

**Board Report**

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**File #:** 2020-0501, **File Type:** Motion / Motion Response**Agenda Number:** 29.

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**EXECUTIVE MANAGEMENT COMMITTEE  
MAY 19, 2022****SUBJECT: SUBREGIONAL EQUITY PROGRAM GUIDELINES****ACTION: APPROVE RECOMMENDATION****RECOMMENDATION**

APPROVE guidelines for the use of the Subregional Equity Program funds (Attachment A).

**ISSUE**

Board Motion 38.1 from May 2020 (Attachment B) requests “Standard and explicit criteria for how and when a subregion’s SEP allocation may be accelerated to meet their needs”. In response, this item proposes newly created guidelines for the Subregional Equity Program (SEP) that identify how the funds can be accelerated, as well as detail on the future administration of this Measure M Multi-year Subregional Program (MSP).

**BACKGROUND**

The SEP is included in row 68 of the Measure M Expenditure Plan. The source of funding for the SEP is not specified in the Expenditure Plan, and the SEP is eligible for funding of Measure M “Systemwide Connectivity Projects” (i.e., projects related to regional facilities). The total spending available for the SEP is equal to \$1,196 million from FY 2018 to FY 2057.

The SEP was added to the Expenditure Plan in June 2016 after all other MSPs were included and funded in the Long Range Transportation Plan (LRTP) financial forecast. Because the SEP was allocated planned funding after all other Measure M projects and programs, there was no available funding for the SEP until FY 2043, and this is how SEP funds are programmed in the 2020 LRTP.

In four prior instances, Metro recommended SEP funds be accelerated for use prior to FY 2043. This was done to address cost overruns on Foothill 2B in July 2019, Crenshaw/LAX in May 2020, Eastside Access Improvements Project in March 2021, and Westside Purple Line Extension Section 1 in May 2021, all subject to approval from the respective subregions. Not all subregions have approved their SEP for these recommendations (Board motion 48 from June 2021 henceforth eliminates SEP from consideration to address funding shortfalls during construction). The existing Measure M Guidelines and Administrative Procedures do not specifically describe how the SEP can be accelerated. Several of the subregions have asked Metro staff about the availability of SEP funds.

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The Gateway Cities COG has requested the SEP for active transportation projects and to supplement local return for jurisdictions in this subregion. The South Bay COG has already committed the entire South Bay SEP for the Centinela Grade Separation Project. The Los Angeles City Council approved the commitment of the City of LA's portion of Central City Area SEP to an Arts District rail station, Vermont Transit Corridor, and Crenshaw Northern Extension.

## **DISCUSSION**

This Board item proposes SEP guidelines that identify the process for allocating funds to the subregions comparable to the process for other MSPs, and parameters for the acceleration of funds.

Staff will prepare five-year SEP funding estimates for the subregions, no later than October 31, 2022, including inflation adjustments in accordance with the Measure M Ordinance and pursuant to Board Motions 36.1 from July 2019, 38.1 from May 2020, and 48 from June 2021. The current estimated funding availability for the SEP will be programmed over the next five fiscal years. Metro staff will prepare future funding estimates by October 31 of each year.

The proposed guidelines provide for the future acceleration of SEP funding if recommended by Metro staff and in compliance with existing Board policies, including the Measure M Early Project Delivery Strategy (EPD) from November 2017. The EPD requires scoring of proposals to accelerate funds based on factors including the amount of local match and the status of the project in its development process, so long as the acceleration does not negatively impact the funding of other Measure M projects and programs.

The proposed guidelines will also allow the subregions to exchange the SEP with another MSP that is allocated to the subregion. This type of exchange is described as “inter-program borrowing” in the Final Guidelines and may be beneficial to a subregion to accelerate SEP funds that can be spent on either transit or highway uses, whereas the exchanged MSP may only be used for one purpose.

### Eligible Uses

The SEP funds can be used on transit and highway capital eligible under the Measure M Ordinance, which includes first/last mile, active transportation, and complete streets projects, as identified by the subregions. In addition to transit and highway projects led by the subregions, the SEP funds can be used to pay for capital obligations of the subregions or cities that comprise the subregions, such as the obligation for cities to pay a 3% local agency contribution for new Metro rail projects with stations in their jurisdiction.

