



**FILED**

11-24-08

04:59 PM

BEFORE THE PUBLIC UTILITIES COMMISSION  
OF THE STATE OF CALIFORNIA

In the Matter of the Application of the Exposition Metro Line Construction Authority for an order authorizing the construction of a two-track at-grade crossing for the Exposition Boulevard Corridor Light Rail Transit Line across Jefferson Boulevard, Adams Boulevard, and 23<sup>rd</sup> Street, all three crossings located along Flower Street in the City of Los Angeles, County of Los Angeles, California.

---

And Consolidated Proceedings.

Application 06-12-005  
(Filed December 6, 2006)

Application 06-12-020  
(Filed December 19, 2006)

Application 07-01-004  
(Filed January 2, 2007)

Application 07-01-017  
(Filed January 8, 2007)

Application 07-01-044  
(Filed January 24, 2007)

Application 07-02-007  
(Filed February 7, 2007)

Application 07-02-017  
(Filed February 16, 2007)

Application 07-03-004  
(Filed March 5, 2007)

Application 07-05-012  
(Filed May 8, 2007)

Application 07-05-013  
(Filed May 8, 2007)

**OPENING COMMENTS OF  
THE LOS ANGELES UNIFIED SCHOOL DISTRICT**

MICHAEL J. STRUMWASSER (SBN 58413)  
FREDRIC D. WOOCHEER (SBN 96689)  
BEVERLY GROSSMAN PALMER (SBN 234004)  
STRUMWASSER & WOOCHEER LLP  
100 Wilshire Boulevard, Suite 1900  
Santa Monica, California 90401  
Telephone: (310) 576-1233  
Facsimile: (310) 319-0156  
E-mail: [mstrumwasser@strumwooch.com](mailto:mstrumwasser@strumwooch.com)

*Attorneys for the  
Los Angeles Unified School District*

November 24, 2008

## SUBJECT INDEX

I.	Introduction .....	1
II.	Farmdale: LAUSD Supports Rejection of At-Grade Crossing and Urges the Commission to Require a Flyover .....	2
A.	The PD Correctly Recognizes That an At-Grade Crossing Would Be a Serious Safety Hazard at Farmdale .....	2
B.	The PD Fails to Recognize That the Light-Rail Flyover Eliminates the Impacts of the Pedestrian Bridge .....	6
1.	The Flyover Would Preserve the Existing Traffic and Student Drop-off Situation and Would Therefore Present an Improvement over the Pedestrian Bridge .....	6
2.	The Pedestrian Bridge Is a Necessary Improvement over the At-Grade Crossing but Presents Impacts That Are Avoided by the Flyover .....	8
3.	The Flyover’s Cost Is Comparable to the Five Other Similar Structures Planned Elsewhere Along the Exposition Line and Should Not Render This Option Impracticable .....	11
III.	Harvard: LAUSD Supports the PD’s Requirement of a Pedestrian Bridge at Harvard .....	12
IV.	Conclusion .....	15

**OPENING COMMENTS OF THE  
LOS ANGELES UNIFIED SCHOOL DISTRICT**

**I. Introduction**

The Proposed Decision (“PD”) properly recognizes the primacy of safety in evaluating the proposed crossing designs of the Exposition Metro Line Construction Authority (“Expo”) for Farmdale Avenue (“Farmdale”) and Harvard Boulevard (“Harvard”). At Farmdale, the PD’s requirement of grade separation in the form of a pedestrian bridge will eliminate a patently unsafe situation in which hundreds of students would be required to pass daily within feet of an active rail line. At Harvard, by requiring a pedestrian bridge instead of allowing reliance on a tunnel accessible less than one hour a day, the Proposed Decision provides some mitigation for the serious safety concerns created by the operation of the Expo line through this community.

While the PD correctly rejects Expo’s preferred at-grade option at Farmdale, it improperly rejects the light-rail flyover, which is the least-cost practicable alternative. The light-rail flyover preserves emergency access to and from Dorsey High School (“Dorsey”) along Farmdale, maintains safe and easily supervised student pick-up and drop-off locations, provides adequate traffic flow in the area, and eliminates the impact on visual resources that will be caused by closing Farmdale and erecting 10-foot security walls stretching for blocks. Expo has already committed to construct at least five similar grade separations elsewhere along the line, ostensibly where traffic conditions require it. The safety and environmental concerns at the Farmdale crossing are surely as compelling as the traffic issues that justified those flyovers and are plainly sufficient to require a flyover at Farmdale. The Commission should reject Expo’s proposed at-grade crossing at Farmdale, and require a light-rail flyover.

At Harvard, the Commission should adopt the PD's rejection of Expo's application to rely exclusively on the existing Harvard tunnel and its requirement that Expo construct a pedestrian overcrossing.

