, partner or employee of LACMTA. Licensee 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. Licensee shall not represent itself as an agent, partner, employee of LACMTA and shall have no powers to bind LACMTA in contract or otherwise.

[Signatures on Next Page]

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, a California county transportation authority existing under the authority of §§ 130050.2 *et seq.* of the California Public Utilities Code

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Arthur T. Leahy  
Chief Executive Officer

APPROVED AS TO FORM:

RICHARD D. WEISS  
Acting County Counsel

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

**LICENSEE:**

PALOS VERDES PENINSULA TRANSIT AUTHORITY

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Martin Gombert  
Administrator

APPROVED AS TO FORM (OPTIONAL):

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

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





## Los Angeles County Metropolitan Transportation Authority TAP Seller Agreement

This Agreement regarding the selling and loading to TAP cards of transit fare products ("**Agreement**") is made and entered into October 2, 2014 ("**Effective Date**") by and between the Los Angeles County Metropolitan Transportation Authority ("**LACMTA**"), and Palos Verdes Peninsula Transit Authority (the "**Seller**"), referred to herein individually as a "**Party**" or collectively as the "**Parties**".

### Recitals

This Agreement is made and entered into with respect to the following facts:

Whereas, the Transit Access Pass ("**TAP**") program is a regional smart card program developed as a cooperative effort amongst participating public transit operators (individually, the "**Participant**" or collectively, the "**Participants**") in Los Angeles County (the "**Region**") developed for the payment of transit fares by the riding public (the "**TAP System**").

Whereas, the Participants, including LACMTA, use the TAP system for the collection of transit fares through the sale of TAP stored value, EZ® Pass products, and TAP interagency transfers ("**TAP Fare Products**") and Participant Agency specific fare products (e.g., Metro 30-day pass, Foothill 30-day pass, Santa Clarita Day Pass) ("**Participant Fare Products**") loaded to the TAP card (the TAP Fare Products and Participant Fare Products may be referred to collectively hereafter as the "**Fare Products**"). Seller is not required to sell LACMTA (Metro) passes as a part of this Agreement.

Whereas, the back-office operations of the TAP System are managed by the Regional TAP Service Center ("**RTSC**").

Whereas, LACMTA is the contracting entity responsible for the daily operations of RTSC and the owner of the software and data stored on TAP cards or devices used for all transit fare collection purposes (including the loading of stored value or passes, the collection of fares, and the validation of the fare products issued on behalf of the Participants).

Whereas, concurrently herewith, LACMTA and Seller are entering into that certain CPOS License and Services Agreement dated of even date herewith (the "**CPOS License Agreement**") and attached hereto as Exhibit A, by which LACMTA is licensing for Seller's use,

the compact point of sales device ("CPOS") necessary for the sale of the TAP Fare Products and/or Participant Agency Fare Products.

Whereas, Seller desires to sell Fare Products by selling and loading TAP cards with such products, and LACMTA as the contractor responsible for the daily operations of the RTSC, on its own behalf and for the benefit of the Participants, desires to have Seller sell TAP cards loaded with Fare Products.

NOW, THEREFORE, in consideration of the above Recitals, and the agreements, representations, warranties, covenants, and conditions contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, LACMTA and Seller, intending to be legally bound hereby, agree as follows:

1. TERM. The "Term" of this Agreement shall commence on the Effective Date and continue on a month to month basis, and shall terminate upon the occurrence of any of the following:

a. Thirty (30) days after written notice from a Party that such Party intends to terminate this Agreement, without cause;

b. The bankruptcy or insolvency of Seller or the commencement of proceedings of any kind by or against Seller under the Federal Bankruptcy Act or under any other insolvency, bankruptcy or reorganization act; or

c. In the event of transfer of Seller's business or death or disability of Seller, this Agreement shall terminate LACMTA's sole option.

