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CITY OF BURBANK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT

LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION
AUTHORITY, a public entity,

Petitioner and Plaintiff,

v.

CITY OF BURBANK, a municipal
corporation; and DOES 1-10, inclusive,
Respondents & Defendants.

Case No. 26STCP01904

**DECLARATION OF DAVID KRISKE
IN OPPOSITION TO PETITIONER'S
MOTION FOR PRELIMINARY
INJUNCTION**

*Filed concurrently with City of
Burbank's Opposition to Petitioner's
Motion for Preliminary Injunction;
Evidentiary Objections to M. McKenna's
Declaration*

Hearing Date: July 16, 2026
Time: 1:30 pm
Dept 416

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4 I, David Kriske, declare as follows:
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6 1. I am currently employed by the City of Burbank ("City"), Respondent
7 and Defendant in the above captioned matter. My title is Assistant
8 Community Development Director, Planning and Transportation. I have
9 been employed by the City in various transportation related roles since
10 2002.
11

12 2. As Assistant Community Development Director I have become
13 familiar with the North Hollywood to Pasadena Bus Rapid Transit
14 Corridor Project ("Project"). I have been involved in the Project's
15 development since 2013 and participated in in the 2013 Metro Bus Rapid
16 Transit and Street Design Improvement Study, and the Metro North
17 Hollywood to Pasadena BRT Corridor Technical Study, where among my
18 responsibilities I assisted Metro in selection of project consultants and
19 reviewed deliverables. I represented the City in reviewing and
20 commenting on all Project development phases including the Draft
21 Environmental Impact Report ("Draft EIR"), Final Environmental Impact
22 Report ("FEIR"), and the Project design process.
23

24 3. The matters set forth are within my personal knowledge, and if
25 called upon to testify as to these matters, I could and would so testify. I
26 make this declaration in support of the City of Burbank's Opposition to
27 Metro's Motion for Preliminary Injunction filed concurrently herewith.
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3 **The City's Historic Comments on the Noho-Pasadena BRT Project**
4 **and the Cooperative Agreement**

5 4. I personally led the City's efforts in formulating City comments to
6 the Draft EIR in 2020 for the Project. At that time the LA Metro's Draft
7 EIR Report at Chapter 4, p. 4-14 indicated that the bus route system would
8 not impact land uses, including building height, density and floor area
9 ratios. (**Comp. Ex. 1**). The City considered this Draft EIR on December
10 8, 2020. A true and correct copy of the City Council meeting minutes for
11 that date is attached as **Comp. Ex. 2**.

12 5. I personally led the City's efforts in reviewing the Final EIR
13 prepared by LA Metro on April 12, 2022. I am aware that the LA Metro
14 Board Report dated April 20, 2022 stated that the "Proposed Project" had
15 "an anticipated opening date of 2024." A true and correct copy of the staff
16 report to the LA Metro Board is attached as **Comp. Ex. 3**.

17
18 6. The City later reviewed on March 26, 2024 a proposed Cooperative
19 Agreement with LA Metro for the design and construction of the bus route
20 through the City. I personally led the preparation of the staff report to the
21 City Council for this consideration, and a true and correct copy of the City's
22 staff report at that time is attached as **Comp. Ex. 4**.

23 7. The City's staff report for the March 26, 2024 City Council meeting
24 specifically alerted LA Metro to a significant disagreement about the scope
25 of the Project. In part, the staff report stated that: "Metro and the City
26 currently disagree over how the project alignment is portrayed in the
27 Cooperative Agreement. City staff requests that certain broad details of
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1 the project (alignment, station location, roadway configuration) be
2 included in the Cooperative Agreement so that both parties understand
3 the scope of the project that is approved to be constructed. Metro believes
4 that this project description should not be included because Metro's Board
5 of Directors approved a project that includes a bus-only lane on Olive
6 Avenue between Buena Vista Street and Lake Street, which is contrary to
7 the City Council's direction of ensuring that the project description
8 includes mixed-flow bus operation on this stretch." I was personally
9 present at the City Council meeting regarding this Project in March 2024
10 and heard that the Burbank City Council approved the Staff Report,
11 including this comment. A true and correct copy of the meeting minutes of
12 the City Council for that date, including a portion of the presentation (led
13 by myself) in a video format and the resulting City Council vote is
14 contained as **Comp. Ex. 5**.