**II. Farmdale: LAUSD Supports Rejection of At-Grade Crossing and Urges the Commission to Require a Flyover**

**A. The PD Correctly Recognizes That an At-Grade Crossing Would Be a Serious Safety Hazard at Farmdale**

As the PD rightly acknowledges, the at-grade crossing proposed for Farmdale fails to eliminate the obvious safety hazards posed by the reliance upon crossing gates that can easily be circumvented by the many students who would crowd this crossing every day. The record before the Commission makes clear that the approximately 700 students who cross Exposition and Farmdale every weekday afternoon engage in risky behavior that is common to the teenage years. As George Bartleson, the Principal of Dorsey High School and the witness most familiar with the students, testified, his "students are very distracted, both by the events occurring in their lives and by technologies that prevent them from hearing or focusing fully on their environment," including the use of iPods or cell phones. (LAUSD Exh. 20, p. 7.) Students are also distracted by the social environment around them, including seeking out or avoiding fights with others. (*Ibid.*) They also take risks that adults would not, including stepping onto Rodeo Road, a busy four-lane street, with only a brief glance for on-coming traffic, and walking across the road without further regard for on-coming vehicles (LAUSD Exh. 15, p. 4). Under crowded conditions, as would be expected at the at-grade crossing, students frequently misbehave, pushing other students and inciting fights. (LAUSD Exh. 20, p. 8; see also LAUSD Exh. 15, p. 5.) Even Expo's own witnesses testified to an awareness of the potential for gang-related violence around Dorsey. Expo witness James M. Okazaki testified that as early as November

2006 he was made aware by school personnel that a major concern regarding the at-grade crossing were “kids scattering when there is a shooting.” (LAUSD Exh. 7, p. 4; RT 700:28-701:25.) LAUSD witnesses testified that “students and other gang members frequently fight in the area around the school,” (LAUSD Exh. 15, p. 3) and that the gang issue at Dorsey High School compounded their concerns about the safety of students at the crossing, particularly in the holding pen (LAUSD Exh. 20, p. 9; LAUSD Exh. 15, pp. 3, 5). The record before the Commission is exceptionally clear that under the circumstances presented at Dorsey High School, funneling approximately 700 students each afternoon into a 1,200-square foot holding pen to wait as trains pass through the intersection, separated only by gates that can easily be circumvented or improperly opened, creates an enormous safety risk to those students.

What’s more, there is nothing in the record before the Commission to support Expo’s claim that it has eliminated all safety hazards at this crossing. In spite of the clear safety risks presented by the at-grade crossing, Expo’s plan to ensure the safety of the 700 Dorsey High School students who cross the intersection each day is to paint lines on the ground and to institute an education program “to follow the law.” (RT 1061:16; 1060:9-16 (Expo Witness Olson).) Expo assumes that the students will suddenly choose to “follow the law” once they have been educated, in spite of Mr. Bartleson’s expert testimony on their widespread disregard for rules and warnings that might deter adults. The record reveals that it will take more than lines on the ground and a video about rail crossing safety to protect generations of students at Dorsey High School from the risk-taking instincts that are inherent in the teenage years.

Expo’s utter disregard for the behavior of the people actually placed at risk is exemplified by the computer simulation it directed its contractor, Legion America, to perform. (See Expo Exh. 2.) Expo relies on Legion to prove that the Farmdale crossing can safely accommodate the

approximately 700 students that will be using it in a 15-minute period at the end of the day. That simulation cannot be relied upon to show that the “holding pens” will not become dangerously overcrowded, to prove that students will not be injured or killed as a result of the overcrowding inherent in the crossing design, or to prove anything else about this crossing.

The Legion model was based on the behavior of adult business commuters. As Expo witness Nick Connor testified, the Legion model goes to excruciating detail to distinguish among adult commuters carrying different kinds of luggage, moving at different speeds, having different “personal space preference” (RT 343:28-344:4; RT 345:14-346:22) — even distinguishing between U.K, Far Eastern, North American, and Southern European pedestrians (RT 343:10-343:28) because even small differences “could affect the results of [the] model” (RT 353:12-24). In the Farmdale and Harvard simulations, Legion assumed that the pedestrians were indistinguishable from adult “North American commuters,” not juvenile pedestrians (RT 344:3-5, 345:5-9, 354:1-356:12 (Connor)).

Nor did Legion study the expected behavior of teenage pedestrians. Although its model could be modified to simulate pedestrians who behaved like juveniles — jaywalking, loitering, or interacting with one another — the model instead used “an implicit assumption” that the pedestrians are “a group of people who are going to stop at a stop sign, are going to be [a] normal, sober pedestrian.” (RT 372:22-27; see also RT 373:9-16 (Connor).) This assumption alone — that the pedestrians being simulated “are strangers to one another . . . [who] have no objective . . . other than their . . . transportation objectives” (RT 373:2-8 (Connor)) — renders the model unrepresentative and its conclusions irrelevant.

Legion also did not model pedestrian-automobile interaction in the intersection. Expo’s own evidence shows that students consistently step into the path of oncoming automobiles on

Farmdale. (See Expo Exh. 15 (video).) The design of the Farmdale crossing relocates the Dorsey High School driveway to within a few feet of the holding pen, creating opportunities for students to encounter vehicles entering or exiting the parking lot. (LAUSD Exh. 21, p. 7; LAUSD Exh. 20, p. 9.) While Legion could have simulated pedestrian-vehicle interactions, it did not do so for Expo. Its study provides no evidence that the design of the crossing and relocated driveway will not place students at risk. (RT 366:17-367:6 (Connor).)