2. SELLER RESPONSIBILITIES.

a. Seller shall sell TAP Fare Products at the location(s) listed in Exhibit B attached hereto, and at such other locations that may be agreed upon by the Parties in writing from time to time (the "Seller Locations").

b. The fare products to be made available for sale on Seller's CPOS shall include the fare products of the Participants set forth in Exhibit C attached hereto.

i. Participant Fare Products may be added to the Seller's CPOS for sale by the Seller by amendment to this Agreement in writing and signed by both Parties.

c. Seller shall maintain all printed material, time schedules, folders, circulars and bulletins supplied by LACMTA and/or its agents and shall, to the best of its ability, furnish to the public complete and accurate information in accordance therewith and shall conform to all instructions and rules which may be issued by LACMTA or its agents in connection with the Fare Products.

d. At Seller's sole cost and expense, Seller shall display and make available for distribution at the Seller Locations, such TAP brochures and other TAP or Participant promotional or advertising materials as may be supplied by LACMTA and/or Participants.

e. Seller shall use TAP trademarks and logos in accordance with LACMTA graphic design guidelines on all forms of signs and display materials which mention LACMTA and/or TAP, and shall obtain prior approval from LACMTA and/or its representatives on all such materials before posting or displaying.

f. Seller will furnish a statement of financial responsibility when requested by LACMTA under any plan which LACMTA may arrange or approve.

g. Seller acknowledges and agrees that (i) no provision of this Agreement shall be construed to require LACMTA or the Participants to continue to operate any bus service to or from Seller's Location(s) and any other destination during the Term, and (ii) LACMTA and the Participants shall incur no liability to Seller by reason of any rerouting, rescheduling, discontinuance or other changes in bus or other transit services operated by LACMTA or the Participants.

3. RATES. Seller shall sell TAP cards and TAP Fare Products at rates fixed in the schedule of tariffs submitted from time to time by LACMTA (and/or the Participant) and shall not deviate therefrom.

4. REMITTANCE OF FUNDS.

a. TAP card sales revenues, including associated Fare Products, and applicable card fees ("TAP Sales Revenues"), shall be fully remitted by Seller to LACMTA in weekly installments. Each weekly payment shall be effected by means of an electronic funds transfer every Tuesday, beginning on the second Tuesday after the Effective Date, for TAP Sales Revenues occurring during the prior Sunday through Saturday period, plus the per card fee for any card deliveries occurring during such Sunday through Saturday period, less the applicable Seller's Commission (defined below) earned by Seller for such period (the net balance of such sums shall be referred to hereafter as the "TAP Net Proceeds"). Seller hereby authorizes LACMTA and/or its agents to effect such an electronic funds transfer. All TAP Net Proceeds shall be deposited by Seller into an account at a financial institution that is accessible to the electronic fund transfer system employed by LACMTA.

b. Additional TAP cards will not be delivered and CPOS TAP card loading capabilities will be disabled until Seller has remitted to LACMTA all TAP Net Proceeds for the prior week's transactions. Upon request by LACMTA, Seller shall return all TAP cards and CPOS's. Failure to timely remit TAP Net Proceeds shall constitute a material breach of this Agreement and shall be grounds for immediate termination of this Agreement. If Seller fails at any time to timely remit TAP Net Proceeds, LACMTA may, at its option, suspend Seller's ability to distribute TAP cards under this Agreement and Seller's CPOS loading capabilities pending a credit review of Seller by LACMTA and/or its designated agents.



5. SELLER COMMISSION.

a. In consideration of Seller's services, the Participants shall pay Seller's commission at the rates shown in Exhibit C ("Seller's Commission"). Such commission rates may change from time to time, as determined by LACMTA or Participant, and approved by LACMTA in its sole discretion. LACMTA shall provide written notice to Seller of such changes no later than five (5) days prior to the effective date of the change.

b. Seller's Commission shall be deducted from the TAP Sales Revenues as described in Section 4.a.

c. Seller shall contact the authorized representative of LACMTA for determination in all matters related to refunds or adjustments of TAP card sales and Fare Product loads.

