



Board Report

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4th REVISION
PLANNING AND PROGRAMMING COMMITTEE
JUNE 14, 2017
EXECUTIVE MANAGEMENT COMMITTEE
JUNE 15, 2017

SUBJECT: MEASURE M MASTER GUIDELINES

ACTION: ADOPT MEASURE M MASTER GUIDELINES

RECOMMENDATION

CONSIDER:

- A. RECEIVE AND FILE report from the Policy Advisory Council (PAC) on the Draft Measure M Master Guidelines (Attachment A);
- B. ADOPT the Measure M Master Guidelines; and
- C. AUTHORIZE the Chief Executive Officer to enter into Memorandums of Understanding (MOUs) and Assurances and Understandings with Included and Eligible Municipal Operators, Metrolink, Access Services and Los Angeles County jurisdictions for Measure M funding allocations and distribution, consistent with applicable Measure M Guideline provisions.

Amendment by Solis to remove the following text under “3% Local Contribution to Major Transit Projects” (page 4, bullet 4 of the report):

“...this may include assignment of this obligation to the Supervisorial District in which the project is located.”

ISSUE

The Measure M Ordinance requires guidelines to be developed. On March 23, 2017, the Metro Board of Directors approved the release of the draft Measure M Master Guidelines for public review for a period of 60 days during April and May, concluding May 26, 2017. The revised Measure M Master Guidelines (Attachment B) are presented for adoption in anticipation of the initiation of the Measure M sales tax collection on July 1, 2017. Adoption of the Measure M Guidelines will enable recipients (i.e. Included and Eligible municipal operators, Metro, Metrolink, Access Services, the 88 cities and Los Angeles County) of the sales tax revenues to move forward with expenditure of funds to support planning and development of their programs.

BACKGROUND

At the December 1, 2016 Board Meeting, Chief Executive Officer Phillip A. Washington presented an overview on development of the Measure M Ordinance Guidelines, where he indicated that draft Master Guidelines would be developed internally by Metro staff, for subsequent review and comment by the public, with a target date for Board adoption of final Measure M Guidelines at the June 2017 Board meeting, in advance of the initiation of the additional sales tax revenue collection on July 1, 2017.

To support the public review of the draft Guidelines, the CEO also announced the formation of the Metro Policy Advisory Council (PAC), comprised of 27 members representing three major areas: Consumers, Providers, and Jurisdictions. Metro has held 3 meetings with the PAC and PAC leadership. The PAC has submitted a report (Attachment A) to the Board summarizing their views on the draft Guidelines.

DISCUSSION

Responsible and accountable administration and oversight of Measure M is essential to respect the trust of LA County taxpayers, and provide the necessary framework to support the requirements established in the Ordinance for the Independent Measure M Taxpayer Oversight Committee. In response, staff has prepared a Master Guidance document to provide direction for all elements of Measure M. Primary elements include: Administration and Oversight; Audits; Assessments and Amendments; Cashflow; Transit Operations; Metro Rail; Regional Rail; ADA Paratransit/Metro Discounts for Seniors and Students; Multi-year Subregional Programs; Active Transportation; Local Return; and State of Good Repair.

A. OUTREACH PROCESS

All comments received by the public were submitted to Metro through a web portal located at ThePlan.Metro.net or via email to ThePlan@Metro.net (the Portal). All comments received were documented as an official record. Staff attended more than 20 public meetings with key stakeholders to provide additional information, and received more than 60 submissions, encompassing over 300 comments on various topics.

This outreach and public comment coordination is distinct from, and complementary to, the outreach facilitated through the newly implemented PAC. The PAC had its first meeting on April 5, 2017, which started its review and outreach process. On May 2, 2017, the PAC had its second meeting, and as a result, the PAC officers presented to the Metro Board on May 26, 2017 initial comments reflecting the three represented constituencies of transportation consumers, transportation providers, and jurisdictions. That report grouped comments and related findings into five major subject areas:

- Local Return Distribution
- ADA/Paratransit and Senior/Student Discounts;
- 3% Local Contribution for Transit Projects;

- Project Readiness; and
- Multi-year Subregional Programs Administration.

These subjects are also the primary topic areas for the majority of comments received through the Portal.

