

CITY OF TORRANCE

INTEROFFICE COMMUNICATION

DATE: February 24, 2011

TO: Members of City Council Transportation Committee
VIA: LeRoy J. Jackson, City Manager

FROM: Kim Turner, Transit Director

SUBJECT: Municipal Area Express (MAX) Update

Background

On November 17, 2010 the City of Torrance received a letter from Rancho Palos Verdes. This letter outlined that the night prior, November 16, 2010, Rancho Palos Verdes staff members informed the City Council of funding issues they are currently facing with the reduction in their Proposition A revenues. The letter also presented their plans regarding their November 30, 2010 City Council Meeting where they would review their continued participation in the MAX program. This letter has been attached to this item as Attachment "A". At the November 30, 2011 meeting their council decided that due to the Rancho Palos Verdes tight budgetary constraints, that unless something extraordinary occurred, they would plan to submit a letter of notice to terminate by March 30, 2011 from the MAX program, effective June 30, 2011. The Policy Steering Committee met on December 6, 2010 and discussed this information that arose, subsequent to the posting of the agenda. As the Lead Agency, Torrance Transit staff was charged with the following items arising from the December 6, 2010 MAX Policy Steering Committee meeting:

1. Research and create an updated, equitable operating budget formula to present to the Policy Steering Committee for approval.
2. Work with Angeles County Metropolitan Transportation Authority (LACMTA) auditors regarding possible double payment from FY 1997.
3. Review and enter negotiations with MV Transportation regarding contract cost reductions, for FY 2012.
4. Update interagency agreement for shorter time frame and include new formula language. Inquire and incorporate updates from participating agencies.

Research and Findings

Transit Staff met with the MAX Technical Staff members on several occasions to discuss the issues raised during the December 6, 2010 MAX Policy Steering Committee meeting. The Technical Staff members subsequently met prior to the February 7, 2011 Policy Steering Committee meeting on the following dates:

- December 15, 2010
- January 12, 2011
- January 19, 2011
- January 26, 2011
- February 16, 2011

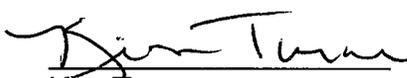
The first item addressed at the above meetings was establishing a fair and equitable operating budget formula per the Policy Steering Committee's request. A number of factors and weightings were initially discussed with the group; including boardings, mileage travelled within jurisdiction, and stops within jurisdiction. The Technical Staff met and discussed these various options and weightings to create an equitable formula that all agencies deemed appropriate. It was decided by the group that stops within jurisdiction was not a good formula factor. All agencies agreed on a technical level that two factors weighted at 50% each, was the best formula for the operating budget. The Technical Staff came to an agreement that a 50% a.m. boardings and 50% a.m. and p.m. mileage would be best.

The second issue raised at the December 6, 2010 meeting was the possible double billing in the MAX budget account. Transit Staff met with and discussed on multiple occasions with LACMTA staff and their auditors. Transit staff collected as much information as possible and attempted to bring it as an action item to the February 7, 2011 Policy Steering Committee. This item requested approval to not bill participating agencies for the fourth quarter of FY 2011, not bill for the entirety of FY 2012 and hold the remaining amount in reserves for FY 2013. Transit Staff also pointed out that if the ruling from LACMTA staff was unfavorable that a subsequent item would be submitted with adjusted recommendations. On February 3, 2011 Mayor Pro Tem Anthony Misetich wrote a letter to all interested parties stating that he would like more complete information before voting on such items at the February 7, 2011 meeting. During the February 7, 2011 meeting the attached letter, Attachment B, was reviewed and it was decided a Special meeting would be held March 7, 2011 so that Transit Staff could address the concerns. Transit Staff followed up with LACMTA staff and, the amount of money in question dating back to FY 1997, was awarded to MAX. Transit Staff and LACMTA reviewed their records and concluded that the money belonged to the MAX service and that LACMTA staff could find no records showing there was an extra payment. A letter was received from LACMTA staff that explained there was no conclusive evidence stating that the

money belonged to LACMTA, and that the Lead Agency, Torrance and all other participating agencies will not be held liable for the amounts in question. This letter has been attached to this item as Attachment C.

