

**Board Report**

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**PLANNING AND PROGRAMMING COMMITTEE  
APRIL 14, 2021****SUBJECT: PROJECT PRIORITIES FOR NEXT NEW STARTS GRANTS****ACTION: APPROVE RECOMMENDATIONS****RECOMMENDATION**

CONSIDER:

1. APPROVING the West Santa Ana Branch (WSAB) Transit Corridor and Sepulveda Transit Corridor Projects as Metro's next priorities for pursuing New Starts grants from the Federal Transit Administration (FTA) Capital Investment Grants (CIG) Program;
2. APPROVING the East San Fernando Valley (ESFV) Transit Corridor Project as Metro's priority for pursuing a grant from the FTA Expedited Project Delivery (EPD) Pilot Program;
3. AUTHORIZING the Chief Executive Officer (CEO) or his designee to request from the FTA the entry into the Project Development Phase of the CIG Program for the WSAB Transit Corridor Project and the Sepulveda Transit Corridor Project, at the appropriate time, and to submit a grant application for the EPD Pilot Program for the ESFV Transit Corridor Project; and
4. AUTHORIZING staff to develop and implement targeted CIG/ EPD legislative and FTA engagement strategies that support securing grants for the three priority projects.

**ISSUE**

The Board of Directors last authorized the CEO to pursue New Starts grants for Metro capital projects in 2009. Following this directive, Metro secured a total of about \$4.4 billion in New Starts grants for the Regional Connector and Purple Line Extension projects. Metro also succeeded in receiving voter approval for Measure M and its Expenditure Plan, which assumes federal and other funding to implement major capital projects throughout Los Angeles County. While Measure M better positions Metro to compete for additional New Starts grants, the nationwide demand for this discretionary funding has increased significantly as evidenced by the FTA's project "pipeline". The FTA awards New Starts grants through the execution of Full Funding Grant Agreements (FFGAs) following a multiyear/ multistep process with evaluation criteria per federal law and FTA's guidance.

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Staff assessed the eligibility and competitiveness of the Board designated “pillar” and ESFV projects taking into consideration this process and evaluation criteria. Approval of the staff recommendation will allow Metro to start the grant application process, including adding the proposed projects to the FTA’s CIG/ EPD “pipeline” and Annual Report on Funding Recommendations that it submits to Congress. It also allows staff to focus its legislative and FTA engagement strategies to support securing New Starts grants for the recommended projects through President Biden’s proposed \$2.3 trillion American Jobs Plan and legislation being considered by Congress for the reauthorization of the Fixing America’s Surface Transportation (FAST) Act that expires (unless extended) on September 30, 2021. Approval of the staff recommendation supports implementing Board directives to secure grants for Metro’s major capital projects, including prioritization for the “pillar” projects and other projects that may benefit from any additional federal funding that may be committed in support of the Los Angeles 2028 Olympic and Paralympic Games.

## **BACKGROUND**

Metro has about 40 years of New Starts success during which it secured about \$7 billion in grants that the FTA committed in FFGAs that were executed for several fixed-guideway projects throughout Los Angeles County: Metro B (Red) Line, Metro L (Gold) Line (Eastside Extension), Metro D (Purple) Line and Regional Connector. Of this total, the FTA allocated about \$3.9 billion during the 30-year period between Federal Fiscal Year (FFY) 1992 and FFY 2021. Metro’s maximum annual allocation was about \$430 million in FFY 2019 for four projects. Annual allocations will hold at about \$300 million until FFY 2026 and will gradually decrease to \$100 million in FFY 2030, which is the last allocation for the third section of the Purple Line Extension. The Regional Connector received its last allocation in FFY 2020. The first and second section of the Purple Line Extension are scheduled to receive their last allocations in FFY 2026 and FFY 2027, respectively. Overall, the FTA will complete the allocation of Metro’s New Starts balance of about \$2.0 billion during FFY 2022- FFY 2030.

Well before Metro’s New Starts allocations phase out, there is an opportunity to add new Metro projects to the FTA’s New Starts “pipeline”. Metro and Los Angeles County would also benefit from the support of President Biden’s Administration for transit investments, particularly those that reduce greenhouse gas emissions and provide access to opportunities for low-income, disadvantaged, and underserved communities. Metro must seize this opportunity by starting the New Starts grant application process for projects that best meet the federal statutory evaluation criteria and FTA’s Policy Guidance, including readiness and the availability and amount of non-federal funds that the Metro Board can commit for these projects. President Biden’s Administration, as well as a Congressional majority that is supportive of transit investments and friendly to Los Angeles County and California, can play a key role in supporting Metro implement the largest transportation expansion program in the country. This support may include funding dedicated for the projects from the American Jobs Plan that President Biden unveiled on March 31, 2021 for consideration for approval by Congress, including the long-term reauthorization of the FAST Act.