6. TRUSTEE-BENEFICIARY RELATIONSHIP.

a. The relationship between Seller and LACMTA is that of a trustee and beneficiary, and not that of a debtor and creditor. All TAP cards and TAP Net Proceeds collected by Seller on behalf of LACMTA are the property of LACMTA.

b. Seller shall hold in trust for LACMTA, and for the benefit of Participants as third party beneficiaries, all fare media products, including, without limitation, TAP cards or other items supplied by LACMTA to Seller for use or sale. Seller shall keep the TAP Net Proceeds and any funds collected for the account of LACMTA, and for the benefit of Participants as third party beneficiaries, in trust, and shall remit the TAP Net Proceeds as provided in Section 4.

c. Seller shall be responsible for (i) all TAP cards and Fare Products, (ii) all other items for sale delivered to Seller by LACMTA, and (iii) all funds collected by Seller for the benefit of Participants, and will indemnify and save harmless LACMTA and the Participants from any loss of the items described in this Section 6.c(i) through Section 6.c(iii), whether occasioned by theft, forgery or any other cause; any and all loss of any such items, either physically and electronically, shall be calculated based on the value thereof.

7. INDEPENDENT CONTRACTOR. Seller's relationship with LACMTA will be that of an independent contractor, and nothing in this Agreement will be construed to create a partnership, joint venture, co-ownership, principal and agent, or employer-employee relationship. Seller is not the agent of LACMTA and is not authorized to make any representation, contract, or commitment on behalf of LACMTA.

8. LACMTA AUDIT/REVIEW RIGHTS. Seller shall permit the authorized representative of LACMTA, during reasonable hours, to examine and audit TAP cards and CPOS sales records, and other property provided by LACMTA to Seller, including TAP Sales Revenues on hand, and to inspect and audit all records and accounts pertaining to the business of LACMTA and the TAP System.

9. DEFAULT. In the event of Seller's default to the terms and conditions referenced herein, Seller hereby agrees to pay any and all collection costs, court costs and reasonable attorneys' fees that may be incurred in the collection and/or legal enforcement of payment.

10. INSURANCE.

a. Seller shall, at his own expense, procure and maintain in effect during the term hereof, public liability insurance with limits of not less than \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, the general aggregate limit shall be twice the required occurrence limit. Products/Completed Operations aggregate shall apply separately to this contract/agreement or the aggregate limit shall be twice the required per occurrence limit. of any accident or occurrence, and property damage insurance in the amount of \$5,000.

b. LACMTA shall be provided a Certificate of Insurance naming the LACMTA its subsidiaries, officials and employees as identified in Exhibit C shall be covered as additional insured under such policy. LACMTA shall be given 30 days' notice of the termination of such insurance. Such insurance shall protect and indemnify both Seller and the Participants from any liability arising out of the occupancy and use of the facility by Seller.

c. A lesser amount of insurance coverage or self-insurance by Seller may be agreed to by the Parties in writing.

11. MISCELLANEOUS.

a. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California applicable to agreements made and to be performed wholly within the State of California.

b. Notice. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been delivered, if hand delivered or deposited with a reputable overnight courier (such as Federal Express, UPS, DHL, or similar courier), postage prepaid, return receipt required, or three business days after deposit into U. S. Mail, certified or registered, postage prepaid and return receipt requested, and shall be addressed as follows, unless otherwise notified in writing of change of address:

If to Seller: Palos Verdes Peninsula Transit Authority  
38 Crest Road  
Rolling Hills, California 90274  
Martin Gombert  
Telephone: 310-544-7108  
Email: pvtransit@palosverdes.com  
Facsimile: 310-544-7109

If to LACMTA: Los Angeles County Metropolitan  
Transportation Authority  
One Gateway Plaza, Mail Stop 99/04/03  
Los Angeles, CA 90053  
ATTN: Edith Goff-Youngblood, Senior  
Customer Service Officer  
Telephone: (213) 922-7017  
Email: goff-youngbloode@metro.net  
Facsimile: (213) 922-4036

d. Time of Essence. Time is of the essence of this Agreement and each and every term and provision hereof.

e. No Assignment. Participant 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.

f. Successors and Assigns. This Agreement shall inure solely to the benefit of, and be binding upon, the Parties hereto and their respective successors and assigns (Participant's assigns, as approved by pursuant to Subsection 11.e of this Agreement).

g. Entire Agreement. This Agreement supersedes all prior agreements between the Parties with respect to its subject matter and constitutes (along with the CPOS License Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

h. Modification. No modification of this Agreement shall be effective unless made in writing and signed by both Parties.