Finally, the Legion study simply employs the wrong assumptions on the timing of the gates, a fact that is highly relevant where so many pedestrians flow into the intersection each minute of the peak crossing period. Expo calculated a maximum crossing closure time, during which pedestrians were unable to cross the tracks due to trains crossing, of 80 seconds, based upon a train moving at 55 miles per hour. (LAUSD Exh. 9.) Applying similar assumptions to a train moving at 10 miles per hour, as Expo has committed to do at Dorsey High School during peak periods, the gates would be closed for at least 20 additional seconds when two trains reached the crossing one after another, the worst case scenario.<sup>1/</sup> (LAUSD Exh. 12.) Mr. Connor indicated that a change in the assumptions regarding crossing closure time would change

---

<sup>1</sup>The PD notes that it does not consider the implementation of slower speeds at Farmdale due to Expo's failure to present any support from the operator for such a restriction. (Proposed Dec., p. 25.) If the Commission were to consider implementing an operating restriction, it should bear in mind that students travel to and from the school at many hours of the day other than arrival and dismissal. (LAUSD Exh. 20, pp. 3-7.) Expo's proposal to slow the trains only during certain periods will lead to confusion and danger, as a pedestrian who perceives the train moving slowly at some times of the day may not realize that the train is moving much more quickly at other times of the day. (LAUSD Exh. 22, pp. 5-6.) This dynamic may encourage a pedestrian to "beat the train" across a crossing because the pedestrian might be used to a slower moving train and assume that he or she could beat the train across the tracks. (*Ibid.*; see also LAUSD Exh. 17 [noting that trying to beat a train is a possible cause of pedestrian fatalities along portions of the Blue Line].) This is particularly so where limited sight lines will require a student to be nearly on the tracks before he or she can see whether a train is approaching. (LAUSD Exh. 22, p. 5.)

the outcome of the Legion analysis in an unknown way. (RT 364:6-365:7.) As Expo's own counts of the volume of student pedestrians indicate, shortly after dismissal over 100 students cross the intersection *each minute*. (LAUSD Exh 10.) The volume of additional students that could be required to wait while two trains running at 10 miles an hour clear the crossing is potentially significant, and could lead to catastrophic overcrowding in the holding pen.

The PD correctly finds that Expo has not eliminated the serious safety hazards presented by the at-grade design. The easily-evaded gates, the behavior of hundreds of teenage users, and the absence of any valid study of the crossing's ability to handle them all support the PD's rejection of the at-grade proposal.

**B. The PD Fails to Recognize That the Light-Rail Flyover Eliminates the Impacts of the Pedestrian Bridge**

**1. The Flyover Would Preserve the Existing Traffic and Student Drop-off Situation and Would Therefore Present an Improvement over the Pedestrian Bridge**

The PD determines that a pedestrian bridge is the only practicable grade separation at Farmdale due to the environmental impacts and costs of the flyover crossing, but the PD fails to acknowledge that closing Farmdale will have significant impacts, both on the environment and on the safety of students at Dorsey High School. Closing Farmdale will adversely impact emergency response and will require Dorsey High School to relocate student drop-off and pick-up areas to a location farther from campus, a placement that LAUSD's pedestrian safety expert explains poses safety risks to students. (LAUSD Exh. 21, pp. 6-9 (Smith).) A flyover avoids these hazards by preserving open access to Farmdale, allowing pedestrians and automobiles to use the intersection without any interface with the train. Closure of Farmdale would delay response time to incidents on the far side of the closure by three minutes, even with lights and a siren. (RT 1079:26-1080:11 (LAUSD Witness Officer Arkangel).) This three-minute delay

would be significant in a law enforcement context, and could have serious effects on the safety of students and others who might become victims of violence or other crime. (*Ibid.*)

Closure of Farmdale will also require the creation of a drop-off and pick-up area on Exposition Boulevard near the proposed pedestrian overcrossing. (RT 1137:14-1138:11 (Expo Witness Okazaki).) Expo did not calculate the curb space required to accommodate all of the waiting vehicles, nor did it account for the needed adult supervision. (RT 1140:4-1141:21; RT 1149:13-1150:21 (Okazaki); LAUSD Exh. 20, p. 5.) LAUSD's pedestrian safety expert Brad Smith testified to the serious concern. (LAUSD Exh. 21, p. 8.)

The flyover also retains vehicular access across Farmdale and Exposition, preserving critical emergency access (RT 1079:26-1080:11; LAUSD Exh. 15, p. 7) and eliminating potential traffic impacts. (RT 1151:2-1152:1 (Expo Witness Okazaki).) Because this alternative eliminates *all* safety risks, including the risks posed by the delay in emergency response due to the closure of Farmdale, it is practicable, and should be implemented at the Farmdale crossing.

