

REPORT FROM

OFFICE OF THE CITY ADMINISTRATIVE OFFICER

Date: August 6, 2018

CAO File No. 0220-04888-0027
Council File No. 11-0329-S12
Council District: All

To: The City Council
The Mayor

From: Richard Llewellyn, Jr., City Administrative Officer

Subject: **THE DOWNTOWN LA STREETCAR PROJECT FINANCIAL PLAN**

RECOMMENDATIONS

That the Council, subject to the approval of the Mayor:

1. Approve the funding plan for the Downtown LA Streetcar project to support the construction costs under a Construction Manager/General Contractor or alternative project delivery method;
2. Authorize the General Manager of the Department of Transportation (DOT) to submit a Federal Transit Administration (FTA) Small Starts Grant Application for the Downtown LA Streetcar Project by the September 7th, 2018 deadline, provided all eligibility requirements are met;
3. Instruct the DOT to submit a proposal to the Los Angeles Metropolitan Transportation Authority (Metro) Board for funding of up to \$200 million for the Downtown LA Streetcar Project;
4. Authorize the CAO to make any technical corrections or clarifications to the above instructions to effectuate these recommendations.

FISCAL IMPACT STATEMENT

There is no General Fund impact under this financing proposal. The Downtown LA Streetcar project construction costs are estimated at \$282 million, plus up to \$14 million in finance charges for a total project cost of \$296 million. The project would be funded with proceeds from a Mello-Roos Community Facilities District (CFD) Tax, Measure R Local Return funds, Transfer Floor Area Rights (TFAR) funds, a requested Federal Small Starts Grant and/or funding requested from the Los Angeles County Metro.

RHL:IR:06180013

SUMMARY

On June 28, 2017, the Transportation Committee considered the Joint report by the City Administrative Officer (CAO), Bureau of Engineering (BOE) and the Department of Transportation (DOT) (C.F. 11-0329-S12) relative to a preliminary engineering report, project schedule and new independent cost estimate for construction of the proposed Downtown LA Streetcar Project. The construction cost estimate at that time was reported as \$274.27 million, plus \$16.5 million in finance charges for a total of \$290.7 million. At this time, the consultant AECOM reports the construction shortfall has increased by \$5.3 million to \$282 million, plus \$14 million in finance charges.

This Office was instructed to report back with a determination on the CFD Special Tax conditions to levy the tax, the feasibility of accelerating Measure M funding to support the shortfall as the Metro Expenditure Plan has approved this project in later years, along with a financing plan to offset the shortfall required for a Federal Small Starts grant application.

Critical to moving this project into the "Construction" phase is the development of a financial plan which meets both the CFD criteria and the FTA Small Starts Grant eligibility guidelines, as noted below:

- Under the CFD, a local financial commitment for the project must meet the federal small starts funding program requirements, compliance with the California Environmental Quality Act (CEQA), acceptance into Project Development (PD), and a commitment to operate the project by a public or private operator for a minimum of 30 years.
- Under the FTA requirements, the City must demonstrate that a balanced financial plan is in place which demonstrates how the City plans to fund the construction and operation of the project without a funding shortfall.

In November 2016, the voters of Los Angeles approved a Los Angeles County Measure M sales tax initiative and Expenditure Plan for forty years. The LA Streetcar project was approved as part of this Expenditure Plan with a start date in 2053. The Measure M Ordinance provided flexibility to allow acceleration as long as other approved projects are not negatively impacted. As of November 2017, the Metro Board approved a comprehensive policy and strategic process to guide and assist policy makers during the decision making process relative to the acceleration of Measure M funding for early project delivery. The Downtown LA Streetcar project is shovel ready and supports the Long Range Transportation Planning goals to improve mobility, provide alternative transportation options, stimulate the economy and provide jobs. This report recommends that DOT submit a request to Metro for up to \$200 million in funding for the Downtown Streetcar, either through acceleration or other funding methods.

The proposed financing plan assumes that:

- up to \$200 million will be requested from Metro;
- \$85 million in funds from the Community Facilities District; and,
- \$14 million from miscellaneous authorized funds.

This report also recommends that DOT submit an application for a Small Starts grant. If the Small Starts grant is secured, the amount requested from Metro may be reduced.

FINDINGS

Community Facilities District (CFD) Tax Review

In December 2012, property owners along the proposed Downtown LA Streetcar Project route approved a CFD ballot measure to issue a maximum of \$85 million in bonds to finance a portion of the construction cost. The proceeds can be used to finance the construction, expansion, rehabilitation, or acquisition of any real or other tangible property with an estimated useful life of five years or more, which will be constructed, City owned, and operated by a public or private entity.