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16 8. Despite the City's requests, a more detailed description of the project
17 scope was not included in the final version of the Cooperative Agreement.

18 **The Time Schedule Contained in the Cooperative Agreement**
19 **Effective in January 2025**

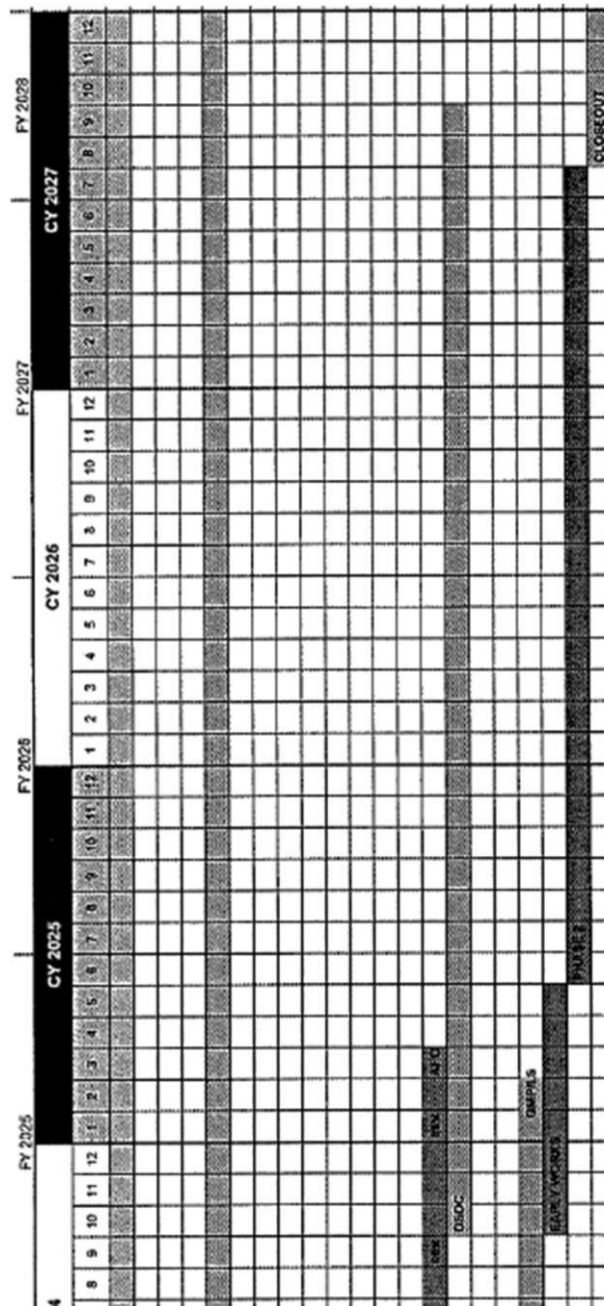
20
21 9. I am personally familiar with the time schedule set forth in the
22 Cooperative Agreement, specifically Exhibit 2 to the Cooperative
23 Agreement.

24 10. Exhibit 2 to the Cooperative Agreement, entitled "Project Phases
25 and Project Schedule" described Project Phases with a "construction
26 phase" set to start Q4/2024/Q1 2025 to Q1 2027. **Comp. Ex. 1, Bur-0035**.
27 That projected start date was not met.