The PD cites Expo's studies of the environmental effects of the flyover alternative. However, these studies overstate the environmental effects of this option. Expo itself admits that the overcrossing structure would be similar to the one being used at the La Brea Avenue station, which is approximately one-half mile from the Farmdale crossing. (Expo OB, p. 40.) Yet Expo fails to explain how the impacts of the overcrossing at Farmdale — which is *shorter* and *lower* than the aerial station at La Brea (RT 634:22-28; 637:6-10 (Expo Witness Lisecki)) — has an impact on visual resources that is present *nowhere else on the entire eight-mile line*, in spite of multiple grade separation structures, including the similar structure nearby at La Brea, where there are also residential structures and views of the Hollywood and Baldwin Hills. (RT 632:5-12; 645:21-22 (Lisecki).) Similarly, Expo's assessment of the effects on historic resources treats

the structure at Farmdale differently from a similar overcrossing at the Ballona Creek Bridge, concluding that the overcrossing at Farmdale would have an adverse impact on the setting of Dorsey High School while the EIR concludes that construction of an overcrossing on top of an historic bridge would *avoid* any impacts to that historic resource. (See EIR pp.4.13-13, 4.13-20; see also Figures 4.13-3, -4, and -5 [renderings of bridge alternative showing large new bridge constructed over historic bridge].) As LAUSD’s CEQA expert opined, the differential treatment of similarly situated structures elsewhere on the line suggests “that the conclusions in these analyses are consistent with being conducted in order to make it appear that. . . , [the] Pedestrian Overcrossing with Farmdale Closed, has less environmental impacts in relation to Option 3, the rail flyover.” (See LAUSD Exh. 19, pp. 10-11.)

Any CEQA impact of a light-rail flyover, of course, would be readily justifiable. The safety benefits of a light-rail flyover, completely separating automobiles and pedestrians from the train and maintaining as a viable transportation corridor one of the few streets in the area that traverses Exposition, are both significant benefits of a flyover crossing, as opposed to a pedestrian overcrossing with Farmdale closed or an at-grade crossing. The Commission should not allow Expo’s contrived claims about environmental impacts of light-rail flyover to deter it from requiring Expo to implement the design that affords the fullest safety benefits to the students at Dorsey High School and the residents of the surrounding community.

**2. The Pedestrian Bridge Is a Necessary Improvement over the At-Grade Crossing but Presents Impacts That Are Avoided by the Flyover**

While the PD correctly concludes that the pedestrian bridge will provide much needed improvements in safety at the Farmdale crossing, it fails to address the environmental and safety

impacts of the pedestrian bridge, including the closure of Farmdale to through traffic and the multi-block security walls necessary to implement this closure.

The PD fails to account for the irregularities in Expo's traffic studies when it concludes that they are adequate.<sup>2/</sup> (Proposed Dec., p. 24.) In a July 24, 2008, draft of its study, Expo concluded that Farmdale could not be closed without a significant impact, or without significant taking of private property. (LAUSD Exh. 2, p. 5; UCA/NFSR Exh. 1, pg. 7.) In the 15 days between the July 24, 2008, release date of this draft, and the August 8, 2008, release of the "final" version of its traffic study (Expo Exh. 5), Expo and its contractors determined that they could reroute the hypothetical traffic bringing students to and from Dorsey High School in order to show that the street could be closed without any impact (RT 273:25-274:17 (Expo Witness Stutsman); RT 716:23-718:20 (Expo Witness Okazaki)). The PD ignores the record evidence demonstrating that Expo's traffic study does not reliably reflect the potential impacts of the closure of Farmdale. The PD does not address the fact that Expo's revisions to the traffic study simply redistributed traffic to intersections that were not analyzed in the traffic study (so no impacts could be found) in order to bring the traffic impacts on the analyzed intersections to just below the threshold for a significant impact, addressing *only* those intersections showing an impact in the earlier drafts and revising the calculations to within .001 of the threshold. (RT 718:4-20; 1132:16-1137:11 (Okazaki); compare LAUSD Exh. 2, p. 26, Table 5, with Expo Exh. 5, p. 25, Table 5.) Nor does the PD address the fact that Expo *omitted* from its traffic study one

---

<sup>2/</sup>The PD also states that Expo provided emails and work papers related to the traffic study. (Proposed Dec., p. 24.) This seriously misstates the matter. Expo only provided workpapers related to a May 14, 2008, *draft* study that found significant adverse effects from closing Farmdale, a conclusion abruptly reversed in an August 8, 2008 revision.. Despite LAUSD's repeated requests for the work papers drafted between May 14, 2008, and August 8, 2008 — papers that would have reflected the purported basis for the reversal — Expo was never ordered to produce them.

of the intersections closest to the project, rather than conduct a proper analysis of potential impacts. (RT 1174:9-19; 1176:9-23 (Okazaki).) The PD also does not address the fact that Expo's trip distribution changes are reflected *only* in the morning trips and not in the afternoon trip routing, even though LAUSD has found that trip patterns of parents traveling to and from schools are essentially identical in morning and afternoon. (LAUSD Exh. 19, p. 5.) Due to the irregularities in the traffic study, LAUSD's expert John Anderson concluded:

“It appears that the distributions assumed in Figure 8 have been modified in Figure 7 to siphon off a very small amount of traffic from key impacted intersections. Because it takes very little additional traffic to create a significant impact at such congested intersections, it is my opinion this distribution was manipulated for the AM peak hour to avoid the appearance of a significant impact.” (LAUSD Exh. 19, p. 7.)

