ATTACHMENT A

MOU._____
FY14/15 - FY16/17 REGIONAL RIDEMATCHING SERVICES PROJECT
MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (MOU) is entered into between the Los Angeles County Metropolitan Transportation Authority ("LACMTA") and the Ventura County Transportation Commission (VCTC) for the Regional Ridematching Services Project (the "Project").

WHEREAS, LACMTA desires to enter into this MOU with VCTC as part of the effort to maintain countywide rideshare services within Los Angeles County and within the region.

WHEREAS, the goal of the Project is to perform ridematching database services including enhancing the regional rideshare database and software, and to maintain this ridematching system which is necessary to encourage commuters to carpool, vanpool, take bus and rail transit, bike, walk and telecommute to Southern California worksites;

WHEREAS, LACMTA desires to continue participating with other County Transportation Commissions (CTCs) including VCTC and Orange County Transportation Authority (OCTA) in providing regionally coordinated ridematching services to better serve the traveling population of the region;

WHEREAS, LACMTA has actively participated in the joint effort of the CTCs in evaluating, designing and approving the regional ridematching software system; and

WHEREAS, LACMTA has agreed to perform services necessary to implement the Project on the terms and conditions contained herein;

NOW, THEREFORE, the parties to this MOU agree to the following terms and procedures:

1. <u>SCOPE OF SERVICES</u>

   A. LACMTA shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise, necessary to fully and adequately perform the tasks set forth in the LACMTA Scope of Work attached hereto as Attachment A and incorporated herein by reference (hereinafter referred to as "Services"). LACMTA and VCTC also understand and agree that VCTC and the CTCs are intended third-party beneficiaries of that certain Software License and Maintenance Agreement (Agreement No. XXXXX) between LACMTA and Trapeze Software Group, Inc. ("Trapeze"). The foregoing referenced Agreement, attached as Attachment B, is referred to herein as the 'Computer Software Agreement.'

   B. LACMTA shall perform the Services in accordance with the Budget attached as Attachment C and incorporated herein by reference. LACMTA may move funds around within the budget provided LACMTA obtains prior written approval from VCTC and the CTCs and provided LACMTA does not exceed the total budget amount.

C. LACMTA understands that this Project will be administered in accordance with the VCTC's CMAQ (Congestion Mitigation & Air Quality) Funding Guidelines, as adopted or amended, and agrees that it shall comply with the terms of these guidelines.

D. All work prepared by LACMTA shall be executed in a manner consistent with professional standards of due care.

E. LACMTA shall perform the Services under this MOU in a skillful and competent manner.

F. LACMTA represents and warrants to VCTC and the CTCs that it has all licenses, permits, qualifications and approvals of whatever nature that are legally required to practice its profession. LACMTA further represents and warrants that it shall keep in effect all such licenses, permits, and other approvals during the term of this MOU.

2. TERM

A. This MOU shall commence on July 1, 2014, and terminate on August 31, 2017.

B. All eligible Project expenses as defined in the Reporting and Expenditure Guidelines (Attachment D) shall be reimbursed in accordance with the terms and conditions of this MOU unless otherwise agreed to by the parties in writing.

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

3. PAYMENT OF COMPENSATION

A. VCTC shall reimburse LACMTA an amount not to exceed THIRTY ONE THOUSAND, THREE HUNDRED SIXTY DOLLARS ($31,360) (the "Funds") for the actual costs of the Services provided under this MOU subject to the terms and conditions contained herein. VCTC shall contribute Ventura County's share of the Project funded jointly by VCTC and the CTCs. If any of the other CTCs reduce their contribution, VCTC reserves the right to assess and/or reduce the Funds by a commensurate amount in order to maintain Ventura County's proportional share of the total amount contributed by all of the CTCs.

B. All disbursements of Funds shall be on a reimbursement basis only. Such disbursements of Funds shall be considered an estimate subject to adjustment based on VCTC audit

results.

C. Under no circumstances will the total amount of money paid to LACMTA for the Services exceed the Funds, unless otherwise agreed to by the parties in writing.

