

JONES DAY

555 SOUTH FLOWER STREET • FIFTIETH FLOOR • LOS ANGELES, CALIFORNIA 90071.2452

TELEPHONE: +1.213.489.3939 • JONESDAY.COM

DIRECT NUMBER: +1.213.243.2582

DDMCMILLAN@JONESDAY.COM

March 19, 2025

HAND DELIVERED

Marqueece Harris-Dawson
President, Los Angeles City Council
200 North Spring Street
Los Angeles, CA 90012

Re: Los Angeles City Council March 19, 2025 Meeting
Agenda Item 4 re Measure HLA

Dear Mr. Harris-Dawson:

We are providing this letter on behalf of the Los Angeles County Metropolitan Transportation Authority (“Metro”) concerning the following item on the agenda for the Los Angeles City Council’s March 19, 2025, meeting: “INSTRUCT the Department of Transportation, with the assistance of the City Attorney’s Office, to report back within 30 days on recommendations and steps needed to require Metro and any other third parties to comply with Measure HLA without any additional cost to the City.”

As we explain below, the Los Angeles Safe Streets For All Initiative (“HLA”), codified at Municipal Code Section 85.11 (“Ordinance”), does not apply to Metro transit projects, including for example the Vermont Transit Corridor Project, because the Ordinance only applies to projects undertaken by the City. This is clear from the language of the Ordinance and the official description of Measure HLA in the Voter Information Pamphlet. The Los Angeles City Attorney’s office itself has acknowledged multiple times that the Ordinance does not apply to Metro projects. Metro’s transit projects are matters of statewide concern. Metro’s authority is based on state statutes, and, as such, Metro is legally entitled to construct its projects in public streets without complying with the Ordinance. The Master Cooperative Agreement dated March 29, 2024, (“MCA”) between Metro and City of Los Angeles (the “City”) confirms this fact.

If the City goes forward with trying to implement any recommendations or steps to require Metro to comply with the Ordinance, Metro will take such legal action as appropriate to protect its interests, as the City does not have the authority to require Metro to comply with the Ordinance. Additionally, requiring Metro to incur additional costs for Betterments (as defined in the Master Cooperative Agreement) that should be funded by the City would constrain Metro’s ability to carry out its statutory purpose and limit the projects Metro can afford to execute. Metro desires to work cooperatively with the City to enhance the transit system within the City but cannot acquiesce to the City’s efforts to compel Metro to fund Betterments on the City’s

President, Los Angeles City Council
 March 19, 2025
 Page 2

behalf as the responsibility for such costs rests with the City no matter how desirable or laudable the Betterments.

I. Metro's Broad Self-Governance Authority

As the statutory successor to the Southern California Rapid Transit District ("District"), Metro retains the rights of the District as provided in the Public Utilities Code. *See* Pub. Util. Code § 130051.14 ("On and after April 1, 1993, any reference in this part, or in any other provision of law or regulation, to the Southern California Rapid Transit District or to the Los Angeles County Transportation Commission or to the county transportation commission in general shall be deemed to refer to the Los Angeles County Metropolitan Transportation Authority."). As such, Metro has the legal authority to "construct, acquire, develop, jointly develop, maintain, operate, lease, and dispose of works and facilities in, under, upon, over, across, or along" the public rights-of-way "to the same extent that those rights and privileges relating to public ways ... are granted to municipalities within the state for those uses or any other use or uses...." *Id.* § 30633.

As an agency of the state regulating transportation matters, Metro is a regional governmental body with statewide concerns and "with virtual autonomy in self-governance, limited only by the regulations of the Public Utilities Commission," unless the California Legislature has made Metro explicitly subject to a local ordinance or the California Constitution compels compliance with the ordinance. *Rapid Transit Advocates, Inc. v. Southern Cal. Rapid Dist.* 185 Cal. App. 3d 996, 1000 (1986) (rejecting the argument "that under California law Metro Rail must be consistent with city and county general plans at the time it is approved" for a proposed rail project). The California Constitution does not mandate that Metro comply with the Ordinance, and as discussed below, the plain language of the Ordinance demonstrates that it only applies to City projects. Thus, the City does not have the authority to direct Metro to review and modify its projects in the public rights-of-way to comply with the Ordinance.