1 11. Exhibit 2 to the Cooperative Agreement contained in Part B: Project
2 Schedule what is commonly termed a Gantt chart to project a project
3 schedule. I am personally familiar with the use of a Gantt chart and am
4 familiar with how to read and interpret such charts. In the case of this
5 Project, the Gantt chart shows a total time for construction of 26 months
6 for the phases of work described as “CMGC (Construction
7 Manager/General Contractor) Phase 2 Construction. An excerpt of the
8 Gantt chart for the construction phase of this work taken from Ex. 2 to the
9 Agreement is shown below, with an arrow designating the then
10 anticipated commencement of Phase 2 Construction.

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Construction
End

Construction
Start

1 12. The Agreement shows a 26-month construction period beginning in
2 June 2025 through July 2027. **Comp. Ex. 1, Ex. 2, Bur-0036.** That
3 schedule has not been met, and is clearly unrealistic.

4 13. On April 30, 2026, LA Metro provided to the City a completely new
5 schedule with a 21-month from start to completion estimate. This new
6 schedule was not provided to the City in a formal Notice pursuant to
7 Section 10.4 of the Agreement. Instead, it was sent to the City in response
8 to the City's request for schedule information to respond to questions from
9 a large property owner located along the route. This schedule was labelled
10 "Draft, 85% Burbank" and bearing a date of April 23, 2026 also contains
11 the legend of the General Contractor, Myers Shimmick. The schedule does
12 not indicate whether there will be a subsequent "100% Burbank" schedule
13 issued at some later time. That schedule, however, is again just a schedule
14 subject to yet further changes. There was no explanation by Metro as to
15 why it was able to cut five-months off the prior schedule for this Project.
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17 14. Based on the statement in the email conveying the revised schedule
18 on April 30, 2026 even this revised schedule, is subject to further change
19 and modifications. As Mr. Keynon Price, Senior Director Construction
20 Management for Metro stated in a cover email dated April 30, 2026: "So
21 please note that the attached version is subject to change and will be
22 refined soon. That said, I'll forward the updated version as soon as its been
23 submitted and approved." To date, I have not received any further
24 "updated version" from anyone at Metro.

25 15. It is my experience that revisions to schedules often occur in public
26 transportation capital projects such as the BRT project. I based this on
27 my years of experience in transportation planning and
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1 oversight/involvement in transportation capital projects including several
2 City projects and regional projects located within the City.

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4 **City Negotiations and its Retained Rights To Review and**
5 **Approve a “Rearrangement” as to Paving and Striping of City**
6 **Streets**

7 16. I am unaware of Mr. McKenna’s involvement in the Project prior to
8 his participation in the parties’ dispute resolution meeting in April 2026.

9
10 17. Throughout the environmental review, the negotiations for the
11 Cooperative Agreement, and Project design process, the City consistently
12 communicated its concerns regarding the dedicated bus lanes on Olive
13 Avenue between Buena Vista Street and Lake Street. The City expressed
14 its concerns in comments on the Draft EIR, comments submitted before
15 certification of the Final EIR, during negotiations regarding the
16 Agreement and throughout the subsequent design review.

17 18. After the passage of SB 79, the City communicated its concerns
18 about the impact of that new law on the project. I was personally involved
19 in the preparation of letters to LA Metro as to the impact of SB 79. True
20 and correct copies of the City’s letters to LA Metro dated January 30, 2026,
21 and February 17, 2026 (signed by me) are contained in the **Compendium**
22 **of Exhibits as Exhibits 6, 7.** At all points in time the City endeavored in
23 good faith to communicate its outstanding concerns with LA Metro.

24 19. In Paragraph 6 of the McKenna Declaration, McKenna
25 posits that the under the Agreement the City retains review authority of
26 Rearrangements. “Rearrangement” is a defined term in the Cooperative
27 Agreement, Section 11.1. The striping and assigning of bus lanes on a City
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1 roadway is indeed “design of work performed on City facilities to
2 accommodate the project.” It is therefore a Rearrangement subject to City
3 review because the public street is a City Facility (**Comp. Ex. 1, § 11.1**
4 **[definition of “City Facility”]**). Metro is rearranging the City streets
5 upon which the bus transit system is operating, including by changing
6 roadway signing and striping on City public streets to accommodate the
7 Project.