### Outreach to Subregions

This Board item was postponed from September 2020 to allow for input from Board staff and the subregions. Metro staff prepared a “white paper” and subsequent “policy paper” that summarizes the proposed guidelines, had multiple meetings with Board staff to discuss their input, and presented the information to the Central City Area, Westside Cities, Gateway, San Gabriel Valley, and Arroyo Verdugo subregions and responded to questions and statements from their respective boards and staff. Additionally, the CEO shared the draft guidelines with the Executive Directors’ of the region’s Councils of Governments for their review and feedback. The proposed guidelines incorporate input from Board staff. The subregions prepared correspondence that includes commentary on the

proposed guidelines. Metro staff believe the proposed guidelines are consistent with specific requests on the content of the guidelines.

## **FINANCIAL IMPACT**

### **Impact to Budget**

This item would make funds available for subregions on eligible transit and highway capital projects submitted to Metro for approval. Funding will not be required in FY 2022 for the SEP as any initial amounts will be programmed for FY 2023 or FY 2024. Should funding be needed in FY 2023 it would be paid from federal funds, and or the Measure M 35% Transit and or 17% Highway Subfunds.

## **EQUITY PLATFORM**

This report seeks Board approval of guidelines for the programming of funds to subregions, for capital projects as proposed by the cities and/or implementing agencies of the subregions in Los Angeles County. It does not change how the funds can be used. The cities and/or implementing agencies have discretion, subject to the provisions of the Measure M Ordinance, Final Guidelines, and Administrative Procedures, to determine the capital projects they will undertake, and will lead and prioritize all proposed transportation improvements, including procurement, the environmental process, outreach, final design, and construction. Nevertheless, Metro will continue to work with the subregions and cities to encourage engagement of stakeholders, including those with the greatest mobility needs, that can enhance continued efforts to fund projects that improve transportation deficiencies.

Based on the scopes previously submitted to Metro by the implementing agencies, local improvements have historically been within the public right-of-way and include infrastructure upgrades and/or enhancements such as traffic signal upgrades, signal synchronization, turn pockets, intersections, curbs, sidewalks, bike lanes, and center median improvements. Future annual reports regarding the programming of subregional funds that are presented to the Board for approval will identify any project level equity-related issues of concerns identified through the cities' project selection process.

## **IMPLEMENTATION OF STRATEGIC PLAN GOALS**

The recommendation supports strategic plan goal # 5 and helps ensure fiscal responsibility in how funding determinations are made and transparency in the agency's investment decisions.

## **ALTERNATIVES CONSIDERED**

The Board can choose to modify, amend, or reject the guidelines. Any such action should consider the financial and policy implications on Metro's overall financial capacity and ability to fund other Metro projects and programs.

## **NEXT STEPS**

Metro staff will incorporate the guidelines into the Measure M Final Guidelines and post these for public dissemination. Metro staff will distribute the SEP financial forecast to the subregions in tandem with the annual forecast of funding for other active MSPs no later than October 31, 2022, and accept and review any proposals to accelerate funding in consideration of the provisions of the Measure M Ordinance and Board-adopted policies including the EPD.

Metro staff will return to the Board for approval of specific projects and programming amounts funded from the SEP, likely at the same time as the programming for other MSPs is submitted to the Board for a subregion.