The PD completely fails to acknowledge the inconsistencies and serious concerns raised by LAUSD. The record in this matter is rife with evidence that demonstrates the numerous flaws in the traffic study's analysis, and the dubious origins of its last-minute 180-degree change of conclusion. The Commission would do itself and the project a serious disservice were it to rely on this study and face the risk of litigation and further delay.

The PD likewise fails to address the impacts of the pedestrian overcrossing on visual and historic resources. The closure of Farmdale requires the construction of two 10-foot walls at grade running along each side of the tracks between Buckingham Avenue past the border of Dorsey High School, a distance of more than six blocks and far longer than the distance over which the light-rail overcrossing would gradually ascend and descend. (RT 638:10-18 (Expo Witness Lisecki).) Expo rightly extolls the sight-lines available to pedestrians and motorists down Farmdale to the south (Expo Exh. 10, pp. 21-22; RT 641:14-23, 649:15-26 (Lisecki)), but closure of Farmdale would at least partially obstruct that view from north of Exposition to an extent that would not occur if Farmdale remains open and bridged by a light-rail overcrossing

(RT 649:13-650:26 (Lisecki)). Mr. Lisecki also agreed that the construction of two parallel 10-foot high walls over six or more blocks would have the potential to visually divide the community. (RT 651:16-27.) Compared to a flyover gradually ascending over a shorter course (Expo Exh. 15, F-22, p. 8), the visual-resource impacts of the pedestrian overcrossing are at least as great, if not greater. And the impacts on historic resources are likewise comparable: if constructing a light-rail flyover adjacent to Dorsey High School has an impact on that historic resource, constructing a 10-foot security wall alongside the entire length of the campus similarly compromises the historic setting. (LAUSD Exh. 19, p. 9.)

**3. The Flyover’s Cost Is Comparable to the Five Other Similar Structures Planned Elsewhere Along the Exposition Line and Should Not Render This Option Impracticable**

The PD states that the cost of the flyover is “cost-prohibitive when compared to the proposed at-grade crossing, and when compared to the pedestrian bridge with Farmdale closed option.” (Proposed Dec., p. 21.) The PD relies on Expo’s \$28 million estimate, despite evidence that Expo’s self-serving estimate is highly inflated. The entire basis given the Commission for this figure consists of two pages. (RT 1398:28-1399:10 (Expo Witness Olson); LAUSD Exh. 23 pp. 4, 8.) Expo has provided no construction drawings, no bill of materials, no bidding documents. (RT 1399:5-16 (Olson).) The cost estimates have been inflated by 25 percent for “contingencies,” accounting for \$5.2 million to the claimed costs, which then get further increased by an unexplained, unsupported escalation factor. (LAUSD Exh. 23, p. 4.)

The Commission need not rely on such speculation about the costs of a Farmdale flyover. Expo has already agreed to such grade-separation at Flower, Figueroa, La Brea, La Cienega, and Venice. (RT 986:5-14 (Olson).) The Commission recited in D.07-12-029 that it would cost \$19 million to construct the flyover at La Brea, an overcrossing that is actually longer and no more

complex than the alternative proposed for Farmdale (RT 1398:3-12 (Olson).) Expo concedes that the only reason to suggest higher costs for the flyover at Farmdale is “the preliminary nature of the estimate” that added 25 percent and the later construction date for which Expo adds 6 percent (\$2.3 million). (Expo OB, p. 40; LAUSD Exh. 23, p. 4.) The \$5.2 million can reasonably be disregarded as padding, and the \$2.3 million remains to be proven in a construction market sliding into recession. LAUSD maintains that the \$19 million figure for the larger La Brea elevated LRT is the best record evidence of what the Farmdale flyover will cost, and that the Commission should base its decision upon that figure rather than Expo’s obviously inflated estimate. That leaves Expo no basis to claim that this cost would render the flyover impracticable. (Expo OB, p. 43.) The cost of elevating the track has been accepted for five other Phase I crossings. (RT 986:5-14 (Olson).) Surely the safety concerns at Farmdale are at least as worthy of protection as the non-safety concerns that led Expo to elevate those other crossings.<sup>3/</sup>

### **III. Harvard: LAUSD Supports the PD’s Requirement of a Pedestrian Bridge at Harvard**

The PD correctly concludes that Expo’s proposal to maintain the “status quo” by preserving the tunnel under Exposition Boulevard at Harvard and not improving access to that tunnel or expanding its hours of operation fails to provide an adequate level of safety for the

---

<sup>3</sup>The PD correctly rejects Expo’s claimed “delay costs” for all of the alternatives. The delay-cost claim has been shown to be outright double-counting. Mr. Olson explained that the cost of delay is not attributable to postponement of operation, but rather is attributable to “the oversight and management of that design effort” at the redesigned crossing. (RT 1388:1-10.) Yet on cross-examination by UCA’s counsel, Mr. Olson conceded that the project costs themselves included “the on-site oversight of the actual physical work itself.” (RT 1409:26-1410:4.) The only remaining cost is the off-site “high level management overhead,” “document control,” and other off-site functions. (RT 1410:8-13 (Olson).) There is no support for the claim that this central-office function would cost near the claimed \$1 million a month. What’s more, Mr. Olson confirmed that the overhead costs would be incurred independent of the Farmdale and Harvard crossings because Expo will still be working on maintenance facilities it had deferred. (RT 1386:23-1387:10.) The PD correctly disregards these costs.