8
9 20. This is just one example of the City’s retained right to review and
10 approve portions of the Project that affect a City Facility.

11 **City Dispute over The Scope of the Project As Claimed by**
12 **Metro**

13
14 21. Metro asserts that the project description graphic attached as
15 Exhibit 3 to the Agreement constitutes evidence that the City consented
16 to dedicated bus lanes on the Olive Avenue Segment. This assertion is
17 without merit for several reasons. First, the purpose of the Exhibit 3
18 graphic is to provide the “Project Site,” a general, illustrative identification
19 of the project alignment in Burbank—it does not provide the granularity,
20 appropriate map scale, or detail from which specific project attributes like
21 lane configuration information can be accurately inferred. Some of those
22 details were originally included as a textual project description in Exhibit
23 1 but were removed by Metro in January 2024 during negotiation of the
24 Agreement. Second, the color version of the graphic submitted in Metro's
25 declaration that depicts the Burbank Project segment as approved by the
26 Board was not included in the executed copy of the Agreement. The
27 graphic in Exhibit 3 of the executed copy of the Agreement is in black and
28 white and therefore cannot be used to identify specific lane configuration

1 information. Third, the Exhibit 3 graphic contains other project details
2 that are representative of an earlier project description, as it identifies a
3 project station that was subsequently relocated during final design. Metro
4 cannot credibly assert that this graphic—which does not describe specific
5 project lane configurations and contains outdated station location
6 information—demonstrates that the City concurred to dedicated bus lanes
7 on the Olive Avenue Segment.

8 22. The Cooperative Agreement Exhibit 3 also contains verbal
9 qualifications to the physical limits of the “structures and elements of the
10 NoHo to Pasadena Project Work”, specifically providing that LA Metro and
11 the City will meet in good faith to “define and agree [on] the physical limits
12 of those structures. **(Comp. Ex. 1, Ex. 3, Part C)**. This further confirms
13 that the Agreement did not include all of the necessary details to provide
14 a final “as is” Design.

15
16 23. The Cooperative Agreement in Section 11.1 defines the term:
17 “Project Right-of-Way” as follows: “means the physical limits for the
18 Design and Construction of the NoHo to Pasadena Project, as identified in
19 Part A of Exhibit 3 (Project Site), or as notified by LACMTA to the City
20 and compliant with the FEIR *and any supplemental environmental reports*
21 *for the NoHo to Pasadena Project, during the Design and Construction*
22 *Phases.*” **(emphasis added)**.

23
24 24. The City, in its January 30, 2026 letter to LA Metro stated that:
25 “Burbank formally requests Metro, the lead agency for BRT, commence
26 subsequent environmental review to determine potentially significant
27 environmental impacts around any SB 79 transit oriented development
28 stops located within the City.” **(Comp. Ex. 6)**.

1 25. To date, LA Metro has refused to conduct any supplemental
2 environmental review during the Design and Construction Phases of the
3 Project.

4 26. Metro asserts that the City requested removal of dedicated bus lanes
5 on the Olive Avenue Segment only at the 100 percent plan submittal stage
6 and only after Senate Bill 79 ("SB 79") was enacted. This characterization
7 is incorrect. The City has continuously asserted the City Council's mixed-
8 flow position during the entire project plan development process, from the
9 conceptual level through the 100 percent plan submittal.