The PAC held its third meeting on June 6, 2017, and presents its subsequent comments and findings directly to the Board as a Receive and File report (included as Attachment A).

B. COMMENTS AND RESPONSES

Staff summarized the written comments submitted to Metro into primary topics that generally align with the PAC categories from its May report. The comments are also indexed by source. The summary table, which includes policy considerations and resulting decisions, is included as Attachment C.

As a result of comments received, grammatical corrections and technical clarifications have been made throughout the document. More substantive comments, as noted above, are aligned with five major topics of Local Return, ADA Paratransit/Senior and Student Discounts, 3% Local Contribution, Project Readiness, and Multi-year Subregional Programs. Staff responses to those themed comments are also summarized in Attachment C; and are flagged as red line changes in the revised Guidelines (Attachment B). High profile responses and revisions in these areas have been selected for further discussion below, for the Board's particular attention.

Local Return Distribution

The draft Guidelines approved for release at the March Board meeting included a staff recommendation of a Local Return distribution with a minimum allocation of \$100,000 per jurisdiction. At the same meeting, Directors Garcia, Hahn, and Garcetti introduced a motion directing staff to evaluate an array of distribution alternatives with the intent of providing an increased level of Local Return for smaller cities. The Board received the evaluation report at its May 26th meeting and the PAC reported that its consensus position was that no minimum floor be established.

Considering the totality of public comments received on this topic since the release of the draft Guidelines, including comments from local agencies, staff is recommending that Measure M Local Return distribution to cities and the county be consistent with the other sales tax measures, based on population and in compliance with the Measure M Ordinance and be implemented as follows:

- No minimum allocations to be established by Metro;
- Reallocation of Local Return distributions can be subsequently pursued at the subregional level among the cities and county areas within subregional boundaries, to support smaller cities, at the discretion of those parties;
- Measure M Multi-year Subregional funds can be used to supplement Local Return allocations to support smaller cities subject to the eligibility, process, and availability of funds as described in the Multi-year Subregional Measure M guidelines.

ADA Paratransit for the Disabled/Metro Discounts for Seniors and Students

Within this fund category, clarification was requested on the eligible uses for this fund. In May, the Board adopted the New Low Income Program, which combined current fare subsidy programs to create an enhanced program that serves low-income riders. The program creatively leverages the limited Measure M 2% funds to help more riders. This program provides low income seniors and students deep discounts (70%-88%) on their monthly passes, showing their Measure M dollars at work.

In addition, regional Travel Training/Mobility management programs and/or similar programs/technology improvements geared towards bridging the mobility gap for seniors and people with disability will be eligible uses for these funds.

3% Local Contribution to Major Transit Projects

Within this fund category, clarification was requested as to what could constitute the local contribution (i.e. in-kind contributions and betterments). Staff has provided clarity regarding the Ordinance provision, which is specific as to the timing of the calculation for the 3% local contribution.

- 3% contributions must be calculated on a project scope determined at a 30% design level.
- “In kind” contributions are allowed from the local agency provided that they are included as eligible expenses in the project scope and cost at the time 30% of the final design is completed.
- Once individual calculations for all affected jurisdictions are completed based on the Ordinance’s stated distribution formula, the aggregate of those contributions can be redistributed among the affected agencies, at their discretion. This is consistent with the practice under Measure R.
- Contributions for calculations assigned to the County of Los Angeles are to be determined by the County; ~~this may include assignment of this obligation to the Supervisorial District in which the project is located.~~
- Clarity is also provided that the 3% provision only applies to rail projects.

As well, commentary sought clarity on the definition of betterments, and their application under the 3% policy. The definition as presented in the Draft Guidelines has been slightly revised, to be consistent with existing policy adopted by the Metro Board on Supplemental Modifications to Transit Projects (October 2013). A “betterment” is defined “as an upgrade of an existing city or utility’s facility or the property of a Third Party, be it a public or private entity, that will upgrade the service capacity, capability, appearance, efficiency or function of such a facility or property of a third party.” Once the 30% design project scope and cost have been determined as the basis of the 3% contribution calculation, subsequent betterments cannot be included in that calculation, nor counted toward a jurisdiction’s eligible contribution. However, they may be included in the project scope if carried at the jurisdiction’s expense.