students at Foshay Learning Center or for the community in general. At the present time, access to the tunnel is severely limited by the need for constant supervision and resource constraints of LAUSD and the City of Los Angeles. The tunnel is currently closed to all access for more than 23 hours a day. Between 7:00 and 7:30 a.m., and again between 3:15 and 3:40 p.m., the tunnel is open and supervised by parent volunteers overseeing students traveling to and from the Foshay Learning Center Campus. (LAUSD Exh. 14, p. 5.) Foshay Principal Veronique Wills testified that the school already has difficulty recruiting sufficient volunteers to supervise the tunnel, and that it could not afford to allocate the limited number of campus aides it has provided for these duties due to the demands of the 2,500 students on the campus. (LAUSD Exh. 14, p. 5; RT 1012:21-1013:5 [difficulty with volunteers], 1013:22-1014:8 [limits on use of campus aides].) The PD correctly refuses to place the onus for the provision of additional supervision on LAUSD and the limited resources available to Foshay Learning Center.

The PD also correctly addresses the need to provide a safe, convenient crossing for students and others with disabilities. As Principal Wills explained, the tunnel is currently not equipped for pedestrians with disabilities. (LAUSD Exh. 14, p. 6.) For a student with a disability to cross Exposition, that student would have to travel to Western or Denker. For such a student, the additional distance traveled is a significant inconvenience and presents added safety risks, due simply to the additional distance to travel. The PD correctly recognizes that a crossing that accommodates the disabled would provide greater safety for this population.

Expo asserted that the use of elevators required to bring a pedestrian overcrossing into compliance with the Americans with Disabilities Act presented a security risk to student users. (Expo OB, p. 38.) To be sure, LAUSD agrees that elevators that will be used by students will require some form of monitoring or access control. (LAUSD Exh. 14, p. 9.) However, the

security risks posed by elevators are no reason not to construct necessary features to improve safety and access along the Exposition Line. Expo witness Olson testified that the Metropolitan Transportation Authority (MTA) uses elevators at locations along its other lines (RT 1000:18-27). And although Expo is willing to say that the elevators required at the pedestrian overcrossing at Harvard (and at Farmdale) would be unsafe, Mr. Olson was not able to say whether the elevators at other locations within the Metro system were similarly unsafe. (RT 1001:16-20.) The safety of LAUSD students in elevators can be assured by monitoring or access controls, just as the MTA maintains safety in elevators in other locations throughout its system.

Critically, the Legion study Expo cites to demonstrates the capability of the Harvard tunnel to accommodate all pedestrians, or to show that neighboring intersections could accommodate those pedestrians if the tunnel were closed in the future, is every bit as flawed for those purposes as it was for the Farmdale analysis. Legion again relied on erroneous assumptions. Mr. Connor acknowledged on cross-examination that his analysis of the crossings at Western and Denker did not include a “Phase Omit” cycle that allows for the signal to skip a pedestrian crossing phase when the train is coming, nor did it account for the train having traffic signal priority over other phases at an intersection. (RT 404:16-407:6.) These incorrect assumptions could “have an impact” on the results of his modeling. (RT 408:12 (Expo Witness Connor) .) Because these assumptions relate to the amount of time that pedestrian will queue, and therefore the total number of pedestrians queuing, Mr. Connor admitted a study with the correct assumptions could show insufficient space to queue and dangerous queuing on the street. (RT 408:20-409:4.)

Finally, the PD acknowledges what Expo stubbornly refuses to admit: that running a light-rail train along Exposition Boulevard creates an impenetrable barrier in the community that

creates risks to safety. School Police Officer Travis Fenderson testified about the hazards of relying on the tunnel to conduct law enforcement activities when the rail line is operational. (LAUSD Exh. 13, pp. 3-5.) He is currently experiencing conditions similar to those that will prevail when the rail line is operational because “K-rails” have impaired his ability to physically cross Exposition at Harvard. (*Ibid.*) Officer Fenderson testified that, since the start of construction, he has observed an increase in criminal activity on the far side of Exposition, where he is unable to easily access the area on foot. (LAUSD Exh. 13, p. 4.) He explained that the tunnel presents an unsafe situation for law enforcement, because he is forced to go underground, out of visual contact with the perpetrators and out of radio contact with other law enforcement. (*Id.*, at p. 3.) On emerging from the tunnel, he is not able to be instantly aware of the locations of potentially dangerous suspects. (*Ibid.*) Of course, when the tunnel is not open, Officer Fenderson is unable to reach the other side of Exposition on foot, and must drive to Western in order to make a U-turn and reach that side of the street. (*Id.*, at p. 5.) The PD correctly notes that the limited access of law enforcement creates a safety hazard, and correctly requires that Expo address that hazard by constructing a pedestrian overcrossing.