## **DISCUSSION**

The CIG Program is the largest among discretionary grant programs of the United States Department of Transportation (USDOT). It provides funding for fixed guideway investments, such as new and expanded rapid rail and corridor-based bus rapid transit (BRT) projects that emulate rail features.

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Under existing federal law (U.S. Code Section 5309), it funds projects that meet eligibility and other requirements under one of four categories that include New Starts, Core Capacity and Small Starts. New Starts projects are new or extensions to existing fixed guideway systems with a total estimated capital cost of \$300 million or more, or that are seeking not less than \$100 million Section 5309 grant. The maximum CIG share of New Starts projects is 60 percent of total eligible costs, with an overall maximum federal share from all sources of 80 percent.

As currently authorized by the FAST Act, the FTA's EPD Program aims to expedite the delivery of New Starts, Core Capacity and Small Starts projects. To be eligible for an EPD grant, projects must: i) utilize public-private partnerships (P3); ii) be operated and maintained by employees of an existing public transportation provider; and iii) have an overall federal funding share not exceeding 25 percent of the total capital project cost. The EPD Program seeks to increase innovation, improve the efficiency and timeliness of project delivery and implementation, and encourage new revenue streams such as those from private financing or the implementation of "value capture" techniques.

Attachment A provides a detailed overview of the CIG and EPD programs. This includes the grant application and evaluation process for both New Starts and EPD.

#### Demand for New Starts and EPD Grants within the FTA's Current Project Pipeline

The demand for New Starts grants is the largest in terms of total funding committed in FFGAs, as well as requested for projects that are currently in the PD and PE phases. The demand for New Starts grants has increased in parallel with the growing demand for other grants from the CIG Program, therefore increasing the program's competitiveness. Overall, there are currently 55 projects in the FTA's CIG and EPD project "pipeline" (Attachment B), including Metro's 3 projects for the Purple Line Extension, that may result in up to \$20 billion in grant awards from these two programs. About \$16 billion (80 percent) from this total, regardless of the approval status of the project requests, is the current demand for New Starts grants. For comparison, Congress appropriated about \$13.8 billion in Section 5309 funds during the six-year period of the FAST Act (average of about \$2.3 billion/year). Therefore, it would take the equivalent of nine years of apportionments at current funding levels to fund all the projects that are currently in the FTA's project "pipeline".

#### New Starts and EPD Grants Prioritization Assessment

In February 2019, the Metro Board of Directors approved a motion that prioritized funding for four "pillar" fixed guideway projects: Gold Line Eastside Extension Phase 2, Green Line Extension to Torrance, Sepulveda Transit Corridor, and WSAB Transit Corridor. The following month staff provided an overview of the CIG Program to Board Offices. Based on the feedback received, an interdepartmental team of staff, including from Government Relations, Program Management, and Countywide Planning, engaged consulting firms late in 2019 to conduct a prioritization assessment of the "pillar" projects for New Starts and EPD grants following the FTA's evaluation criteria. The goals of the Prioritization Assessment were to: i) identify opportunities and constraints for securing New Starts and EPD grants from the FTA; ii) assess CIG New Starts rating results and implications for individual projects; iii) develop project specific recommendations for pursuing New Starts and EPD grants; and iv) develop recommendations on targeted New Starts/ EPD legislative and FTA engagement strategies to secure grants for the projects that are eligible and most competitive.

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In February 2020 staff held the first workshop to introduce the Board Offices to the goals, evaluation criteria, and assumptions of the Prioritization Assessment for the “pillar” projects. However, the assessment had to be paused due to the coronavirus pandemic and stay-at-home order. Also, due to the complexity and importance of this assessment, in December 2020 staff initiated a series of three workshops to allow opportunity for questions and receive feedback from Board Offices. Staff also expanded the scope of the Prioritization Assessment to include the ESFV Transit Corridor Project with specific consideration of the project as a candidate for the EPD program. Attachment C summarizes the topics of the three workshops and provides a link to access all three workshop presentations.