Multi-year Subregional Programs

Within the Multi-year Subregional Program (MSP) category, several key comment areas were noted and addressed, as listed in Attachment C. Two of major note are:

- **MSP funds should have an equal funding priority to other capital items.**
 - Consistent with the Ordinance’s assignment of funding purposes to capital subfund accounts, the availability of funds for MSP investment is prioritized equal to other Highway and Transit Capital subfunds. Actual disbursements of capital funding irrespective of subfund is subject to Cash Flow policies established in the Guidelines.
 - NOTE: Capital subfunds are sourced **after** the Transit Operating Maintenance Subfund, and the Local Return Subfund. By Ordinance, revenues to these two subfunds are directly proportional to the percentage of net sales tax collected from Measure M. Therefore, they are “taken off the top” of Measure M sales tax revenue generated in a year. The balance of sales tax revenue is then assigned to the Capital subfunds. At any point in time, Capital subfunds amounts, including those for MSP, can vary based on proceeds from bonds issued to manage actual capital resource needs. Any issuance of debt for Measure M purposes, however, remains at the exclusive discretion and authority of Metro, and will be conducted consistent with Board debt policy.

- **MSP projects should derive from a specific subregional planning process.**

In response to comments received by the PAC and local agencies, a new process has been inserted into the Guidelines to coordinate projects within the framework of five-year plans. Plans will be developed for each MSP listed in the Expenditure Plan to ensure accountable and responsive subregional project identification, selection and delivery. The plans will:

 - Build on prior Mobility Matrix projects as a foundation; with provisions to reconsider the relevance and performance of existing Matrix projects, and the addition of new ones;
 - Include meaningful public outreach, which is essential to the success of Multi-year Subregional program development; Metro will develop baseline parameters for effective community engagement;
 - Be adopted by the Metro Board, with provisions for periodic updates/modifications; and
 - Up to 0.5% of MSP funding per year, per individual MSP program, is eligible for program development by the subregion.

Project Readiness

There were many comments regarding clarification of project readiness and eligibility of funds at various phases of project development. This definition is specific to each MSP program type; that is, project readiness thresholds will be designated for capital project phases leading up to and including construction, separately designated for specific programs (Highway, Transit, Active Transportation, etc.). Additional clarifications will be made as part of the administration procedures to be developed according to the schedule in Attachment D.

Other Topics

Regional Rail

Establishing a consensus for key performance metrics was the focus for this fund category. The metrics developed will establish the evaluation basis allowing the Regional Rail allocation to increase

from 1% to 2% in FY 2039.

The draft guidelines have been revised to reflect a change from a specific attainment of criteria to an evaluative judgment that the Board would consider in its determination of whether to increase the Regional Rail allocation from 1% to 2%. Metro acknowledges the significant time frame over which the performance of the system will be judged and the related inherent uncertainty. However, specifically because of that uncertainty, Metro's Board retains the authority to evaluate the performance of any commuter rail system in place, and to determine the most appropriate investment strategy that will serve the overall county mobility objectives.

Countywide BRT

The draft guidelines have been revised to expand the eligibility to municipal operators.

DETERMINATION OF SAFETY IMPACT

The proposed approval will not have any adverse safety impacts on employees and patrons.

FINANCIAL IMPACT

Adoption of the Guidelines will provide Metro with an administrative framework for Measure M. This is required for the agency to proceed with Measure M funding distributions.

Impact to Budget

Approving the staff recommendations will have no impact on the FY 2017 Budget. This is required for the agency to proceed with Measure M subfund distributions, and delay in approval of the Guidelines could have an impact on availability of funds for the FY 2018 Budget, as approved by the Metro Board in May 2017.

ALTERNATIVES CONSIDERED

The Draft Guidelines released for public review in March 2017 could remain as is or additional outreach could be conducted. This is not recommended as substantial public outreach has occurred which generated substantive public comments that have been considered and incorporated into the recommended Guidelines.

If the Guidelines are not approved, or approval is delayed, FY 18 Measure M funding for operational purposes eligible under Transit Operations, Metro Rail, Metro State of Good Repair, ADA Paratransit for the disabled/Metro Discounts for Seniors and Disabled, Regional Rail and/or Local Return programs will be withheld from Metro, Included and Eligible Municipal Operators, Metrolink, and the 89 local jurisdictions that are eligible recipients of those resources.