10
11 27. At the 25 percent conceptual plan level, the City objected to
12 dedicated bus lanes on the Olive Avenue Segment via plan notes on plan
13 sheets 7-13. This objection was memorialized in a comment response
14 matrix prepared by Metro's outgoing environmental review and
15 conceptual design consultant on line 163, wherein Metro indicated it
16 would "maintain an open dialog" regarding mixed-flow operations on the
17 Olive Avenue Segment. The objection was further memorialized in a
18 subsequent Metro Comment Response Matrix ("CRM") prepared by its
19 final design consultant on line 214 and at other various locations of the
20 matrix. A true and correct copy of that portion of the CRM comments is
21 attached as **Comp. Ex. 8**.

22 28. At the 30 percent plan level, the City commented on Metro's plans
23 that City upper management was still evaluating whether it could allow
24 bus lanes on the Olive Avenue Segment. Metro's CRM reflects this
25 comment at line 122. A true and correct copy of that portion of CRM is
26 attached as **Comp. Ex. 9**.

27
28 29. At the 85 percent plan level, the City commented both on Metro's

1 plans and via summary memorandum requesting removal of dedicated
2 bus lanes on the Olive Avenue Segment. These comments were
3 memorialized in Metro's CRM at lines 175 and 195 through 199. A true
4 and correct copy of that portion of CRM is attached as **Comp. Ex. 10**.

5 30. At the 100 percent plan level, the City commented on Metro's plans
6 and via summary memorandum requesting removal of dedicated bus lanes
7 on the Olive Avenue Segment.

8
9 31. At the second round 100 percent plan level, the City again
10 commented on Metro's plans and via summary memorandum requesting
11 removal of dedicated bus lanes on the Olive Avenue Segment.

12 32. In Paragraph 12 of the McKenna Declaration, McKenna
13 mischaracterizes the City's comments made on the 100% Design submittal
14 as mostly concerned with "technical matters." (McKenna Declaration, ¶
15 12.) As explained above, the City submitted Olive bus lane removal
16 comments in the 25, 30, 85, and both 100 percent plan comments, which
17 are reflected in the Metro CRM for these phases cited above.

18
19 33. In Paragraph 13 of the McKenna Declaration, McKenna references
20 the City's comment on the 100 percent Design submittal that requests
21 subsequent environmental review to determine the potential impacts
22 around any SB 79 "Transit Oriented Development Stops" located in the
23 City. (*Id.* at ¶ 13.) However, the City did not raise SB 79 or the need for
24 subsequent environmental review before the 100 percent Design submittal
25 because SB 79 was enacted after the 85 percent Design submittal and
26 before the 100 percent Design submittal.

1 34. City staff presented information to the Burbank City Council
2 regarding SB 79 at two public meetings held on January 27, 2026, and
3 May 20, 2026. I contributed to the January 27, 2026, staff report and
4 helped to oversee its completion, and I personally authored the May 20,
5 2026, staff report. The May 20, 2026, staff report is attached as Exhibit V
6 to the McKenna Declaration.

7 35. McKenna in his Declaration identifies an “inconsistency” in the SB
8 79 qualifying stops identified in the January 2026 report versus those
9 identified in the May 2026 report. (McKenna Declaration, ¶ 29.)
10

11 36. The January 27, 2026 staff report was prepared to give the City
12 Council an initial estimate of SB 79's impact based on information
13 available at that time. Under staff's then-current understanding of the
14 statute, the report identified two stops as qualifying for SB 79 TOD
15 designation: one at the Downtown Burbank Metrolink Station and one
16 along the BRT alignment. The report also flagged two additional BRT
17 stops as potentially qualifying, noting that bus lanes terminate at or near
18 those stations without providing continuous full bus lane service — a
19 condition that neither the California Department of Housing and
20 Community Development nor SCAG had provided clarifying guidance on
21 at that time.

22 37. Finally, because the report was prepared consistent with the City
23 Council's longstanding position that the Olive Avenue Segment would
24 operate with mixed-flow lanes, it did not identify any stations on that
25 segment as qualifying SB 79 TOD stops. The assumptions underlying the
26 January 2026 report were reasonable at the time and accurately reflected
27 both the state of the law and the City's unresolved dispute with Metro over
28

1 the Olive Avenue Segment lane configuration. (**Comp. Ex. 14**).