The third issue discussed was to enter specific contract negotiations with MV Transportation. After many of the Technical Staff Meetings above it was recommended by the group to research a scenario where Rancho Palos Verdes withdraws from the program, Line 2 is reduced by two daily run from four to two, and the line is truncated and begins at Pacific Coast Highway and Hawthorne Blvd. This truncation of the line would eliminate any stops in Rancho Palos Verdes since they would be withdrawing from the program. Transit Staff discussed this scenario and MV Transportation tendered for consideration a two-year proposal where FY 2012 would have a reduction of \$172,286, and the second year would have a 3% increase of \$32,252. Utilizing the above formula this scenario was presented to the Technical Staff members. Since at the time there was a possibility of receiving the LACMTA funds in questions another scenario was presented to the group where Rancho Palos Verdes remains a participant and the two Line 2 runs continued through Rancho Palos Verdes.

The fourth issue discussed at the December 6, 2010 Policy Steering Committee meeting and then at the following Technical Staff meetings was the issue of updating the interagency agreement. Originally, this was a proposed 5-year agreement. It has since been revised to a two-year proposal. It was expressed that the agreement needs to be reviewed and updated to include such language as the formula and new items that have arisen. It has been requested that the participating agencies review the document and provide feedback to Transit Staff no later than February 21, 2011. This will allow enough time to send the document to Legal Staff of the Policy Steering Committee and include on the March 7, 2011 Special meeting that will be held.


Kim Turner
Transit Director

Attachment A: November 17, 2010 Letter from Rancho Palos Verdes regarding
November 30, 2010 City Council Meeting intentions

Attachment B: February 3, 2011 Letter from Rancho Palos Verdes requesting
additional information for February 7, 2011 Policy Steering
Committee meeting agenda items

Attachment C: Letter from LACMTA staff awarding MAX the funds.



November 17, 2010

City of Torrance
LeRoy J. Jackson
Office of the City Manager
3031 Torrance Boulevard
Torrance, CA 90503

Dear Mr. Jackson,

Since 1990, the City of Rancho Palos Verdes has been a proud founding member of the commuter transportation transit service, known as Municipal Area Express (MAX).

Historically, the City has used Proposition A, the ½ cent sales tax approved by the voters of Los Angeles County in 1980 for transit services, to fund the City's participation in MAX. With the sharp decrease of Proposition A revenues related to the economic downturn and the increasing costs of transit, the City is faced with having to subsidize transit operations with General Fund money or other restricted sources that are currently programmed for other projects.

At the November 16th council meeting, the Rancho Palos Verdes City Council was advised of the funding issues. On November 30th, the City Council is scheduled to consider the City's continued participation in MAX. Staff has been instructed to notify interested parties, including those who utilize the services of MAX. We welcome input from the City of Torrance (Lead Agency) and the other Member Agencies of MAX.

Attached to this letter is a copy of the staff report that was presented to our City Council at the November 16th meeting.

Please feel free to contact Adam Raymond, Senior Administrative Analyst, with any questions or concerns at (310) 544-5213.

Regards,



Carolyn Lehr
City Manager

Cc:



CITY OF RANCHO PALOS VERDES
OFFICE OF THE CITY MANAGER

City of Torrance
City Clerk
3031 Torrance Boulevard
Torrance, CA 90503

City of El Segundo
Office of the City Manager
350 Main Street
El Segundo, CA 90245

City of Lawndale
Office of the City Administrator
14717 Burin Avenue
Lawndale, CA 90260

City of Los Angeles
Office of the General Manager
Department of Transportation
200 North Spring Street
Los Angeles, CA 90012

City of Lomita
Office of the City Administrator
P.O. Box 339
Lomita, CA 90717

Los Angeles County
Department of Public Works
Transit Operation Section
P.O. Box 1460
Alhambra, CA 91802





THOMAS D. LONG, MAYOR

ANTHONY M. MISETICH, MAYOR PRO TEM

BRIAN CAMPBELL, COUNCILMAN
DOUGLAS W. STERN, COUNCILMAN
STEFAN WOLOWICZ, COUNCILMAN

February 3, 2011

Jim Mills, Administration Manager
Torrance Transit
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

Dear Mr. Mills:

I would like to thank Lead Agency staff and staff from the Technical Advisory Committee for their hard work since the last Municipal Area Express (MAX) Policy Steering Committee (PSC) meeting on December 6, 2010. As a councilman, I have a fiduciary responsibility to the City and residents of Rancho Palos Verdes. After reviewing the MAX PSC meeting agenda for Monday, February 7, 2011, I have some concerns I would like addressed prior to the meeting. In addition, I feel the PSC is missing some key information and should not be making any final or binding decisions on any of the items requiring action that are presented on the agenda for the February 7th meeting.

