



June 2, 2025

To: Executive Committee

From: Darrell E. Johnson, Chief Executive Officer

Subject: Measure M2 Eligibility Update for the City of Buena Park

Overview

In May 2024, the Orange County Transportation Authority found the City of Buena Park ineligible to receive Measure M2 net revenues for five years pursuant to Section 10.4 of Ordinance No. 3. The Board of Directors has since directed staff to bring forward an item for the reconsideration of the specific restriction from participating in Measure M2 competitive programs during this period. A recommendation to address the Board of Directors' direction is presented.

Recommendation

Direct staff to modify any language from the agreement with the City of Buena Park that limits or prevents the City of Buena Park from competing for Measure M2 competitive funds through the Comprehensive Transportation Funding Programs.

Background

In July 2006, the Orange County Transportation Authority (OCTA) Board of Directors (Board) approved and adopted the Renewed Measure M (M2) Ordinance No. 3 (M2 Ordinance). OCTA is designated as responsible for administering M2 and ensuring that OCTA's commitment to voters is followed, including numerous specific requirements, safeguards, and transparency provisions. The M2 Ordinance requires local jurisdictions to annually submit an expenditure report that details all M2 net revenues, interest earned, expenditures, and expenditures of earned interest. Local jurisdictions' expenditure reports are signed by their respective Finance Director, adopted by City Council/Board of Supervisors, and submitted to OCTA within six months of the local jurisdiction's fiscal year end.

In early 2024, the City of Buena Park (Buena Park) was selected by the Audit Subcommittee of the Taxpayer Oversight Committee for application of agreed-upon procedures (AUP) by OCTA's independent auditing firm. The AUP includes testing of expenditures for compliance with M2 Ordinance requirements, review of indirect costs for adequate support and reasonableness, testing to ensure allocation of interest, and testing of the annual expenditure reports for accuracy.

In May 2024, based on the report by the independent auditing firm, the OCTA Board found Buena Park ineligible due to insufficient documentation supporting its indirect Local Fair Share (LFS) expenditures. As a result, the auditors disallowed a total of \$387,576.

The M2 Ordinance includes specific language to address safeguards related to the unauthorized use of M2 net revenues. Section 10.4 of the M2 Ordinance states:

“No Net Revenues shall be used by a jurisdiction for other than transportation purposes authorized by the Ordinance. Any jurisdiction which violates this provision must fully reimburse the Authority for the Net Revenues misspent and shall be deemed ineligible to receive Net Revenues for a period of five (5) years.”

As a result of this finding and in compliance with the M2 Ordinance, the Board acted to:

- Find Buena Park ineligible to receive or apply for net M2 revenues for a period of five years;
- Engage an independent auditing firm to apply AUP to verify Buena Park's LFS and Maintenance of Effort expenditures during the five-year period and deduct the review costs from any future net M2 payments to Buena Park; and
- Authorize the Chief Executive Officer to negotiate and execute an agreement with Buena Park outlining the process required to re-establish eligibility.

OCTA and Buena Park entered into an agreement on July 10, 2024, and Buena Park reimbursed OCTA \$387,576 on July 26, 2024.

Discussion

Since Buena Park was found ineligible, OCTA has held the suspended payments for the formula LFS and Senior Mobility Program in reserve. In accordance with the agreement, the funds held in reserve will be withheld within their respective

source programs and released to Buena Park once the city has re-established eligibility and demonstrated ongoing compliance with M2 eligibility requirements throughout the five-year ineligibility period. However, the agreement specifically prohibits Buena Park from pursuing any competitive M2 funds during the period of ineligibility. The agreement allows Buena Park to incur M2-eligible expenditures at its own risk, with the option to apply those expenses to withheld M2 net revenues once eligibility is restored.

On May 12, 2025, the Board found the City of Huntington Beach (Huntington Beach) ineligible to receive M2 funds, and directed staff to allow Huntington Beach to pursue M2 competitive funds and to hold any awarded funds in escrow until eligibility to receive M2 funds is reestablished. Additionally, the Board directed staff to return with an item to also allow Buena Park to pursue M2 competitive funds during their period of ineligibility. The M2 Ordinance specifies that a city found ineligible may not “receive” funds, and that specific safeguard will continue until Buena Park is found eligible again. As calls for projects are issued for M2 competitive funds, the guidelines will also be addressed to allow both cities to participate. This direction was given to ensure consistency between agreements for both cities. In order to accomplish this, the existing agreement with Buena Park needs to be amended.

Summary

The OCTA Board recently found Huntington Beach ineligible to receive M2 funds but did direct staff to allow them to continue to compete for M2 competitive funds with the caveat that any awarded funds be held in escrow until they re-establish eligibility. An existing agreement with Buena Park, who was deemed ineligible last year, needs to be amended to allow them to also compete for competitive M2 funds under the same conditions as Huntington Beach.

Attachment

None.

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