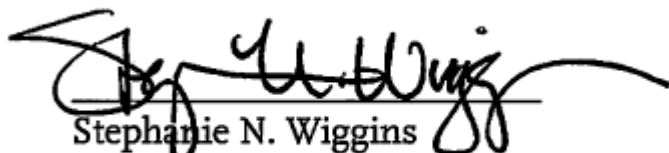
### **ATTACHMENTS**

Attachment A - Proposed Subregional Equity Program Guidelines

Attachment B - Motion 38.1

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



Stephanie N. Wiggins  
Chief Executive Officer

**IX.i SUBREGIONAL EQUITY PROGRAM**

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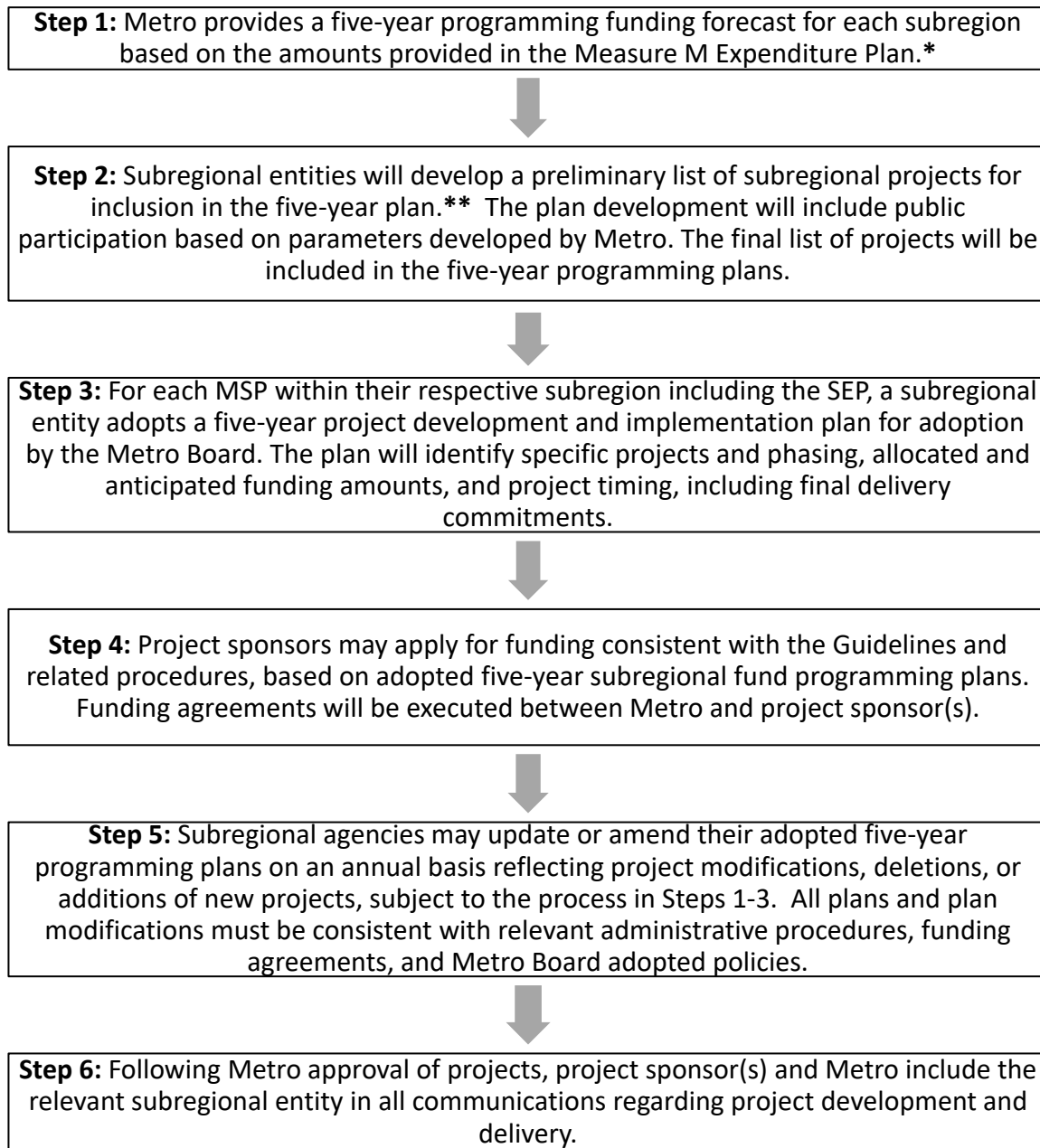
**INTRODUCTION**

The Subregional Equity Program (SEP) is a MSP on row 68 of the Measure M Expenditure Plan. It has Guidelines separate from the MSP Guidelines because the amount of Local, State, Federal, Other and Measure M funding is not specified, a total amount of spending for each subregion is identified, and any spending can be for either transit or highway modes as defined in the Ordinance, which includes first/last mile, active transportation, and complete streets improvements. Projects that subregions submit for this program are subject to the definitions provided in the Ordinance and these Guidelines, and are limited to capital projects.