i. Further Assurances. Subject to agreement by the Parties of the terms thereof, the Parties each agrees to execute any and all other documents and to take any further actions reasonably necessary to consummate the transactions reasonably contemplated hereby.

j. Remedies. The obligations and duties of the Parties hereunder, including their representations, warranties, covenants and agreements, may be enforced by any and all available remedies, including without limitation, specific performance, injunction, damages and declaratory relief.

l. Non-waiver of Rights. No failure or delay of a Party in the exercise of any right given to such Party hereunder shall constitute a waiver thereof unless the time specified herein for exercise of such right has expired, nor shall any single or partial exercise of any right preclude other or further exercise(e thereof or of any other right.

m. Construction. Headings at the beginning of each paragraph or subparagraph are solely for the convenience of the Parties and not a part of this Agreement. Except as otherwise provided in this Agreement, all exhibits referred to herein are attached hereto and are incorporated herein by this reference. Any reference to a Section herein includes all subsections thereof. This Agreement shall not be construed as if it had been prepared by only one Party, but rather as if all Parties had prepared the same.

n. Severability. If any provision of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed severed from this Agreement, and the remaining parts hereof shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable provision had never been part of this Agreement.

o. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect. Additionally, this Agreement may be executed in counterparts which, when taken together, shall form the entire Agreement of the Parties.

[Signatures on Next Page]

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

<p><b>SELLER:</b></p> <p>PALOS VERDES PENINSULA TRANSIT AUTHORITY</p> <p>By: _____ Name: <u>Martin Gombert</u> Title: <u>Administrator</u></p> <p>Date: _____</p> <p>By: _____ Name: _____ Title: _____</p> <p>Date: _____</p> <p>By: _____ Name: _____ Title: _____</p> <p>Date: _____</p>	<p><b>LACMTA:</b></p> <p>LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY</p> <p>By: _____ Name: David Sutton Title: Deputy Executive Officer, TAP Operations</p> <p>Date: _____</p> <p>APPROVED AS TO FORM:</p> <p>RICHARD D. WEISS Acting County Counsel</p> <p>By: _____ Deputy</p> <p>Date: _____</p>
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Exhibit A

CPOS LICENSE AGREEMENT

**TAP© CPOS LICENSE AGREEMENT**

This TAP CPOS License Agreement ("Agreement") is entered into as of, October 2, 2014 by and between Palos Verdes Peninsula Transit Authority a Joint Powers Authority ("Licensee"), and the Los Angeles County Metropolitan Transportation Authority, a California county transportation authority existing under the authority of §§ 130050.2 *et seq.* of the California Public Utilities Code ("LACMTA").

RECITALS:

A. Licensee and LACMTA have entered into that certain Metro TAP Seller Agreement dated of even date herewith, whereby Licensee will sell Transit Access Pass ("TAP") cards and associated fare products on behalf of LACMTA (the "TAP Seller Agreement").

B. In order to sell the TAP cards, Licensee must use a Compact Point of Sales device supplied by LACMTA, which device is loaded with software capable of printing TAP card sales reports and transaction history. The Compact Point of Sales device consists of and is defined hereunder to include all hardware, software, program documentation and any program updates supplied by LACMTA necessary to load the TAP cards with stored value and transit products (collectively, "CPOS").

C. LACMTA desires to license the CPOS to Licensee and Licensee desires to license the CPOS from LACMTA on the terms and conditions contained in this Agreement.

