



Metro

Los Angeles County  
Metropolitan Transportation  
Authority  
One Gateway Plaza  
3rd Floor Board Room  
Los Angeles, CA

## Board Report

File #: 2023-0202, File Type: Motion / Motion Response

Agenda Number: 13.

### PLANNING AND PROGRAMMING COMMITTEE JUNE 14, 2023

**SUBJECT: MEASURE M 3% LOCAL CONTRIBUTION ADDITIONAL GUIDELINES REVISIONS**

**ACTION: APPROVE RECOMMENDATIONS**

#### **RECOMMENDATION**

CONSIDER:

- A. RECEIVING AND FILING a report back on Motion 10.1 (Attachment A); and
- B. AUTHORIZING for public review and comment the release of the revised Measure M Guidelines, Section VIII - 3% Local Contribution to Major Transit Projects (Attachment B).

#### **ISSUE**

In February 2023, the Board approved several revisions to the Measure M Guidelines (Guidelines) and requested additional revisions and analysis via Motion 10.1 by Directors Hahn, Dutra, Butts, and Sandoval (Attachment A). This report presents the analysis, and requests approval to release newly revised draft Guidelines for public review and comment, per the Board approved Measure M Guidelines.

#### **BACKGROUND**

The Measure M Ordinance (Ordinance) requires local jurisdictions to pay three percent (3%) of the total cost of new major rail projects. The Measure M Guidelines adopted by the Board in 2017 (File# 2017-0280) guide Metro's implementation of this requirement. In April 2022, Motion 35 by Directors Hahn, Garcetti, Butts, and Dutra (Attachment C) requested that staff make several revisions to the Guidelines to for consistency and flexibility. Following public review, the Board approved these revisions in February 2023 and requested additional changes and analysis through Motion 10.1.

#### **DISCUSSION**

##### **Guideline Revisions**

Motion 10.1, Directives A, B, D, and E requested that staff make further revisions to the Guidelines. These revisions are summarized as follows, and are reflected in Attachment B.

- Directive A requested that the Guidelines clarify that jurisdictions owing a 3% contribution may receive credit for eligible improvements or actions taken by neighboring non-contributing jurisdictions. This would allow, for example, a jurisdiction to receive credit for qualifying First Last Mile improvements made by another jurisdiction along a corridor. This flexibility is already allowed, is consistent with the Ordinance, and has been added to the “Eligible Fund Contributions” section of the guidelines for clarity. The financial impact of this existing flexibility, to the extent that it incentivizes additional FLM improvements, will be a reduction in Metro’s ability to collect cash contributions in cases where a neighboring jurisdiction’s FLM improvement is the owing jurisdiction’s creditable contribution. This will increase the funding gap for the major project by the cost of the FLM improvement. Per the Guidelines, all other in-kind contributions must be included in the scope of work for the major project by 30% design.
- Directive B requests that eligible fund sources include Metro competitive grants, which were previously not allowed per the Guidelines. Allowing jurisdictions to use Metro competitively awarded grant funds would have no negative financial impact on the funding plan for the project, and the Guidelines have been revised accordingly.
- Directive D requests that the Guidelines clarify that projects separate from the current operable segment, or project elements added after 30% design, would not impact the contribution owed for the current operable segment. This approach is consistent with the Ordinance and several scenarios have been added to the “Program Methodology” section of the revised Guidelines for clarity.
- Directive E requests that the Guidelines clarify that potential contributions implemented by jurisdictions prior to 30% design may count toward their contribution. This flexibility is already allowed, is consistent with the Ordinance and has been added to the “Eligible Fund Contributions” section of the guidelines for clarity. In some cases, this flexibility could extend to improvements made by jurisdictions well in advance of the transit project. When Metro treats these improvements as creditable elements of the transit project scope rather than baseline conditions, the resulting financial impact will increase the funding gap for the major project in the amount of the previously completed eligible improvement.

The above changes and clarifying revisions to the Guidelines will be circulated to the public via mass email for a 30-day review period beginning June 23, 2023. Any comments received will be incorporated as needed into the final Guideline revisions which will be presented for Board consideration and approval in September 2023. Accompanying the revised Guidelines is an updated 3% Contribution Fact Sheet (Attachment D).

### **Analysis of Excluding Regionally Significant Project Elements**

Directive C in Motion 10.1 requested that staff “evaluate a way to exclude the costs associated with regionally significant project elements - such as a new I-105 C Line station on the C Line (Green) or a Maintenance and Storage Facility (MSF) on the Gold Line Eastside Phase 2 - from the total project’s cost’s 3% local contribution calculation.” While the request for this analysis does not make any immediate changes to the Guidelines, the effect of ultimately implementing this change would be far-

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reaching with significant financial and schedule impacts. If the Board requests additional changes to the Guidelines in this area, it may impact Metro's ability to collect contributions for several eligible projects, which would delay this necessary financial support and potentially delay project delivery.