The CAO is the designated CFD administrator and was requested, with the assistance of the City Attorney's Office and bond counsel, to make a determination if the below three conditions had been met, thereby allowing the imposition of the tax to fund the next phases of the project:

1. Compliance with the California Environmental Quality Act (CEQA) Documentation:

The CFD Administrator shall have been provided with an opinion of counsel reasonably satisfactory to the CFD Administrator to the effect that the legislative body responsible for overseeing the California Environmental Quality Act ("CEQA", California Public Resources Code §§ 21000 et seq.) review process for the Downtown Los Angeles Streetcar Project has certified or otherwise approved any necessary environmental review for the Downtown Los Angeles Streetcar Project, and that the legal challenge period associated with such CEQA process has expired. *Finding:* The CFD Administrator believes that this condition has been met, upon the advice of counsel. While the CEQA process is completed, the Federal environmental review is underway.

2. Acceptance by the Federal Transit Administration (FTA) for Project Development (PD):

The CFD Administrator shall have been provided with an opinion of counsel reasonably satisfactory to the CFD Administrator to the effect that the FTA has accepted the Downtown Los Angeles Streetcar Project into Project Development (as defined by 49 USC §5309). *Finding:* The CFD Administrator has received a letter from the FTA indicating that this project is in project development and this condition has been met, upon the advice of counsel.

3. Commitment to operate the streetcar by a public or private operator:

The CFD Administrator shall have been provided with an opinion of counsel, which shall be a public document filed with Council, reasonably satisfactory to the CFD Administrator to the effect that there has been submitted to the FTA a Local Financial Commitment (as defined by 49 USC §5309) for the Downtown Los Angeles Streetcar Project that meets the Federal Small Starts funding program requirements (pursuant to 49 USC §5309), including the requirement thereof that such Local Financial Commitment details the financing mechanisms intended to fully fund the streetcar maintenance and operations for the term of

the Special Tax and reflects a commitment to operate the Downtown Los Angeles Streetcar Project system by a public or private operator, such as, but not limited to, the City or the Los Angeles County Metropolitan Transportation Authority for a minimum period of 30 years.

Finding: The CFD Administrator indicates that this condition has not currently been met because the City has not submitted an application and received a Federal Small Starts grant award. Should the City not be awarded funding by the FTA, the City may elect to identify other available funding sources for the Downtown Los Angeles Streetcar project, and will be required to go to court to pursue a validation action so that taxes may be levied.

LA Streetcar Funding Plan

As required by the Federal Small Starts grant application, the City is required to outline a proposed financial plan to fully fund both the construction of the project and the long term operations and maintenance (O&M) of the completed project. This report addresses the capital portion of the project as the City Council and Mayor previously approved \$294.7 million in funding for O&M of the Streetcar for a 30 year operational plan with funding programmed over a 23 year period from FY17 to FY39. (C.F.11-0329-S7).

The overall financial plan assumes the provision of up to \$200 million in funds from the Los Angeles County Metropolitan Transportation Authority, \$85 million from the CFD, and \$14 million from miscellaneous authorized funds. The miscellaneous funds available include \$10 million in former CRA/LA funds, \$1 million in City Measure R Local Return funds, and \$3 million in transfers of floor-area Transfer Floor Area Right (TFAR) funds approved by the City Council. The City intends to request up to \$200 million from Metro to fully fund this project. Concurrently, the City intends to submit a Small Starts grant application for up to \$100 million to also support the project costs. If the City receives a Small Starts award, the amount requested from Metro could be reduced.

Table One – Funding Plan	
Construction Project Cost	296.00
Source of Funds	
Metro	(197.00)
Mello-Roos CFD	(85.00)
Misc Funds	(14.00)
Total	(296.00)

The Downtown Streetcar project is shovel ready with thirty percent preliminary engineering and design completed; California Environmental Quality Act (CEQA) is complete; and the National Environmental Protection Act (NEPA) Environmental Assessment (EA) reviews are pending public comment review. The updated construction project cost estimate is \$296 million, including finance charges, and meets the FTA Small Starts grant application criteria. The City intends to build the project under a CM/GC model. An alternative project delivery method could be utilized if more feasible.

Measure M – Early Project Delivery

In November 2016, the voters of Los Angeles approved a Los Angeles County Measure M Expenditure Plan for forty years. The LA Downtown Streetcar project is a designated project with a start date in 2053 and \$200 million in awarded funds. Prior Council action (C.F. 11-0329-S12) instructed City departments to review submitting to the Metro Board a request on behalf of the City of Los Angeles to accelerate Measure M funding and / or additional funding sources to offset the project costs. Acceleration of these funds may be one method for Metro to provide funding.