NOW, THEREFORE, in consideration of the above Recitals, and the agreements, covenants, and conditions contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, LACMTA and Participant, intending to be legally bound hereby, agree as follows:

AGREEMENT:

1. GRANT OF LICENSE. Subject to the terms and conditions contained herein, LACMTA hereby grants to Licensee and Licensee hereby accepts a non-exclusive, non-transferable, revocable license to use the CPOS provided by LACMTA for the sole purpose of selling TAP Cards with stored value and transit products in accordance with the TAP Seller Agreement. Licensee shall not use the CPOS for any purpose not specified in this Agreement.
2. TERM. This License shall commence on the day Licensee receives the CPOS from LACMTA and shall continue until terminated by either Party upon thirty (30) days' written notice to the other Party, or upon termination of the TAP Seller Agreement pursuant to the terms of such agreement.
3. USE. Licensee agrees that Licensee will use the CPOS solely for loading TAP Cards with stored value and transit products; that the CPOS will not be subjected to unnecessarily rough usage, that it will be used in accordance with its design, and that its use will conform with the terms of the TAP Seller Agreement and this Agreement. Licensee agrees not to allow the use of the CPOS for illegal purposes.
4. PROHIBITED ACTIVITIES. Licensee shall not:
  - a. Copy, reproduce, tamper or otherwise modify the CPOS or any associated software;
  - b. Sell, license, sublicense, disclose, distribute or otherwise transfer the CPOS, in whole or in part, or any associated software to any third party;

- c. Remove or modify any program markings or any notice of LACMTA's proprietary rights;
- d. Make the programs or materials resulting from the CPOS available in any manner to any third party for use by a third party's business operations;
- e. modify, alter or change the CPOS, in whole or in part, or attempt to decode, reverse engineer or disassemble the CPOS and associated software; or
- f. Disclose results of any program benchmark tests without LACMTA's prior written consent.

5. LOSS/DAMAGE/REPLACEMENT. Licensee shall keep the CPOS in good repair and operating condition, and shall not handle the CPOS in violation of the terms of this Agreement. If the CPOS is damaged, lost or stolen, Licensee shall pay a minimum replacement fee of \$3,267, or more, as determined by LACMTA (fee based on current market replacement cost for CPOS and other administrative costs).

6. NO IMPLIED WARRANTY. LACMTA makes no representations or warranties that the CPOS will perform as indicated or that the CPOS will be suitable for the purposes for which it is permitted to be used under this Agreement. LACMTA does not guarantee that the CPOS will perform error-free or uninterrupted or that LACMTA will correct all program errors. The implied warranties of merchantability and of fitness for a particular purpose are expressly waived.

7. TITLE/NO ENCUMBRANCE. LACMTA shall, at all times, retain all title to, ownership and intellectual property rights to the CPOS. No title to the CPOS is transferred hereunder to Licensee. Licensee shall not permit any claim, levy, lien or legal process to be issued against the CPOS.

8. INSPECTION/AUDIT BY LACTMA. Licensee hereby grants LACMTA, or its agent, the right at any time to perform inspections or audits of the CPOS to ensure Licensee's use of the CPOS complies with the terms of this Agreement. Such inspections or audits shall be conducted during normal business hours. Licensee shall cooperate with LACMTA in any audit, and shall provide LACMTA with all records reasonably related to Licensee's use of the CPOS.

9. SURRENDER OF CPOS. Licensee agrees that on termination of this Agreement or at the request of LACMTA for surrender of the CPOS, Licensee shall have no rights to use the CPOS, and at such time, (a) LACMTA may disable the CPOS to prevent Licensee from continued use of the CPOS and (b) Licensee shall, at Licensee's expense, deliver the CPOS in good condition (reasonable wear and tear excepted) to LACMTA at One Gateway Plaza, Los Angeles, California 90012, or to such other location as LACMTA may designate.

10. INDEMNIFICATION. Licensee shall indemnify, defend (with counsel acceptable to LACMTA) and hold harmless LACMTA and its subsidiaries and their respective officers, agents, employees, and directors (collectively, "LACMTA Parties") 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 legal fees and any claims for damages of any nature whatsoever arising out of Licensee's actions pursuant to this Agreement and use of the CPOS, except as caused by LACTMA's gross negligence. LACMTA shall, under no circumstance, be liable for special, incidental, exemplary or consequential damages suffered by Licensee, including, but not limited to loss of projects, anticipated revenue, interest, loss of use or other such claims arising from any causes whatsoever, whether or not such loss or damage is based on contract, warranty, tort (including negligence), indemnity or otherwise.

11. BREACH AND REMEDIES. In the event Licensee breaches the terms of this Agreement and fails to correct the breach within thirty (30) days after LACMTA provides written notice, LACMTA may terminate this Agreement.