**Process**

The SEP will go through a subregional program development process similar to the other subregional MSP. The amount of SEP funding available will be consistent with the most recent Long Range Transportation Plan or Short Range Transportation Plan financial forecast presented to the Metro Board, subject to any changes in Metro’s financial capacity during the intervening period from the most recent financial forecast and the distribution of SEP funding amounts. Additional funding capacity may be incorporated into the SEP from one-time funding such as the federal infrastructure bill. It will be adjusted for inflation in accordance with the Ordinance and Board motion 36.1 (Board file #2019-0598). The source of Local, State, Federal, Other and Measure M funding for the SEP, both transit and highway, will be identified in the financial forecast. Administrative and procedural details for the process may be developed upon the adoption of these Guidelines, in the event it facilitates the functioning of the program. Generally, the development process will follow the steps provided in the following table:

**Table IX.i: Subregional Equity Program Project Development Process**



*\*Metro will announce the funding forecast by year concurrently with the announcement of the other MSP funding forecasts, and the amounts will extend five years from the date of the announcement and cover the same time period as the other MSP funding forecasts.*

*\*\* Coordination with Metro staff is required to ensure project eligibility, as determined by Metro and the applicable State or federal grant criteria. Administrative review procedures developed specific to each MSP program area (Highway, Transit modes as defined in the Ordinance, which includes first/last mile, active transportation, and complete streets improvements) will be applied to projects submitted and include plan requirements and eligible use of funds within each MSP program area.*

Resources to support the steps listed in Table IX.i can be drawn from SEP funds (subject to any restrictions on amounts funded from State or federal grants), not to exceed 0.5% of the amounts for any single year determined in Step 1 of Table IX.i. Any additional resources to support the steps in Table IX.i must be drawn from resources under the control of the subregion or its constituent cities.

### **Advancing Funds**

#### Metro Staff Recommendation

The amount of SEP funding that has not already been expended or allocated by the Board to another use can be advanced if recommended by Metro staff and adequately noticed to and approved by the respective subregion pursuant to Motion 38.1 (Board file #2020-0356). This motion calls for “Subregional governing body approval of any funding recommendation and use” and “Written notice to the respective Subregional governing body and representative Board offices at least 120 days before Metro recommends the use of SEP funding to ensure adequate time for subregions to understand and approve any funding recommendations.”

Beginning June 17, 2021, Motion 48 (Board file #2021-0435) amends the “Measure R and Measure M Unified Cost Management Policy” to eliminate the SEP from consideration to address project funding shortfalls during construction. Subregions may still choose to make SEP eligible for selected Measure M projects before they enter the construction phase.

SEP funding can also be advanced and included in the five-year funding forecast described in Table IX.i. This can occur if Measure M or other local, State, federal, or other funding is made available during the five-year period due to a reduction in funds programmed for a capital project resulting from a decrease in project cost, cancellation or defunding of the project, or provision of other local funds to supplant the funds, as identified and requested by a subregion. In addition, if new local, State, federal, or other funding, that is not already programmed by Metro for another use, is made available, this could be included in the five-year SEP funding forecast and credited against the balance available.

#### Request by Subregion

The programming of SEP funds can be considered for acceleration if requested by a subregion and in compliance with existing Board policies, including the Measure M Early Project Delivery Strategy (EPD) from November 2017 (Board file #2017-0686) and the MSP inter-program borrowing provisions in the Measure M Final Guidelines. The EPD requires scoring of proposals to accelerate funds based on factors including the amount of local match and the status of the project in its development process, so long as the acceleration does not negatively impact the funding of other Measure M projects and programs. Metro staff will evaluate the financial

impact of any proposed SEP programming and consider the potential use of debt to finance the SEP that may reduce the immediate cash flow requirement. Metro will accept all proposals by subregions, provide recommendations, and submit the proposals and recommendations to the Metro Board for consideration, which could involve an amendment to the Measure M ordinance.

The subregions may also request SEP funding to deliver a project by borrowing, or exchanging, from another MSP that has programmed funding in earlier years, in accordance with the “Cashflow Management” section of the Measure M Final Guidelines. Metro staff will be available to provide technical assistance to the subregions in preparing any proposal to borrow SEP funds.

### **Supplemental Funds Requirements**

If project sponsors are able to fully fund projects identified in their five-year plans, consistent with procedures established within these Guidelines with SEP funds, the project sponsor may proceed to request disbursement of those funds. However, if the project requires supplemental Metro support or funding, including Metro staff resources, then the project must comply with all requirements attached to Metro-sponsored or controlled fund sources and policies, as appropriate. For example, if a project using SEP funds is matched with discretionary fund programs managed by Metro, the project is subject to all evaluation criteria, reporting requirements or other provisions of that discretionary program. There is no minimal amount of additional Metro investment that would prevent additional Measure M policy requirements. The only exception to this rule is use of Local Return funding from sales tax measures A, C, R or M. Once the Metro supplemental funding request is made, staff will notify project sponsors of policy implications.