I am troubled by several statements made in the summary of the December 6, 2010 PSC minutes. It appears that Torrance Transit (Lead Agency) staff and the City of Torrance's City Attorney's Office have opined, that in order for Rancho Palos Verdes' letter of intent to withdraw from MAX to be effective, the City must re-submit the letter on March 30, 2011. As Rancho Palos Verdes staff indicated at the PSC meeting on December 6th, our City Attorney does not agree with this interpretation of the current Interagency Agreement. By providing notice of intent to withdrawal from MAX on December 3, 2011, the City of Rancho Palos Verdes provided ample time for all of the member agencies and Lead Agency staff to work with the PSC to determine options to move forward. If Rancho Palos Verdes had simply provided notice on March 30, 2011, Lead Agency Staff and the other member agencies would have had merely 30 days to make a decision about the fate of MAX. This would not allow time for another member agency to provide a notice of termination pursuant to the 90-day rule, as stated in the current Interagency Agreement. Rather than wasting time and effort debating the interpretation of the termination provisions of the Agreement, based on the prior direction from the Rancho Palos Verdes City Council, the City of Rancho Palos Verdes will provide another termination letter dated March 30, 2011, to avoid any potential dispute about this issue and its right to withdraw from MAX.

At our upcoming meeting, Lead Agency staff will ask the PSC to allocate MTA funds to cover the expenses of operating MAX for the current FY 10/11 year 4th quarter billing. More significant though, is Lead Agency staff's request to allocate MTA funds accumulated over many years to cover the cost to operate MAX for the entire FY 11/12 fiscal year and thereby eliminate the need for contributions from the member agencies, and for any remaining funds to be applied towards the FY 12/13 operating expenses and agency contributions. Since the staff report does not provide sufficient details regarding this issue, please provide background on how these funds were given to MAX. Are these the funds that were the result of a reported double payment from the MTA that was never returned to the MTA? Prior to the upcoming PSC meeting, please provide the PSC with all of the written correspondence with the MTA about this matter and any formal documentation that the MTA has authorized MAX to keep the funds and is not required to return them. I also would like Staff to provide the exact amount the PSC would be allocating for the upcoming expenditures. I do not believe it is financially responsible to make a decision to allocate approximately \$800,000 without the proper documentation and authority to do so. Without that documentation and authorization from the MTA, the member agencies could be subjecting themselves to future liability for that expenditure.

In order to move forward with the approval of the MV Transportation agreement for operation of the MAX fleet, the PSC is missing some key information. I understand that recent negotiations provide little time for a draft agreement to be provided to the PSC for review. However, without a draft agreement, the PSC will be unable to answer several key questions or make a decision whether to approve the agreement. For example, would the second year of the agreement be guaranteed? What happens if an agency submits a notice of intention to withdraw from MAX as of the end of FY 11/12? Is that agency liable for its share of MAX operations during the second year of the Agreement?

The PSC also is being asked for approval to proceed with a new 2-Year Interagency Agreement. Although I think the changes proposed are necessary, during my preliminary review, I, as well as the City's Staff, believe there are some areas that still need to be changed and/or clarified:

- Section 4. Provision of Service, states that the Lead Agency shall implement MAX as described in Exhibits A and B. Upon review of Exhibit A, it appears that MAX is still going to operate 14 buses. With the City of Rancho Palos Verdes' noticed withdrawal, it's is the understanding of our City Staff that MAX will operate 12 buses.
- Section 6, Operating Funds and Payment for Service of Funds, incorporates the new methodology for the formula used to distribute the net difference between the MTA funds, fare revenues and budgeted expenditures. To avoid confusion, staff might consider a new section or sub-section for this language. Furthermore, Section 6 states the new formula will be audited each year, but does not state when and by whom the review will be performed.

- The audit process in Section 6 appears to conflict with Section 16, Record Keeping, Reporting and Auditing. Please provide clarification.
- The proposed agreement does not address the capital requirement of each agency, nor the liability associated with the purchase or refurbishment of buses.
- The agreement continues to be silent concerning the possible liabilities to an agency choosing to withdraw from MAX, including indemnification of any withdrawing agency for any liability arising from the expenditure of the funds that were overpaid by the MTA.