12. NO ASSIGNMENT. Licensee may not assign this Agreement or give or transfer the CPOS, in whole or in part, to another individual or entity.

13. MISCELLANEOUS.

a. Governing Law. This Agreement shall be governed by, interpreted under, and construed and enforced in accordance with the laws of the State of California applicable to agreements made and to be performed wholly within the State of California.

b. Attorney's Fees. Should any Party institute any action or proceeding to enforce or interpret this Agreement or any provision hereof, for damages by reason of any alleged breach of this Agreement, or for a declaration of rights hereunder, the prevailing Party in any such action or proceeding shall be entitled to receive from the other Party all costs and expenses, including reasonable attorneys' and other fees, incurred by the prevailing Party in connection with such action or proceeding. The term "attorneys' and other fees" means and includes attorneys' fees, accountants' fees, and any and all other similar fees incurred in connection with the action or proceeding and preparations therefore. The term "action or proceeding" means and includes actions, proceedings, suits, arbitrations, appeals and other similar proceedings.

c. Notice. Notices shall be in writing and shall be given to the parties at the address specified below, unless otherwise notified in writing of change of address:

If to Licensee: Palos Verdes Peninsula Transit Authority  
38 Crest Road  
Palos Verdes Peninsula 90274  
Martin Gombert, Administrator

If to LACMTA: Los Angeles County Metropolitan Transportation Authority  
One Gateway Plaza, Mail Stop 99/04/03  
Los Angeles, CA 90012  
ATTN: Edith Goff-Youngblood, Senior Customer Service Officer

d. Entire Agreement. Except for the TAP Seller Agreement, this Agreement supersedes all prior agreements between the Parties with respect to its subject matter and constitutes (along with the TAP Participant Agreement) a complete and exclusive statement of the terms of the agreement between the parties with respect to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force or effect.

e. Modification. The Agreement shall not be amended, except in writing signed by the Parties.

f. Severability. If any provision of this Agreement shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable, such provision shall be deemed severed from this Agreement, and the remaining parts hereof shall remain in full force and effect, as fully as though such invalid, illegal or unenforceable provision had never been part of this Agreement.

g. Remedies. The obligations and duties of the Parties hereunder may be enforced by any and all available remedies, including without limitation, specific performance, injunction, damages and declaratory relief.

h. Duplicate Originals; Counterparts. This Agreement may be executed in any number of duplicate originals, all of which shall be of equal legal force and effect. Additionally, this Agreement may be executed in counterparts which, when taken together, shall form the entire Agreement of the Parties.

[Signatures on Next Page]



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: \_\_\_\_\_  
Name: David Sutton  
Title: Deputy Executive Officer, LACMTA TAP Operations  
Date: \_\_\_\_\_

APPROVED AS TO FORM:

RICHARD D. WEISS  
Acting County Counsel

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

**LICENSEE:**

PALOS VERDES PENINSULA TRANSIT AUTHORITY

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

DATE \_\_\_\_\_

**Exhibit B**

**SELLER LOCATION(S)**

Palos Verdes Peninsula Transit Authority  
38 Crest Road  
Palos Verdes Peninsula, California 90274

Exhibit C

PARTICIPANT FARE PRODUCTS AND COMMISSIONS

NOT APPLICABLE

**MEMORANDUM**

TO: AUTHORITY MEMBERS  
 FROM: Martin Gombert, Administrator  
 DATE: October 18, 2014  
 SUBJECT: Request for Proposal (RFP) for Transit Services

**INTRODUCTION**

The current Agreement for transit services with our fixed route contractor Transportation Concepts, Inc. expires on June 30, 2015 and cannot be extended. Shown below is the tentative schedule to issue and award a new Agreement for transit services.

**SCHEDULE**

Action	Date
Board approves issuance of RFP document	January 22, 2015
RFP issued	January 26, 2015
Proposals Due	April 3, 2015
Proposal Review period	April 6-30, 2015
Board approves new contract	May 28, 2015
New contract begins	July 1, 2015

**RECOMMENDED ACTION**

Receive and file report.