2
3 38. The May report also identified two distinct unresolved issues at the
4 intersection of SB 79 and the BRT project. The first — lane configuration
5 on the Olive Avenue Segment — has been in dispute since the City raised
6 it in its 2020 DEIR comment letter and remains unresolved today. The
7 second is a newer issue: whether changed environmental circumstances
8 arising from SB 79 itself affect the City's ability to issue permits for the
9 BRT project. These are separate problems requiring separate resolution,
10 and the May report accurately characterized them as such.

11 39. Moreover, I presented the May 20, 2026 staff report during a special
12 meeting to serve as an update from City staff to the Council and City
13 community on the Project and the potential impact due to SB 79. The
14 purpose was to educate Council members and community members and
15 allow them to comment on the report. The report did not request any
16 action from the City Council.

17 40. On June 1, 2026, the Southern California Association of
18 Governments ("SCAG") released a draft map of SB 79 TOD areas
19 identifying one TOD stop at the Downtown Burbank Metrolink Station
20 and five of six BRT stops as SB 79 TOD stops, consistent with the City
21 staff's May 20, 2026, staff report. At a subsequent meeting with SCAG
22 held on June 1, 2026, SCAG staff confirmed its methodology for how to
23 qualify BRT stops located near bus lanes that begin and end near stations
24 and confirmed that SCAG had received recent project "diagrams" from
25 Metro that provided the limits for the full-time dedicated bus lanes—
26 which included bus lanes on the Olive Avenue Segment. The June 1, 2026,
27 SCAG draft map is attached as **Comp. Ex. 15**.
28

1 41. In his declaration, Mr. McKenna consistently mischaracterizes the
2 SCAG draft map. McKenna states that the draft map indicates that all
3 six Burbank BRT stations qualify as TOD stops. (McKenna Declaration,
4 ¶ 31.) However, the draft map identifies only 5 of the stops as TOD stops,
5 consistent with the May 20 staff report.

6 42. McKenna also incorrectly states that the draft map identifies the
7 Downtown Burbank Metrolink Station as a Tier 1 TOD stop. (*Id.*) The
8 draft map identifies the Metrolink Station as a Tier 2 stop.

9
10 I declare under penalty of perjury under the laws of the State of California
11 that the foregoing is true and correct, and was executed this 2nd day of
12 July 2026, in Burbank, California.

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16 _____
David Kriske

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PROOF OF SERVICE

**Los Angeles County Metropolitan Transportation Authority v.
City of Burbank
Case No. 26STCP01904**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 3701 Wilshire Blvd., Suite 725, Los Angeles, CA 90010.

On July 2, 2026, I served true copies of the following document(s) described as **DECLARATION OF DAVIDS KRISKE IN OPPOSITION TO PETITIONER'S MOTION FOR PRELIMINARY INJUNCTION** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY E-MAIL OR ELECTRONIC TRANSMISSION: I caused a copy of the document(s) to be sent from e-mail address ggonzalez@awattorneys.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 2, 2026, at Los Angeles, California.



Jerry Gonzalez

SERVICE LIST
Los Angeles County Metropolitan Transportation Authority v. City
of Burbank
Case No. 26STCP01904

DAWYN R. HARRISON County Counsel QUINN TANG, Assistant County Counsel RONALD W. STAMM, Principal Deputy County Counsel JOSHUA A. COHEN, Senior Deputy County Counsel ELENA EGGERS LOS ANGELES COUNTY COUNSEL One Gateway Plaza Los Angeles, CA 90012 Tel: (213) 922-2525 Fax: (213) 922-2530 tangq@metro.net stammr@metro.net cohenjo@metro.net eggerse@metro.net	Attorneys for Petitioner and Plaintiff, LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY
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