#### **IV. Conclusion**

The PD properly places safety at the forefront of the Commission’s review and correctly rejects Expo’s proposals for these two crossings. The pedestrian bridge at Harvard and rejection of an at-grade crossing at Farmdale are eminently reasonable accommodations of the safety concerns the Expo line creates. But the conclusion that a flyover at Farmdale that ought to be less expensive than a \$19 million, larger flyover now being built a few hundred yards away is somehow too expensive for this \$863 million Phase I project (RT 437:10-12 (Expo Witness Thorpe)) is untenable. And the contrived finding that closing Farmdale would be practicable

cannot stand. LAUSD urges the Commission to uphold the PD's rejection of the two applications, to uphold the requirement for a pedestrian bridge at Harvard, and to reject anything less than a flyover at Farmdale.

Dated: November 24, 2008

Respectfully submitted,

By \_\_\_\_\_ / s /  
Michael J. Strumwasser

Michael J. Strumwasser  
Fredric D. Woocher  
Beverly Grossman Palmer  
STRUMWASSER & WOOCHELLP  
100 Wilshire Boulevard, Suite 1900  
Santa Monica, California 90401  
Telephone: (310) 576-1233  
Facsimile: (310) 319-0156  
E-mail: mstrumwasser@strumwooch.com  
*Attorneys for the  
Los Angeles Unified School District*

## CERTIFICATE OF SERVICE

Re: *In Re Exposition Metro Line Construction Authority*  
(Application No. 06-12-005 et al.)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 100 Wilshire Boulevard, Suite 1900, Santa Monica, California 90401.

On **November 24, 2008**, I caused to be served the document described below on all appropriate parties in this action, as listed on the attached Service List, by the method stated.

### Opening Comments of the Los Angeles Unified School District

If electronic-mail service is indicated, by causing a true copy to be sent via electronic transmission from Strumwasser & Woocher LLP's computer network in Portable Document Format (PDF) to the this date to the e-mail address(es) stated, to the attention of the person(s) named.

If U.S. Mail service is indicated, by placing this date for collection for mailing true copies in sealed envelopes, addressed to each person as indicated. I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Santa Monica, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing contained in the affidavit.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on **November 24, 2008**, at Santa Monica, California.

/ s /

\_\_\_\_\_  
Christine N. Wood

## SERVICE LIST

Application No. 06-12-005 et al.

### **Parties**

Patrick S. Berdge  
California Public Utilities Commission  
505 Van Ness Avenue, Room 4300  
San Francisco, CA 94102-3214  
*Email: [psb@cpuc.ca.gov](mailto:psb@cpuc.ca.gov)*  
*Attorney for Consumer Protection Safety Division*

Martin A. Mattes  
Nossaman, Guthner, Knox & Elliott LLP  
50 California Street, 34<sup>th</sup> Floor  
San Francisco, CA 94111-4799  
*Email: [mmattes@nossaman.com](mailto:mmattes@nossaman.com)*  
*Attorneys for Exposition Metro Line Construction Authority*

Lawrence E. Heller  
Neighbors for Smart Rail, Cheviot Hills  
2922 Patricia Avenue  
Los Angeles, CA 90064  
*Email: [lheller@hellerandedwards.com](mailto:lheller@hellerandedwards.com)*  
*Attorney for Neighbors for Smart Rail (NFSR)*

Frederick H. Kranz  
Cox Castle & Nicholson  
555 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94104-1513  
*Email: [fkranz@coxcastle.com](mailto:fkranz@coxcastle.com)*  
*Attorneys for Exposition Metro Line Construction Authority*

Christopher E. Prince  
Sonnenschein Nath & Rosenthal LLP  
601 S. Figueroa Street, Suite 2500  
Los Angeles, CA 90017  
*Email: [cprince@sonnenschein.com](mailto:cprince@sonnenschein.com)*  
*Attorneys for United Community Associations, Inc.*

Ivor Samson  
Sonnenschein Nath & Rosenthal LLP  
525 Market Street, 26th Floor  
San Francisco, CA 94105  
*Email: [isamson@sonnenschein.com](mailto:isamson@sonnenschein.com)*  
*Attorneys for United Community Associations, Inc.*

### **Information Only**

Aracel Alvarado  
3783 Decker Avenue  
Los Angeles, CA 90018  
*Email: [aracelyalvarado@sbcglobal.net](mailto:aracelyalvarado@sbcglobal.net)*

George Chen [via U.S. Mail Only]  
Los Angeles DOT  
555 Ramirez Street, Space 315  
Los Angeles, CA 90012  
*Email: [george.chen@lacity.org](mailto:george.chen@lacity.org)*

Darrell Clarke  
Friends 4 Expo Transit  
P.O. Box 913  
Santa Monica, CA 90406  
*Email: [darrell@dclarke.org](mailto:darrell@dclarke.org)*

John E. Fisher [via U.S. Mail Only]  
City of Los Angeles, DOT  
100 S. Main Street  
Los Angeles, CA 90012  
*Email: [john.fisher@lacity.org](mailto:john.fisher@lacity.org)*

Lark Galloway-Gilliam  
Save Leimert Neighborhood Coalition  
3731 Stocker Street, Suite 201  
Los Angeles, CA 90008  
*Email: [lark@chc-inc.org](mailto:lark@chc-inc.org)*