Projects and programs utilizing additional assistance or funding are encouraged to comply with the Metro Board adopted Small Business Enterprise (SBE) Program and the Prohibition against Discrimination or Preferential Treatment by State and Other Public Entities.

### **READINESS**

The timing of the actual distribution of funds will be determined based on project readiness. The Timely Use of Funds principle applies to the MSP and SEP and require establishing project readiness to be able to access program funds.

Project readiness will apply to separate phases of a project. Readiness thresholds will be determined for planning, environmental, right of way, and construction, and will be defined as appropriate for each funding category as determined by Metro (i.e., Highway, Transit, Active Transportation, etc.).



## **PROGRAM MANAGEMENT CONSIDERATIONS**

The SEP funds are subject to the cash flow parameters within these Guidelines. Project sponsors must notify Metro by the last day of February of each year of the amount of subregional funding they plan to use, by project, in the subsequent fiscal year, which for Metro begins July 1. This is needed for Metro budget purposes, and the cash flow expenditure estimate provided may differ from the initial Metro funding forecast or amounts programmed in the funding agreements between Metro and the subregions. When notice is not provided, funding availability will be on a first-come, first-served basis in the subsequent fiscal year.

Per the Cashflow provisions in Section VI, the Metro Board will consider tools that allow for expediting projects within and among subregional programs. Subregional project sponsors can elect to borrow from one MSP fund amount (including the SEP) to accelerate a project in another MSP fund of a different type that may not be available until a later year. This type of inter-program borrowing within the MSP requires approval from Metro and the affected subregion.

## **AUDIT REQUIREMENTS**

Use of Measure M funds will be subject to audit and oversight, and all other applicable state and local laws.

## **REVISIONS TO PROGRAM GUIDELINES**

These program guidelines may be revised by the Metro Board of Directors at any time.



**File #:** 2020-0356, **File Type:** Motion / Motion Response

**Agenda Number:** 38.1.

**CONSTRUCTION COMMITTEE  
MAY 21, 2020**

**Motion by:**

**DIRECTORS GARCETTI, BUTTS, GARCIA AND HAHN**

Related to Item 38: Crenshaw/LAX Transit Project

**SUBJECT: CRENSHAW/LAX TRANSIT PROJECT**

**RECOMMENDATION**

APPROVE Amending Motion by Directors Garcetti, Butts, Garcia and Hahn directing the CEO to:

- A. Allocate \$33.1 million of CMAQ, plus the revenue generated from LAWA acquisition of property and easements (at least \$1.7 million) to fund immediate LOP budget needs on the Crenshaw/LAX project.
- B. After taking CMAQ and LAWA-generated revenues off the top, approve the use of Subregional Equity Program (SEP) funding for the remainder of the \$90 million Crenshaw/LAX LOP budget increase, subject to formal approval from each subregion’s governing body and according to the 2016 subregional borders designating the LAX area as a Regional Facility and conforming the South Bay subregion to the South Bay COG's boundaries:

<b>Subregion</b>	<b>Miles</b>	<b>Percent</b>
Central Los Angeles	3.40	41.4%
South Bay	3.32	40.4%
Regional Facility: LAX Area	1.50	18.2%
Total	8.22	100.0%

These SEP funds shall be escalated from 2015 dollars in accordance with Board file 2019-0598, which reaffirmed that each subregion's SEP allocation as listed in the Measure M Expenditure Plan (line item 68,note s.) is listed in 2015 dollars and escalated to year-of expenditure in accordance with the escalation policies in the Measure M expenditure plan;

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- C. Defer any future recommendation or use of any unprogrammed SEP funding pending the development, in partnership with all Board offices, of a uniform process by which Subregions can elect to use SEP funding, including but not limited to:
1. Subregional governing body approval of any funding recommendation and use;
    - a. Hereby acknowledging that the South Bay COG has already committed the entire South Bay SEP for the Centinela Grade Separation Project.
  2. Written notice to the respective Subregional governing body and representative Board offices at least 120 days before Metro recommends the use of SEP funding to ensure adequate time for subregions to understand and approve any funding recommendations;
  3. Standard and explicit criteria for how and when a subregion's SEP allocation may be accelerated to meet their needs, consistent with Board file 2019-0598 (see above);
- D. Report back on all the above during the September 2020 Board cycle.