4. DISBURSEMENT OF FUNDS:

Disbursements shall be based on a reimbursement basis in accordance with the Quarterly Progress/Expenditure Report (Attachment D1). VCTC will make all disbursements by check unless an exception is requested in writing. LACMTA must provide detailed supporting documentation with its Quarterly Progress/Expenditure Report.

5. REPORTING AND AUDIT REQUIREMENTS/PAYMENT ADJUSTMENTS

A. LACMTA shall submit the Quarterly Progress/Expenditure Report and invoice within 60 days after the close of each quarter on the last day of the months November, February, May and August. Should LACMTA fail to submit such reports within 10 days of the due date and/or submit incomplete reports, VCTC will not reimburse LACMTA until the completed required reports are received, reviewed, approved. The quarterly invoice shall include all appropriate documentation (such as contractor invoices, timesheets, receipts, etc.). All supporting documents must include a clear justification and explanation of their relevance to the Project. If no activity has occurred during a particular quarter, LACMTA will still be required to submit the Quarterly Progress/Expenditure Report indicating no dollars were expended that quarter.

B. VCTC, and/or its designee, shall have the right to conduct audits of the Project, as deemed appropriate, such as financial and compliance audits; interim audits; pre-award audits, performance audits and final audits. VCTC will commence a final audit within six months of receipt of acceptable final invoice, provided the Project is ready for final audit (meaning all costs and charges have been paid by LACMTA and invoiced to VCTC, and such costs, charges and invoices are properly documented and summarized in the accounting records to enable an audit without further explanation or summarization including actual indirect rates for the period covered by the MOU period under review). LACMTA agrees to establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP). LACMTA shall reimburse VCTC for any expenditure not in compliance with the Scope of Work and/or not in compliance with other terms and conditions as defined by this MOU and the Guidelines. LACMTA's expenditures submitted to VCTC for this project shall be in compliance with Federal Acquisition Regulations, Subpart 31 (FAR).

C. LACMTA's records shall include, without limitation, accounting records, written policies and procedures, contract files, original estimates, correspondence, change order files (including documentation covering negotiated settlements), invoices, and any other

supporting evidence deemed necessary by VCTC to substantiate charges related to the Project (all collectively referred to as "records") shall be open to inspection and subject to audit and reproduction by VCTC auditors or authorized representatives to the extent deemed necessary by VCTC to adequately permit evaluation of expended costs. Such records subject to audit shall also include, without limitation, those records deemed necessary by VCTC to evaluate and verify, direct and indirect costs, (including overhead allocations) as they may apply to costs associated with the Project. These records must be retained by LACMTA for three years following final payment under this Agreement. Payment of retention amounts shall not occur until after the VCTC's final audit is completed.

D. LACMTA shall cause all contractors to comply with the requirements of paragraphs 5.B and 5.C above. LACMTA shall cause all contractors to cooperate fully in furnishing or in making available to VCTC all records deemed necessary by VCTC auditors or authorized representatives related to the Project.

E. VCTC or any of its duly authorized representatives, upon reasonable written notice shall be afforded access to all of the records of LACMTA and its contractors related to the Project, and shall be allowed to interview any employee of LACMTA and its contractors through final payment to the extent reasonably practicable.

F. VCTC or any of its duly authorized representatives, upon reasonable written notice, shall have access to the offices of LACMTA and its contractors, shall have access to all necessary records, including reproduction at no charge to VCTC, and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the terms and conditions of this MOU.

G. When business travel associated with the Project requires use of a vehicle, the mileage incurred shall be reimbursed at the mileage rates set by the Internal Revenue Service, as indicated in the United States General Services Administration Federal Travel Regulation, Privately Owned Vehicle Reimbursement Rates.

H. Invoices shall be addressed to:

VCTC
Commuter Services
950 County Square Drive, Suite 207
Ventura CA, 93004
Re: MOU._*to be determined*_

Copies of invoices/backup shall be addressed to:

VCTC
Commuter Services
950 County Square Drive, Suite 207
Ventura CA, 93004

Payments shall be addressed to:

LACMTA
One Gateway Plaza
Mail Stop 99-19-6
Los Angeles, CA 90012-2952
Attention: Paula Carvajal, Project Manager,
Regional Rideshare

6. DEFAULT: A Default under this MOU is defined as any one or more of the following: (i) LACMTA fails to comply with the terms and conditions contained herein or in the Guidelines; (ii) LACMTA fails to perform satisfactorily or makes a material change, as determined by VCTC at its reasonable discretion, to the Financial Plan, the Scope of Work, or the Project Funding without VCTC's prior written consent or approval as provided herein, or (iii) VCTC fails to comply with the terms and conditions contained herein; provided, however, VCTC's failure to timely pay an invoice submitted by LACMTA that is not in conformance with the requirements of this MOU shall not be considered a default of VCTC.

