



**Board Report**

**File #:** 2020-0334, **File Type:** Plan

**Agenda Number:** 7.

**PLANNING AND PROGRAMMING COMMITTEE**

**JUNE 17, 2020**

**EXECUTIVE MANAGEMENT COMMITTEE**

**JUNE 18, 2020**

**SUBJECT: MEASURE R AMENDMENT LANGUAGE**

**ACTION: APPROVE RECOMMENDATIONS**

**RECOMMENDATION**

CONSIDER:

- A. APPROVING the Measure R Ordinance Proposed Amendment Language (Attachment A);  
and,
- B. ADOPTING the Resolution Notifying the State Legislature of the Amendment (Attachment C).

**ISSUE**

This Board item presents proposed amendments and changes to the Measure R Ordinance (the Ordinance) to allow transfers between the highway and transit subfunds, and adds a project requested by a subregion. Board approval of this item will allow the amendment language to be presented at a public hearing, noticed to the required governing bodies, and reviewed by the Measure R Oversight Committee, which are steps required under the Ordinance prior to Board adoption of the amendment. The Public Utilities Code also requires that Metro adopt a resolution notifying the state legislature of the amendment.

**BACKGROUND**

The Ordinance identifies the allowable uses for the 0.5% countywide sales tax that funds Metro capital projects and transit operations. The Ordinance created both transit and highway capital subfunds that receive a percentage of the Measure R sales tax revenue and fund the capital projects listed on the Expenditure Plan (Attachment A of the Ordinance).

The Measure R Ordinance can be amended upon two-thirds vote of the Board. However, any amendment to provide for a transfer of moneys between the highway and transit subfunds can only occur every ten years, beginning 2020.

In anticipation of the first allowable transfer amendment, staff notified the Board in November 2019 and began a process to inform and reach out to stakeholders including Metro staff, Board staff, subregional councils, Policy Advisory Council, and the public at-large.

Staff distributed an information letter to all known interested parties in February 2020 that described when a transfer might be considered and included draft amendment language, and through April 2020 has responded to all questions received and to requests to attend subregional council meetings.

## **DISCUSSION**

The South Bay subregion has submitted the only actionable requests for the amendment. South Bay has asked that the remaining Measure R funding allocated to the South Bay Highway Program is reduced and transferred for a new transit program, and that the Ordinance allow for future transfers through 2030 without the need of a subsequent amendment. No other requested amendments or changes were offered.

The amount of the transfer differs from the amount initially requested by South Bay. The subregion's governing body, the South Bay Cities Council of Governments (SBCCOG) originally approved a request of \$560,000,000 in November 2019 to transfer from highways to transit. SBCCOG staff subsequently requested this amount be reduced to \$400,000,000 to provide for additional highway projects, and account for amounts already expended, programmed by the Metro Board, or contractually committed.

The following proposed changes to the Ordinance are therefore included. It would add a new Section 18 to the Ordinance. In addition, a mark-up of the affected sections of the Expenditure Plan is included as Attachment A.

### *Section 18.0 TRANSFERRING NET REVENUES BETWEEN SUBFUNDS*

- a. Net Revenues not to exceed \$400,000,000 shall be transferred from the Highway Capital Subfund to the Transit Capital Subfund no later than January 2030 for use on eligible Transit Capital Projects within the South Bay subregion. The amount of Net Revenues for the "Interstate 405, I-110, I-105, and SR-91 Ramp and Interchange Improvements (South Bay)" project on line 33 in Attachment A is reduced from \$906,000,000 to \$506,000,000. The "South Bay Transit Investments" project is added to the Transit Capital Projects as shown in Amended Attachment A.*
- b. Any surplus Net Revenues under Section 7(d)(4) may be transferred from the Transit Capital Subfund to the Highway Capital Subfund no later than January 2030 for one or more Highway Projects within the same subregion as the completed Transit Project.*
- c. Any surplus Net Revenues under Section 7(e)(4) may be transferred from the Highway Capital Subfund to the Transit Capital Subfund no later than January 2030 for one or more Transit Projects within the same subregion as the completed Highway Project.*

### Impact to South Bay Highway Program

The South Bay Highway Program has existed since the passage of Measure R in 2008, and the Metro Board has programmed \$238,207,000 to the South Bay subregion through January 2020 for eligible highway projects. The SBCCOG approved an additional request in March 2020 for \$230,835,278 of expenditures. Much of the previously programmed, expended, and newly requested funds are for planning and design, and do not include construction. The table included as Attachment B lists those South Bay Highway Program projects that will require future construction funding. Total construction costs for these projects are estimated at \$ 412,700,000. A 15% contingency would add another \$61,905,000. The transfer of \$400,000,000 from the South Bay Highway Program to a new transit program will eliminate construction funding for the previously-approved highway projects that have or will have completed pre-construction work. If the construction of these highway projects is ultimately pursued when funding is obtained, it may require that environmental and or design work is redone given the time lapsed.