The Measure M Ordinance applies the 3% contribution requirement to the "total project cost" for all projects coded "T" in the Expenditure Plan. The total project cost would include all elements of the rail corridor project, such as stations, guideways, traction power, and maintenance and storage facilities. The Ordinance also gives the Board discretion to apply, or not apply, the sales tax withholding remedy in situations where a jurisdiction does not fulfill the contribution obligation. Through this discretion, the Board could exclude all or portions of the capital project from the 3% contribution cost basis. Excluding elements of the project would negatively impact project financing, creating a funding gap and potential schedule delay if new funding sources need to be developed to cover the gap.

Specific to the Board's request, Metro has not previously defined a category of regionally significant project elements and suggests a new definition consistent with Motion 10.1 to include major capital facilities integral to corridor construction that are intended to serve multiple rail lines. This would include rail station construction at intersecting lines where neither line has an existing station, and MSFs intended to serve multiple lines. Metro evaluated projects in the Expenditure Plan and found three regionally significant project elements that could potentially be excluded:

- C Line infill station construction (\$75M-\$150M);
- Eastside Phase II MSF (\$700M-\$1.8B); and
- Airport Metro Connector (\$701M).

The C Line infill station and Eastside Phase II MSF were identified in Motion 10.1. While the Airport Metro Connector is a stand-alone project, it would likely fall within the definition of a regionally significant project element. Metro reviewed the Expenditure Plan and found no other reasonably foreseeable projects that might include regionally significant project elements.

With this information, Metro estimates that excluding the above project elements would reduce the local contribution by \$44.3M to \$79.5M. This would result in significant savings for jurisdictions but would also create a funding gap for which Metro would need to seek other funding which could also result in schedule delays. Metro does not recommend excluding these facilities due to financial constraints and schedule delays. Note, however, that Metro will explore opportunities to allocate part of the cost of these facilities to the other projects or rail lines that they serve. This approach recently resulted in costs for the Southwestern Yard being allocated to both the K Line and the C Line, reducing the 3% local contribution for the K Line accordingly.

### **DETERMINATION OF SAFETY IMPACT**

The proposed approval will not have any adverse safety impacts on employees or riders.

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## **FINANCIAL IMPACT**

Approving the recommendations, including the proposed changes to the Guidelines, will have no impact on the FY 2022-23 Budget. The Guideline's existing flexibility related to Directives A, B, D, and E reduce Metro's ability to receive cash contributions from local jurisdictions, which increases Metro's forecasted capital project funding gaps. In addition, as noted above, excluding certain regionally significant project elements from the 3% contribution cost basis would result in significant funding gaps and associated delays as new funding sources would need to be developed.

## **EQUITY PLATFORM**

The substantive changes resulting from this action include expanding eligible funding sources to include Metro competitive grant funds. This will provide additional flexibility to jurisdictions owing a 3% contribution, including those within Equity Focus Communities (EFCs), which is intended to support jurisdictions with fewer financial resources. The remainder of the revisions to the Guidelines clarify existing practices and enhance consistency of current policy with the Measure M Ordinance, and therefore have no impact on equity opportunities. The 3% local contribution is one of the financial resources supporting Metro's major rail transit projects program in the Measure M Expenditure Plan. These projects will benefit communities by adding new high-quality reliable transit services, many of which will increase mobility, connectivity, and access to opportunities for historically underserved and transit-dependent communities. Metro will continue to conduct outreach and provide technical assistance on the 3% contribution requirement to affected jurisdictions, including assisting with identifying viable financing strategies. Staff will also analyze how each project might impact equity and Equity Focus Communities. These analyses will be included in future Board items (e.g. notifying the Board of the 3% contribution amount by jurisdiction based on 30% design) on a project-by-project basis.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendation supports the following strategic plan goals identified in Vision 2028: Goal 1: Provide high-quality mobility options that enable people to spend less time traveling, Goal 3: Enhance communities and lives through mobility and access to opportunity and Goal 5: Provide responsive, accountable, and trustworthy governance within the Metro organization.

## **ALTERNATIVES CONSIDERED**

The Board could elect not to authorize releasing the draft revised Guidelines for public review. This is not recommended as the proposed revisions resulted from Board direction and will increase the level of clarity the Board has requested within the Guidelines.

## **NEXT STEPS**

The draft revised Guidelines will be circulated for public review and comment beginning June 23, 2023 via mass email, notification via Metro's The Source, and website posting until July 24, 2023. After incorporating public comment, the final revisions to the Guidelines will be presented for Board approval in September 2023.

**ATTACHMENTS**

Attachment A - Motion 10.1

Attachment B - Measure M 3% Local Contribution Guidelines Draft Revisions

Attachment C - Motion 35

Attachment D - 3% Contribution Fact Sheet

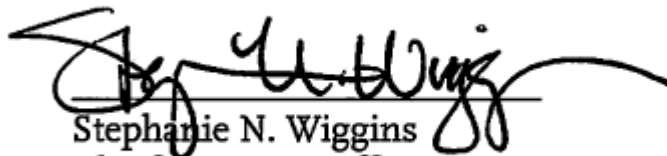
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