The Metro Board adopted a Measure M Ordinance approved by Los Angeles County voters which allows for project acceleration. Section 11, states that “By two-thirds (2/3) vote, the Metro Board of Directors may amend the “Schedule of Funds Available” to accelerate a project, provided that such amendments shall not reduce the amount of funds assigned to any other project or program as indicated in the Measure M Funding Plan or delay the Schedule of Funds Available for any other project or program.”

In November 2017, the Metro Board approved a policy and strategy to support the review of projects for early project delivery and acceleration of funds based on the following strategic criteria; funding, partnerships, process and innovation. These criteria allow for multiple inputs that may suggest a potential for acceleration and serve to guide the process but take into consideration other factors.

FTA Small Starts Grant Award Process and Timeline

The Small Starts grant application is due to the FTA by September 7, 2018. Council approval of this financial plan is required prior to September 7, 2018. The Project is currently in project development (PD) with the FTA and in order to proceed to an award phase, the project needs to receive an overall project rating of a Medium under the criteria of Project Justification and Local Financial Commitment, which includes a fully funded financial plan. The City will be notified by FTA of the project rating by February 2019. If Small Starts funding is included in the President's proposal Budget, the earliest the City could receive an award is October 2019. However it is more likely that would occur in early 2020.

Applicable FTA requirements must be met in order to be reimbursed for project expenditures incurred in advance of a grant award. With entry into PD, the DOT has pre-award authority to incur cost for PD activities. PD activities include the work necessary to complete environmental review and as much engineering and design activities needed to determine a cost estimate. Upon completion of the environmental review, FTA extends pre-award authority to incur costs for as much engineering and design as needed to develop a reasonable cost estimate and financial plan, utility relocation, and real property acquisition not already accomplished for right of way. Upon completion of the environmental review process and confirmation from FTA that the overall project rating is at least a Medium, FTA will extend additional pre-award authority for vehicle purchases, as well as the remaining engineering and design.¹

¹ Federal; Register/Volume 81, No. 30/Tuesday, February 16, 2016/Notices/Pages 7918-7920

BACKGROUND

Project Description

The City of Los Angeles is proposing to construct and operate electrically powered streetcar service along an alignment that would begin at the corner of Hill and 1st Streets. From 1st Street, the streetcar would turn south on Broadway, traveling to 11th Street where it would turn west and continue to Figueroa Street. The streetcar would then turn north on Figueroa Street and travel to 7th Street, where it would turn east. From 7th Street, the streetcar would turn north on Hill Street, then continue back to 1st Street, completing the circuit. Potential inclusion of a Grand Avenue Extension would also provide a two-way alignment spur west along 1st Street, beginning at Hill Street, and continuing south along Grand Avenue to a stop north of 2nd Street. The loop would be up to 3.8 miles in length. The current plans include up to 24 station platforms. The streetcar would make stops at 23 stations along the alignment, and the potential Grand Avenue Extension includes one additional station. The number of station platforms is subject to change based upon further design of the Project. Stations would be located adjacent to the sidewalk under the Project, although the Grand Avenue Extension would include a station platform in the center of Grand Avenue. Streetcar service would operate seven days a week; round trip running times would be approximately 35 to 40 minutes. Power to the streetcars would be provided by a series of traction power substations located along the alignment and delivered by means of overhead catenary wires supported on trolley poles located in the sidewalks along the alignment. A maintenance and storage facility (MSF) would also be constructed to service streetcar vehicles. Two sites are being assessed for the MSF: (1) the southeast corner of 11th and Olive Streets; or (2) the west side of Broadway between 2nd and 3rd Streets.

Project Status

The City Engineer is the lead on the project and has completed thirty percent preliminary design and engineering plans. The DOT is the projected operator of the streetcar and is the lead on the FTA grant application and DOT has worked with FTA to be accepted into Project Development and would submit a grant application for the Small Starts program.

The CEQA process was completed in November 2017. The federal Environmental Assessment prepared with the FTA as the lead agency was released for Public Review on July 23, 2018 with a scheduled Public Hearing date of August 2, 2018. The written comments are due by August 21, 2018.

In July 2017, the City approved Ordinance No. 185058 which authorizes the Department of Public Works to use the competitive sealed proposals selection process and the Construction Manager/General Contractor project delivery method. Additionally, criteria relating to contracts for construction of various components comprising the Los Angeles Streetcar Project, consistent with Charter Section 371, was approved. The Draft Request for Proposals for the Final Design, CM/GC Contractor and the Vehicle Procurement are currently under review.