NEXT STEPS

Measure M sales tax collection begins on July 1, 2017.

Attendant Technical/Administrative Procedures. As revised, the Master Guidelines embody a

comprehensive, complete framework to be adopted and enforced by the Board. For some elements, administrative details are required to assist in actual implementation of the Guidelines, and will be addressed as procedures are developed. These elements and the timelines are noted in Attachment D. Appropriate stakeholder input with the PAC will be sought and considered in the development of these procedures, with final approval by the CEO. The CEO may bring any specific issues regarding these procedures to the Board for information or action, if circumstances warrant.

Responses to Policy Advisory Council and Committee Testimony

As reported orally last week at the Planning and Executive Management Committee meetings, staff has prepared responses to the final report from the Policy Advisory Council (PAC), and other testimony presented at that time. All written letters have been submitted into the public comment portal established for the guidelines, as official documentation. Per its advisory capacity, the PAC submittal has been attached as a formal record to the Board as Attachment A.

Staff's responses are presented as a compendium in Attachment E. They fall into three main categories:

- A) **Concurrence.** Actual changes to the language in the Draft Guidelines. These reflect factual corrections, as well as clarifications or modifications that are critical, in our view, to the overall framework that the Measure M guidelines establish. These were fairly limited, and are flagged "Metro concurs."
- B) **Administrative Procedures.** Referrals to the Measure M Guideline Administrative Procedures. Many of the comments were important, and point directly to technical or administrative procedures that will aid in the actual implementation of the guidelines, as compared to the overall framework. In many cases, this will involve applications to specific projects, or steps that must be crafted in more detail than is appropriate for the Guidelines themselves. The Policy Advisory Council, complemented with additional stakeholders as necessary, will play an active role in these procedures, as listed in Attachment D. As noted, comments and responses in Attachment E will be carried over into these administrative procedures, which will begin this summer and fall.
- C) **Future Policy Deliberations**
In some cases, observations offered demand a policy level discussion and decision beyond the Guidelines per se. Fundamentally, the Guidelines are intended to direct Measure M investments consistent with the language of the Ordinance, but also consistent with existing Metro Board policy. To the extent that Board policies could or would change or be augmented in the future, Measure M implementation would need to adjust accordingly.

It is anticipated that development and adoption of the new , comprehensive Long Range Transportation Plan (LRTP) will affect not only Measure M, but many other Metro investment programs. As a result the LRTP is the logical starting point to take up Policy challenges forwarded as part of the review and response to Measure M including:

- further considerations of the intersection between affordable housing and transit
- the definition and role of “equity” in the policy development, project identification, and investment priorities
- the role of performance measurement and metrics in determining not only the success of Measure M, but the performance of the transportation system of which M is a single (albeit major) part.

In some instances, targeted policies may be pursued alongside the LRTP effort, for expediency, scale, or other reasons, though the overall LRTP effort itself remains a central point of coordination and consistency.

With that in mind, staff offers Attachment B as the Final Measure M Guidelines, with the further commitments noted in Attachment E.

ATTACHMENTS

Attachment A - Recommendations from Policy Advisory Council

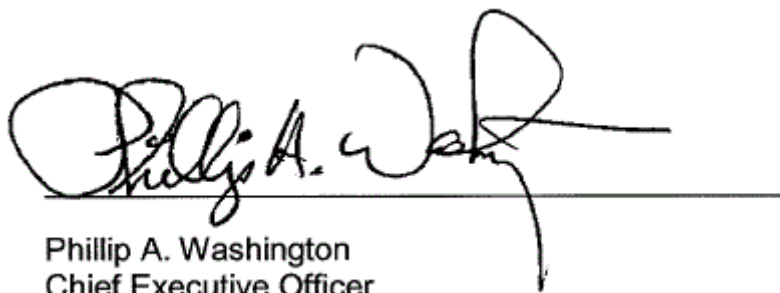
Attachment B - Measure M Master Guidelines

Attachment C - Public Comments Summary

Attachment D - Timeline for Completion of Administrative Processes

Attachment E - Metro Responses to Policy Advisory Council Comments and to Public Speaker Comments

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