Damien Goodmon  
Expo Communities United  
3062 Stocker Place  
Los Angeles, CA 90008  
*Email: [damienwg@gmail.com](mailto:damienwg@gmail.com)*

Mark C. Jolles  
2839 S. Rimpau Blvd.  
Los Angeles, CA 90016  
*Email:* [mjolles@pacbell.net](mailto:mjolles@pacbell.net)

Najmedin Meshkati  
USC, Kaprielian Hall No. 224D  
Los Angeles, CA 90089  
*Email:* [meshkati@usc.edu](mailto:meshkati@usc.edu)

John C. Miller  
Vijay Khawani  
LA County Metropolitan Transit Auth.  
One Gateway Plaza, 18<sup>th</sup> Floor  
Los Angeles, CA 90012-2952  
*Email:* [millerjo@metro.net](mailto:millerjo@metro.net)  
[khawaniv@metro.net](mailto:khawaniv@metro.net)

Laurie Newman  
State Senator Sheila Kuehl  
10951 West Pico Blvd., No. 202  
Los Angeles, CA 90064  
*Email:* [laurie.newman@sen.ca.gov](mailto:laurie.newman@sen.ca.gov)

Jeffrey L. Rabin  
Los Angeles Times  
202 West 1<sup>st</sup> Street  
Los Angeles, CA 90012  
*Email:* [jeff.rabin@latimes.com](mailto:jeff.rabin@latimes.com)

Clint Simmons  
Expo Communities United  
3416 Redondo Blvd.  
Los Angeles, CA 90016  
*Email:* [csimmons@successnet.net](mailto:csimmons@successnet.net)

Glenn Striegler  
LAUSD Office of Environmental Health  
333 South Beaudry Avenue, 20<sup>th</sup> Floor  
Los Angeles, CA 90017  
*Email:* [glenn.striegler@lausd.net](mailto:glenn.striegler@lausd.net)

James Okazaki [via U.S. Mail Only]  
Eric R. Olson  
Joel Sandberg  
Richard D. Thorpe  
Exposition Metro Line Construction Auth.  
707 Wilshire Blvd, Suite 3400  
Los Angeles, CA 90017  
*Email:* [jokazaki@exporail.net](mailto:jokazaki@exporail.net)  
[eolson@exporail.net](mailto:eolson@exporail.net)  
[jsandberg@exporail.net](mailto:jsandberg@exporail.net)  
[rthorpe@exporail.net](mailto:rthorpe@exporail.net)

Carol Tucker  
3512 Cochran Avenue  
Los Angeles, CA 90016  
*Email:* [ctliteracy@aol.com](mailto:ctliteracy@aol.com)

Teresa Zaldivar  
1454 Exposition B1  
Los Angeles, CA 90018  
*Email:* [zaldivar1231@netzero.net](mailto:zaldivar1231@netzero.net)

Michael H. Zischke  
Cox Castle & Nicholson  
555 California Street, 10<sup>th</sup> Floor  
San Francisco, CA 94104-1513  
*Email:* [mzischke@coxcastle.com](mailto:mzischke@coxcastle.com)

## State Service

Maria L. Bondonno  
Calif Public Utilities Commission  
Legal Division  
505 Van Ness Avenue, Room 4008  
San Francisco, CA 94102-3214  
*Email:* [bon@cpuc.ca.gov](mailto:bon@cpuc.ca.gov)

Daren S. Gilbert  
Calif Public Utilities Commission  
Rail Safety & Crossing Branch  
515 L Street, Suite 1119  
Sacramento, CA 95814  
*Email:* [dar@cpuc.ca.gov](mailto:dar@cpuc.ca.gov)

Georgetta Gregory  
Jose Pereyra  
Calif Public Utilities Commission  
Rail Safety & Crossing Branch  
320 West 4<sup>th</sup> Street, Suite 500  
Los Angeles, CA 90013  
*Email:* [ggl@cpuc.ca.gov](mailto:ggl@cpuc.ca.gov)  
[jfp@cpuc.ca.gov](mailto:jfp@cpuc.ca.gov)

Virginia Laya  
Calif Public Utilities Commission  
Rail Safety & Crossing Branch, Area 2-B  
505 Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, CA 94102  
*Email:* [vdl@cpuc.ca.gov](mailto:vdl@cpuc.ca.gov)

Jenny Punsalan Wood, Assistant  
Office of Karen Bass, Assembly Maj. Leader  
5750 Wilshire Blvd, Suite 565  
Los Angeles, CA 90036  
*Email:* [jenny.wood@asm.ca.gov](mailto:jenny.wood@asm.ca.gov)

Hon. Kenneth L. Koss  
Calif Public Utilities Commission  
Division of Administrative Law Judges  
505 Van Ness Avenue, Room 5041  
San Francisco, CA 94102-3214  
*Email:* [klk@cpuc.ca.gov](mailto:klk@cpuc.ca.gov) [ & U.S. Mail]

Hon. Timothy A. Simon  
Assigned Commissioner  
Calif Public Utilities Commission  
505 Van Ness Avenue, 5<sup>th</sup> Floor  
San Francisco, CA 94102 [via U.S. Mail]