The South Bay COG's position regarding the Measure R Transfer impact on the South Bay Highway Program is predicated on the fact that when Measure R SBHP was first created, it funded early phases (such as environmental and design phases) of Caltrans projects to strategically position them for outside funding for right-of-way and construction. The COG's position on the Measure R Transfer does not preclude Caltrans from seeking SBHP/MSP funding for those later phases but does not guarantee any funding support past PSE. The SBCCOG will work alongside Caltrans to secure those additional funds and help lobby Sacramento legislators.

The South Bay subregion also receives funding from the Measure M "Highway Operational Improvements" multi-year subregional program and this could potentially be used to pay for the Measure R unfunded construction projects. This multi-year subregional program will provide about \$13,000,000 of new funding for FY 2024. Funding in FY 2025 for the multi-year subregional program is expected to decline as the growth rate is tied to Metro's financial forecast, which will be lowered due to the current decrease in sales tax revenue caused by the global pandemic. In comparison, the construction need is \$412,700,000 (excluding contingency) for the Measure R South Bay Highway Program and an additional \$120,000,000 for new highway projects added to the multi-year subregional program by SBCCOG.

### Potential Future Amendments

Other potential amendments were considered, including those for the transfer of highway and transit Contingency to address future debt service, and for the use of surplus on Measure R projects that have yet to complete construction. Staff recommends that these potential transfers are deferred until after 2030 when the sales tax is nearer to its sunset and after projects are fully closed-out.

### **FINANCIAL IMPACT**

This is an informational item and does not have a direct financial impact.

### Impact to Budget

There is no direct impact to the FY20 budget.

### Multi-Year Impact

This item may result in a more rapid expenditure of Measure R funds. The balance of Measure R South Bay Highway Program funds that are subject to the transfer did not have identified uses; however, the subregion has identified transit uses for much of the amount and this may result in more Measure R debt financing.

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

This item helps ensure fiscal responsibility in how funding determinations are made and transparency in the agency's investment decisions (Goal #5).

### **NEXT STEPS**

Should the Board approve the transfer amendment language, staff will initiate public and local government notice, schedule a public meeting and review by the Proposition R Independent Taxpayers Oversight Committee of Metro in September 2020.

Metro staff will develop guidelines for the use of the newly-created Measure R transit program that include eligibility criteria consistent with the Ordinance and existing Board policy, and determination of funding amounts.

The proposed amendment language would change the amount of funding for projects on the Expenditure Plan. Per Public Utilities Code Section 130350.5(k), this requires notification to the state legislature, no later than 365 days prior to the adoption of the amendment. Pursuant to the Code, the notification shall be in the form of a resolution adopted by the Metro Board. The resolution is included as Attachment C.

Upon completion of the 365-day notice period, Metro staff will schedule a formal amendment of the Ordinance for Board adoption, expected in July 2021. The amendment will require 2/3 Board approval.

### **ATTACHMENTS**

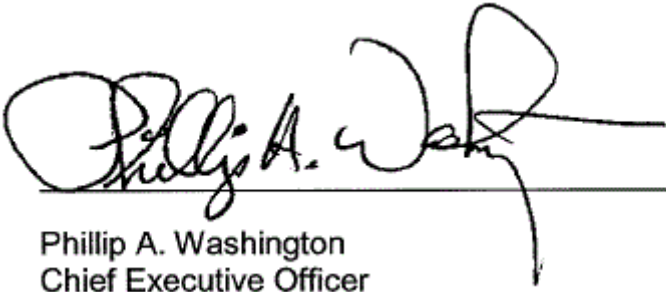
Attachment A - Expenditure Plan Mark-Up

Attachment B - South Bay Highway Program Unfunded Construction Projects

Attachment C - Resolution Notifying the State Legislature of the Amendment

Prepared by: Craig Hoshijima, DEO, Countywide Planning & Development, (213) 418-3384  
Laurie Lombardi, SEO, Countywide Planning & Development, (213) 418-3251

Reviewed by: James de la Loza, Chief Planning Officer, (213) 922-2920



Phillip A. Washington  
Chief Executive Officer