### Results of the Prioritization Assessment

*WSAB Transit Corridor Project:* The results of the Prioritization Assessment (Attachment D) identified this project as being the first candidate among the “pillar” projects for a New Starts grant. This is due to its readiness status (including the fact that is already following the NEPA review process), likelihood of receiving a “medium” project justification rating from the FTA (based on a score within the upper end of the range that the FTA defines for this rating), and availability of Measure M funds for construction that supports achieving a “medium” local financial commitment rating from the FTA. It is anticipated that the project would likely receive an overall rating of “medium”, therefore meeting current federal statutory requirements.

*Sepulveda Transit Corridor:* The results of the Prioritization Assessment identified this project as being the second candidate among the “pillar” projects for a New Starts grant. This is also due to its readiness status (including the fact that is already following the NEPA review process), likelihood of receiving a “medium-high” project justification rating from the FTA (based on a score within the lower end of the range that the FTA defines for this rating), and availability of Measure M funds for construction that supports achieving a “medium” local financial commitment rating from the FTA. It is anticipated that the project would likely receive an overall rating of “medium-high”, therefore exceeding the minimum rating of “medium” that current federal law requires. This project is proposed to be second in the timeline for seeking New Starts grants taking also into consideration that the Board of Directors approved last month the award of two contracts according to which the potential private project developers would participate in early project definition and design, in partnership with Metro. Under these pre-development agreements (PDAs), the contractors will provide technical work products that support the ongoing development of the project as it progresses through the environmental review and approval processes.

*Other “Pillar” Projects:* The results of the Prioritization Assessment did not recommend the other two “pillar” projects for pursuing New Starts grants through the CIG Program. Although both projects would get a “medium” project justification rating, the score each received was within the lower end of the range that the FTA defines for this rating. Therefore, there is a potential risk for not meeting the statutory requirement of a minimum “medium” overall project rating and the FTA’s requirement of a minimum “medium” project justification rating. Not meeting these project ratings would make the projects ineligible for New Starts grants. Also, neither the Gold Line Eastside Transit Corridor Phase 2 Project nor the Green Line Extension to Torrance Project are currently following the NEPA review process.

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Satisfying NEPA and other related federal requirements is needed to secure the FTA's approval of a Record of Decision (ROD) for either project, therefore making it eligible to seek and receive financial assistance from the FTA (including New Starts grants). However, "federalizing" one or both projects would result in schedule delays and cost increases, not only due to compliance with NEPA requirements, but also due to compliance with Buy America and other federal requirements. Regarding the availability of Measure M funds for construction, which is considered to assess achieving a "medium" local financial commitment rating from the FTA, such funds would not be available until 2025 for the Green Line Extension to Torrance Project and 2029 for the Gold Line Eastside Transit Corridor Phase 2 Project (compared to 2021 and 2024 for the WSAB and Sepulveda Transit Corridor projects, respectively). This adds to the risk of not meeting eligibility for New Starts grants. While staff is not recommending these two "pillar" projects for New Starts, staff will continue to follow a parallel approach as applicable to pursuing formulaic and competitive grants from the State of California building on the success that has already been achieved, such as the grant award of \$231.3 million to the Green Line Extension to Torrance Project from the State's Transit and Intercity Capital Rail (TIRCP) Program.

*ESFV Transit Corridor Project:* Although staff did not intend for this project to compete with "pillar" projects for a New Starts grant, it was also rated following the same process to assess its eligibility and competitiveness. Although this project would get a "medium" project justification rating, the score it received was within the lower end of the range that the FTA defines for this rating. Therefore, there is a potential risk for not meeting the statutory requirement of a minimum "medium" overall project rating and the FTA's requirement of a minimum "medium" project justification rating. Not meeting these project ratings would make the project ineligible for New Starts grants, although it would rate very well for other criteria due to its readiness (well ahead of all projects that were evaluated) and the availability of Measure M funds for construction. Due to these last two criteria, as well as meeting other evaluation criteria, this project was identified as a potential candidate for an EPD grant. An EPD grant request for this project would not be competing with New Starts grant requests for the WSAB and Sepulveda Transit Corridor projects as Congress authorizes, appropriates, and allocates funds for EPD separately from New Starts.