7. REMEDIES:

A. In the event of a Default by either party, the non-Defaulting party shall provide written notice of such Default to the party in Default with a 30-day period to cure the Default. In the event the Defaulting party fails to cure the Default, or commit to cure the Default and commence the same within such 30-day period to the satisfaction of the non-Defaulting party, the following remedies shall apply:

1. If LACMTA defaults, VCTC shall have the following remedies: (i) VCTC may terminate this MOU; (ii) VCTC may make no further disbursements of Funds to LACMTA, except that VCTC shall reimburse LACMTA for Services satisfactorily provided, as determined in VCTC's reasonable discretion, prior to termination of this MOU; and/or (iii) VCTC may recover from LACMTA any Funds disbursed to LACMTA as allowed by law or in equity.

2. If VCTC defaults, LACMTA shall have the following remedies: (i) LACMTA may terminate this MOU; (ii) LACMTA may cease the provision of the Services until cure of the Default; and /or (iii) LACMTA may recover from VCTC any Funds that should have been disbursed to LACMTA pursuant to the terms of this MOU as allowed by law or in equity.

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

LACMTA.

C. The remedies described herein are non-exclusive. VCTC shall have the right to enforce any and all rights and remedies herein or which may be now or hereafter available at law or in equity.

8. COMMUNICATIONS:

A. LACMTA shall ensure that all Communication Materials contain recognition of VCTC's contribution to the Project. LACMTA shall ensure that at a minimum, all Communications Materials shall include (i) the phrase "This project was partially funded by VCTC" or alternative acceptable minimum language; and (ii) the VCTC logo, with the exception of press releases, which do not require a VCTC logo.

B. If LACMTA produces any Communication Materials that do not contain the information set forth in Section 8.A above, LACMTA must provide an opportunity for prior review and written comment by the Chief Communications Officer of VCTC or its designee before such materials can be produced. If LACMTA does not receive a response from VCTC Communications within seven (7) working days from the day of receipt by VCTC Communications staff, LACMTA may proceed with producing the Communications Materials as proposed.

C. For purposes of this MOU, "Communications Materials" include, but are not limited to, literature, newsletters, publications, websites, advertisements, brochures, maps, information materials, video, radio and public service announcements, press releases, press event advisories, and all other related materials.

D. For signage on Project structures, facilities, vehicles and construction sites, LACMTA shall use the phrase, "Funded in part by [VCTC logo]" or "Your tax dollars at work [VCTC logo]" or alternative acceptable language. Further guidance on acknowledging VCTC contribution is provided in the Communications Materials guidelines available from the VCTC.

E. CTC shall notify the VCTC Public Information Officer or its designee of all press events related to the Project in such a manner that allows VCTC to participate in such events, at VCTC's sole discretion.

F. The VCTC logo is a trademarked item that shall be reproduced and displayed in accordance with specific graphic guidelines available from VCTC.

G. LACMTA shall ensure that any subcontractor, including, without limitation, public relations, public affairs, and/or marketing firms hired to produce Project Communications Materials will comply with the requirements contained in this Section.

9. OWNERSHIP OF MATERIALS/EQUIPMENT/CONFIDENTIALITY/USE OF DATA

A. Ownership and Use Rights. Ownership and the right to use all documents, Data, Software or Successor Software (as defined in Section 9.c. below), and materials shall be in accordance with that certain Computer Software Agreement. LACMTA agrees that it shall have no interest or claim to VCTC collected or owned technical data. All capital goods and assets, including, but not limited to, computer hardware, printing and duplication equipment, multimedia equipment procured in whole or part by funds provided under this MOU, are joint property of VCTC and the CTCs. VCTC and the CTCs will collectively negotiate and agree upon the disposition of all capital goods upon termination of this MOU for any reason.

B. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials, either created by or provided to LACMTA in connection with the performance of this MOU shall be held confidential by LACMTA. Such materials shall not, without the prior written consent of VCTC and the CTCs, be used by LACMTA for any purposes other than the performance of the Services. Nor shall such materials be disclosed to any person or entity not connected with the performance of the Services. Nothing furnished to LACMTA, which is otherwise known to LACMTA or is generally known, or has become known, to the related industry shall be deemed confidential. Except as required by Section 8 of this MOU, LACMTA shall not use VCTC's name or insignia, photographs of the project, or any publicity pertaining to the Services in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of VCTC.

C. Use of Data. As a user of the regional ridematching database system, LACMTA shall ensure all Data is accessible to VCTC and the CTCs in hard copy and electronic media through the Software wide area network configuration or if Software is replaced, then through the successor software configuration, provided such successor software at a minimum performs the same functions as Software (the "Successor Software"). Data is accessible 24 hours, 7 days a week to all CTCs to input, use, access and manipulate the Data to prepare reports and perform other ridematching contemplated by this MOU. If electronic access to Data is interrupted, Data will be made available upon request and shall be immediately provided to VCTC and the CTCs but no later than 30 days after request has been made. All Data shall be provided in hardcopy and electronic media format.

10. SOFTWARE LICENSING AGREEMENT AND PROVISIONS FOR USE

A. Software Licensing for the computer software and products required under this MOU shall be in accordance with the Computer Software Agreement, the provisions of which shall control over the terms of this MOU. For the purposes of this MOU, the below terms are defined as follows:

1. Software: The computer programs and products required to be or have been developed and delivered by LACMTA or its subcontractors to VCTC and OCTA under the MOU, including, but not limited to, RidePro Wide Area Network, RidePro Web, Average Vehicle Reduction (AVR) Module, applications to create density maps, CTC RidePro Enhancements, AVR Module Enhancements (as defined in Section 10.A.2 below) and RidePro School Pool Enhancement, and related enhancements to those computer programs.

2. CTC Software or Successor Software Module Enhancements: Enhancements made to Software or the Successor Software modules by LACMTA or its subcontractors that are funded by VCTC and/or the CTCs hereunder for the Project, including without limitation the tailoring of the AVR Module to comply with local trip reduction requirements, the electronic AVR survey tool, and tailoring Software or Successor Software for School Pool matching.

3. Data: The information, whether in hard copy, database, keypunch or other formats, which is used as input to the Software or Successor Software or which is or has been generated, collected, analyzed, created, prepared or developed by LACMTA, or its respective subcontractors for the performance of the Project, including, but not limited to, RideGuide surveys, Average Vehicle Ridership (AVR) surveys, School Pool surveys, AVR calculations, AVR statistics, Software or Successor Software commuter information, and remote access client information and which is funded hereunder or funded under any other funding agreements between VCTC, OCTA and LACMTA for the Project.

B. When LACMTA or its subcontractors develop Software or Successor Software not deemed proprietary for VCTC and OCTA, for the Project, the following shall apply:

1. LACMTA shall deliver to VCTC and OCTA the Software or Successor Software, and Documentation, in such tape, disk, or hard copy format as VCTC and OCTA may designate.

3. The VCTC and OCTA shall hold the Software or Successor Software, and Documentation, in confidence, shall use and disclose them only as expressly authorized herein or as required by law and only to its employees, agents or sub licensees to whom disclosure is necessary or appropriate for the performance and exercise of its rights hereunder, and shall take reasonable steps to ensure that unauthorized persons will have no access to them.

4. VCTC and the CTCs shall not sell, license or otherwise transfer any interest in the Data, Software or Successor Software, or other materials in some manner developed for utilization in the Project, without the prior written permission of the VCTC Chief Executive Officer or designee and each of the CTCs.

5. Upon the VCTC's request, LACMTA or its subcontractors shall generate modifications of and enhancements to the Software or Successor Software not required by the MOU. If such software modifications and enhancements cause an increase or decrease in the price, the parties will promptly negotiate an equitable adjustment

11. INSPECTION OF SERVICES

VCTC reserves the right to inspect all and every part of the Services at any time during the performance and after completion at its discretion. VCTC shall not be obligated to make any inspections, however, and neither the inspection of the Services, nor the lack thereof, shall relieve LACMTA of its responsibility for performing and providing the Services in accordance with the terms of this MOU.