The process for review the Interagency Agreement needs improvement. PSC members have not had adequate time for staff and legal counsel to review the changes. If the City of Torrance legal counsel or any of the attorneys representing any of the other member agencies have changes, we need to ensure that there is a process whereby any changes would be presented to the PSC before they are forwarded to each member agency for final review and approval.

An area of concern not addressed on the February 7, 2011 MAX PSC meeting agenda is the liability relating to the possibility of two unused buses. According to City of Rancho Palos Verdes Staff, if the Rancho Palos Verdes City Council does not reverse its decision to withdraw from MAX, Line 2 would most likely be truncated at Hawthorne and PCH, with two daily trips eliminated. Staff also indicated that the MAX buses will be 9 years old as of June 30, 2011, and each bus has a useful life of 10 years. The FTA declined to waive the final year of depreciation, and each bus could be potentially an \$18,000 liability. Please address this possibility prior to the meeting.

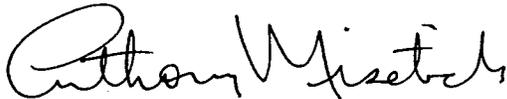
The PSC is being asked to make financial decisions about FY 11/12 (applying MTA funds, agreements, etc.), but is not voting on a proposed budget for FY 11/12. It is financially prudent to review a formal proposed budget, taking into any consideration the multiple financial assumptions (decreased fare revenue, capital needs, etc), before the PSC makes these decisions. In addition, another agency may provide notice to withdraw from MAX by March 30, 2011. .

As you may recall, at the November 30, 2010 Rancho Palos Verdes City Council meeting, the City Council voted to withdraw from MAX, but stated that if substantial changes are made to the MAX allocation formula, the City Council reserved the right to change course. The City Council also indicated that before reconsideration would be made, additional changes to the Interagency Agreement would need to be addressed. Many of those changes are outlined in this letter. In order to allow time for Lead Agency Staff to provide the PSC with complete information and for City of Rancho Palos Verdes Staff to place an item on a future agenda for the possible reconsideration by the Rancho Palos Verdes City Council of its decision to withdraw from MAX, I request all matters relating to the February 7, 2011 PSC meeting be continued to a special meeting on March 21, 2011.

Jim Mills
City of Torrance
February 3, 2011
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Please feel free to contact Dennis McLean, Director of Finance and Information Technology at (310) 377-0360, or Carol Lynch, City Attorney at (213) 626-8484 with any questions or concerns.

Very truly yours,



Anthony Missetich
Mayor Pro Tem
City of Rancho Palos Verdes

Cc:
City Manager
City of Torrance
3031 Torrance Boulevard
Torrance, CA 90503

City of Torrance
City Clerk
3031 Torrance Boulevard
Torrance, CA 90503

City of El Segundo
Office of the City Manager
350 Main Street
El Segundo, CA 90245

City of Lawndale
Office of the City Administrator
14717 Burin Avenue
Lawndale, CA 90260

City of Los Angeles
Office of the General Manager
Department of Transportation
200 North Spring Street
Los Angeles, CA 90012

City of Lomita
Office of the City Administrator
P.O. Box 339
Lomita, CA 90717

Jim Mills
City of Torrance
February 3, 2011
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Los Angeles County
Department of Public Works
Transit Operation Section
P.O. Box 1460
Alhambra, CA 91802

Torrance Transit System
City of Torrance
20500 Madrona Avenue
Torrance, CA 90503-3692



Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952213.922.2000 Tel
metro.net**Metro**

February 9, 2011

Jim Mills
Administration Manager
Torrance Transit
City of Torrance
20500 Madrona Blvd
Torrance, CA 90503

Dear Mr. Mills,

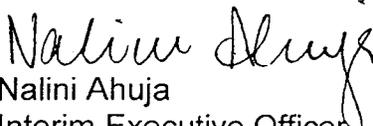
This letter is in reference to the issue of double payment of Torrance's 1997 TSE program.

The staff from Metro's audit, accounting and local programming during the past two weeks, thoroughly reviewed all the financial information records and physical documentation available as well as evaluated Metro's internal control procedures.

The result of the review is that our staff could not conclusively determine that there has been an over payment. For this reason, Metro will not require Torrance to return any funds pertaining to this issue and would consider this matter closed. In addition, no agency participating in the MAX program will be liable for any future liability related to this issue.

Thank you for your support and cooperation and if you have any questions, please contact me or my staff member Carlos Vendiola at 213-922-4527.

Sincerely,



Nalini Ahuja
Interim Executive Officer
Office of Management and Budget
LACMTA