II. Municipal Code Section 85.11 Does Not Apply

The Ordinance provides, in part, that "*whenever the City makes Improvements* to a segment of a City-owned Mobility Plan Street, the Mobility Plan street enhancements described in the Enhanced Complete Street System shall be installed along that segment as part of the *improvements undertaken by the City.*" L.A.M.C. § 85.11(b)(1) (emphasis added). Section 85.11 repeatedly mentions the word "City" and does not mention Metro or include any other language indicating that it displaces Metro's broad self-governance authority. *See, e.g.,* L.A. Mun. Code § 85.11(b)(2) (providing that "The City shall deploy an Open Data portal..." and "The City shall make the following information publicly available...") & § 85.11(b)(e)(E) ("The City shall make the Open Portal..."). This language is consistent with the official description of Measure HLA in the Voter Information Pamphlet: "Require the City to install street modifications as described in the Mobility Plan *whenever the City improves* at least one-eighth of a mile of a City street." (Emphasis added.)

President, Los Angeles City Council
March 19, 2025
Page 3

As summarized above, Metro projects within public rights-of-way pursuant to its own independent legal authority under the Public Utilities Code are not subject to the Ordinance. The City Attorney's Office has already confirmed this indisputable conclusion multiple times:

- On November 18, 2024, the City Attorney's Office stated in a letter to the Streets for All organization, in part: "the plain language of Measure HLA, now codified at Los Angeles Municipal Code Section 85.11, limits the requirements of Measure HLA to City projects."
- On February 26, 2025, during a LA City Transportation Committee Meeting (Special Joint Transportation & Public Works Meeting), the City Attorney confirmed that the Ordinance does not apply to Metro, as reflected in the notes of the meeting: "[Council member Eunisses] Hernandez asked the city attorney if Metro would be required to install the mobility improvements called for by HLA when doing resurfacing projects. The [City] attorney said that HLA specifically indicates that mobility improvements (ex. Bike lanes) would be triggered only if the City of LA does the project."

Metro concurs with the City Attorney that the Ordinance simply does not apply to Metro.

Additionally, nothing in the Master Cooperative Agreement removes Metro's self-governance authority under the Public Utilities Code. Indeed, the MCA confirms Metro's self-governance authority by acknowledging that Metro was created "pursuant to [the] California Public Utilities Code" and "succeeded to any or all of the powers, duties, rights...and exemptions of the [Southern California Rapid Transit] [D]istrict and its board of directors...." (MCA, Recital (B).) The MCA simply does not transform Metro projects into City projects.

Also, in addition to the fact that the Ordinance on its face only applies to City projects, the Ordinance was not even in existence at the time the MCA was executed and cannot now be amended to apply to the Project. Measure HLA was passed by voters on March 5, 2024, and took effect on April 9, 2024. The City agreed in the MCA that it "shall not adopt any new City Standards or otherwise apply, amend, or supplement any existing City Standard, for the sole or primary purpose of affecting one or more Transportation projects." (*Id.*, § 4.5(a).) Any attempt now to amend the Ordinance to apply to Metro would violate Section 4.5(a) of the MCA.

If the City were to choose to perform any infrastructure improvements or street enhancements incidental to a Metro project, Metro would coordinate with the City in accordance with Section 3.7 of the MCA, which addresses "Coordination of Work." The City is free to make improvements or enhancements at its own expense. Alternatively, if the City desires Metro to perform such improvements or street enhancements as part of Metro's construction of a project, Metro would be amenable to exploring such options with the City, subject to the understanding that any such infrastructure improvements or street enhancements requested by the City would constitute a Betterment as defined in the MCA, which would require the parties to follow the review and approval process for a Betterment set out in Article 6 of the MCA.

President, Los Angeles City Council
March 19, 2025
Page 4

* * *

For the reasons outlined above, the Ordinance does not apply to Metro. Hence, projects undertaken by Metro do not trigger the City's obligation under the Ordinance. Metro has authority under the Public Utilities Code to construct projects, without complying with the requirements that apply to the City under the Ordinance. If, however, the City were to request that Metro perform infrastructure improvements or street enhancements as part of Metro's construction of a project, such a request would constitute a City request for a Betterment under the Master Cooperative Agreement and would be subject to the applicable review and approval processes. In the meantime, any attempt to enforce the Ordinance against Metro is beyond the City's legal authority and Metro will challenge any such attempt.

If you or your staff would like to discuss the foregoing, please feel free to contact me.

Very truly yours,



Daniel D. McMillan

cc: City Council Members
Hydee Feldstein Soto, Los Angeles City Attorney
Edward Jordan, Los Angeles Assistant City Attorney
Stephanie Wiggins, Chief Executive Officer, Metro
Charles Safer, Assistant County Counsel
Teddy Low, Senior Deputy County Counsel