12. OTHER TERMS AND CONDITIONS

A. This MOU, along with its Attachments and the Guidelines, constitutes the entire understanding between the parties, with respect to the subject matter herein. The MOU shall not be amended, nor any provisions or breach hereof waived, except in writing signed by the parties who agreed to the original MOU or the same level of authority. Adoption of revisions or supplements to the Guidelines shall cause such revisions or supplements to become incorporated automatically into this MOU as though fully set forth herein.

B. LACMTA is obligated, to continue using the Project dedicated to the public transportation purposes for which the Project was initially approved. Equipment acquired as part of the Project, including office equipment, transit vehicles, shall be dedicated to that use for their full economic life cycle, including any extensions of that life cycle achieved by reconstruction, rehabilitation, or enhancements.

C. In the event that there is any legal court (e.g., Superior Court of the State of California, County of Ventura, or the U.S. District Court for the Central District of California) proceeding between the parties to enforce or interpret this MOU, to protect or establish any rights or remedies hereunder, the prevailing party shall be entitled to its costs and expenses, including reasonable attorney's fees.

D. Neither VCTC nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or committed to be done by LACMTA under or in connection with any work performed by and or service provided by LACMTA, its officers, agents, employees, contractors and subcontractors under this MOU. LACMTA shall fully indemnify, defend and hold VCTC, and its officers, agents and employees harmless from and against any liability and expenses, including without limitation, defense costs, any costs or liability on account of bodily injury, death or personal injury of any person or for

damage to or loss of risk of property, any environmental obligation, any legal fees and any claims for damages of any nature whatsoever arising out of the Project, including without limitation: (i) misuse of the Funds by LACMTA, or its officers, agents, employees, contractors or subcontractors; (ii) breach of LACMTA's obligations under this MOU; or (iii) any negligent act or omission of LACMTA, or its officers, agents, employees, contractors or subcontractors in the performance of the work or the provision of the services, in connection with the Project including, without limitation, the Scope of Work, described in this MOU.

E. Neither LACMTA nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or committed to be done by VCTC under or in connection with this MOU. VCTC shall indemnify, defend and hold harmless LACMTA, its officers, directors, employees and agents from and against any and all claims (including attorneys' fees and reasonable expenses for litigation or settlement) for any loss or damages, bodily injuries, including death, damage to or loss of use of property caused by the negligent acts, omissions or willful misconduct by VCTC, its officers, directors, employees, agents, subcontractors or suppliers in connection with or arising out of its performance of this MOU.

F. Neither party hereto shall be considered in default in the performance of its obligation hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, acts of a public enemy, and government acts beyond the control and without fault or negligence of the affected party. Each party hereto shall give notice promptly to the other of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this MOU.

G. LACMTA shall comply with and insure that work performed under this MOU is done in compliance with Generally Accepted Accounting Principles (GAAP), all applicable provisions of federal, state, and local laws, statutes, ordinances, rules, regulations, and procedural requirements including Federal Acquisition Regulations (FAR), and the applicable requirements and regulations of VCTC. LACMTA acknowledges responsibility for obtaining copies of and complying with the terms of the most recent federal, state, or local laws and regulations, and VCTC requirements including any amendments thereto.

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

I. This MOU shall be governed by California law. If any provision of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired

or invalidated in any way.

J. The covenants and agreements of this MOU shall inure to the benefit of, and shall be binding upon, each of the parties and their respective successors and assigns.

K. LACMTA will advise VCTC prior to any key Project staffing changes.

L. Notice will be given to the parties at the address specified in Section 5, unless otherwise notified in writing of change of address.

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

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

VENTURA COUNTY TRANSPORTATION COMMISSION

By:_____
Darren Kettle Date
Executive Director

APPROVED AS TO FORM:

By:_____
VCTC's Legal Counsel Date

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By:_____
Arthur T. Leahy Date
Chief Executive Officer

APPROVED AS TO FORM:

JOHN KRATTLI
County Counsel

By:_____
Deputy Date