### Timing and Need for Action

Metro's success in securing four FFGAs for about \$4.4 billion in New Starts grants during the last decade was largely due to funding needs, project readiness and timely actions that the Board of Directors approved. These actions better positioned the Regional Connector and Purple Line Extension projects to compete for the limited CIG funding that was available. These actions included the selection of the locally preferred alternative (LPA) for each one of these two projects, authorization to the CEO to pursue New Starts grants, and directives for agency-wide coordination and proactive engagement with the FTA, elected officials and other project stakeholders (including cities, County of Los Angeles and community based organizations). The Board of Directors also supported pursuing an aggressive and coordinated approach to maximize the grant requests and awards, including proposing and supporting legislative and regulatory changes related to the eligibility, evaluation and award of New Starts grants that coincided with the reauthorization of the federal transportation bill at that time. With the pending reauthorization of the FAST Act, there are very strong similarities in the timing and need for action now to support securing New Starts grants. The EPD Program could also be part of Metro's continued success story for securing FTA grants.

### Equity Platform

The projects recommended for pursuing New Starts and EPD grants support the third pillar (“Focus and Deliver”) of Metro’s Equity Platform. These projects support providing access to jobs, education, and other opportunities for underserved communities. They are also included in the Measure M Expenditure Plan, which considered equity related factors among the five performance measures that were developed to assess and prioritize projects. Specifically, the “Economy” and “Sustainability/Quality of Life” themes included metrics relevant to investments in disadvantaged communities.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no direct impact on the safety of Metro customers or employees.

### **FINANCIAL IMPACT**

Adoption of the staff recommendation would support the agency’s efforts to secure several billion dollars in Federal New Starts and EPD grants for the WSAB, Sepulveda and ESFV Transit Corridor projects.

### Impact to Budget

This item has no impact to the current budget.

### **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The positioning of the recommended priority projects for New Starts and EPD grants will help Metro secure federal funding needed to implement key projects that help achieving all of the goals outlined in the Vision 2028 Plan.

### **ALTERNATIVES CONSIDERED**

The Board may choose not to approve the recommendation, or only approve some of the items it includes. Staff does not recommend either option, as doing so will preclude achieving the Board’s directive to prioritize “pillar” and other projects that may benefit from any additional federal funding that may be committed in support of the Los Angeles 2028 Olympic and Paralympic Games.

The Board may also choose to recommend additional projects, and/or replace one or more of the projects identified in the recommendation, for pursuing New Starts and/or EPD grants. Staff also does not recommend either option. The other two “pillar” projects that are excluded from the recommendation are not as competitive and may not meet federal eligibility statutory requirements. Also, among non “pillar” projects in the Measure M Expenditure Plan, the ESFV Transit Corridor Project is the most competitive for an EPD grant due to its readiness, immediate availability of Measure M funds for construction, and potential for near-term implementation of value capture strategies.

## **NEXT STEPS**

Upon approval of the report, Metro staff will continue this interdepartmental effort with actions to develop, refine, and implement targeted CIG/ EPD legislative and FTA engagement strategies that support securing grants for the two “pillar” projects and the ESFV Transit Corridor Project included in the recommendation. By focusing on a limited number of regional priority projects that also have the most technical merit for receiving New Starts awards following the FTA’s grant application process and evaluation criteria, staff will identify opportunities for supporting other pillars of success that were identified through the Prioritization Assessment as applicable to Metro’s success in the CIG Program to date. These include demonstrated project readiness and technical capacity and capability, as well as early actions to add the projects to the FTA’s project “pipeline”, now more than ever as it currently includes 55 projects. As applicable to the EPD Program, and given that the FTA has only recently begun its implementation, staff will seek to relax existing federal statutory and regulatory limitations to provide greater flexibility to Metro to benefit from it, including increasing the current 25 percent maximum permissible overall federal share of the total project cost.

In Summer 2021 staff will submit a request from the FTA for entry into the Project Development Phase of the CIG Program for the WSAB Transit Corridor Project. Staff will continue to follow a parallel approach for the other two “pillar” projects as applicable to pursuing formulaic and competitive grants from the State of California building on the success that has already been achieved, such as the grant award of \$231.3 million to the Green Line Extension to Torrance Project from the Transit and Intercity Capital Rail (TIRCP) Program. Last, staff will initiate a Prioritization Assessment for Small Starts Grants focused on BRT and other eligible projects listed in the Measure M Expenditure Plan.

## **ATTACHMENTS**

Attachment A - Overview of CIG and EPD Programs

Attachment B - Overview of CIG/EPD Project Pipeline of the FTA

Attachment C - Metro CIG/EPD Prioritization Assessment Workshops & Presentations

Attachment D - Results of Metro CIG/EPD Prioritization Assessment

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