

**Board Report**

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**File #:** 2017-0842, **File Type:** Program

**Agenda Number:**

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**FINANCE, BUDGET AND AUDIT COMMITTEE  
FEBRUARY 14, 2018**

**SUBJECT: LOCAL RETURN BORROWING**

**ACTION: APPROVE ADOPTION OF LOCAL RETURN BORROWING GUIDELINES**

**RECOMMENDATION**

APPROVE Local Return Borrowing Guidelines to establish procedures for borrowings secured by Proposition A (Prop A), Proposition C (Prop C), Measure R and Measure M Local Return (LR) funds as described in Attachment A. Approve incorporating the Local Return Borrowing Guidelines into the Guidelines for Prop A, Prop C, Measure R, and Measure M local return programs.

**ISSUE**

The California Public Utilities Code and the respective sales tax Ordinances/Measures permit Jurisdictions to issue debt secured by their LR allocation to provide for the financing of local transit needs, but is silent about how such borrowing is to be accomplished.

**DISCUSSION**

The Board has approved borrowings that were secured by a Jurisdiction's share of Prop C and Measure R LR funds (see Attachment B). In order to facilitate Measure R LR borrowing, in 2013 the Board approved Measure R guidelines that codified the procedures previously used to accomplish borrowings. The proposed Local Return Borrowing Guidelines model those adopted for Measure R. Approval of this item will standardize the LR borrowing procedures for all four sales taxes, create consistency and equitable treatment of local Jurisdictions with respect to LR borrowing.

The Local Return Borrowing Guidelines reference three basic methods used to borrow against LR funds:

- Method 1) Jurisdiction issues its own debt - only Metro local return program/project approval required with little financing oversight.
- Method 2) Metro issues the bonds on the Jurisdiction's behalf - requires Metro Board approval and staff oversight.
- Method 3) Jurisdiction borrows directly from Metro - requires Metro Board approval and Metro full control of any bond sale.

The specific procedures for each type of borrowing are shown in Attachment A.

The respective sales tax' Local Return Guidelines address project eligibility, timely use of funds, reporting and compliance requirements. A Jurisdiction seeking to borrow against its LR funds must adhere to the Local Return Guidelines for the respective sales tax pledged to secure the borrowing. Measure R and Measure M LR funds are under the purview of their respective Oversight Committee (s) and require Metro Board approval of the request to borrow.

Adoption of this item delegates the authority to approve a Jurisdiction's request to borrow on its own (Method 1) to the Local Return Program Manager with notification to the Board. When Metro issues the bonds for the Jurisdiction, the guidelines require that the bond terms are sufficient to achieve ratings of at least A- or its equivalent from any nationally recognized statistical rating organization. To the extent a Jurisdiction issues its own tax-exempt debt, compliance with Federal and State restrictions and requirements related to the issuance of tax-exempt debt would be the sole responsibility of the Jurisdiction.

Staff distributed the proposed guidelines to the Bus Operations Subcommittee (BOS), the Local Transit Systems Subcommittee (LTSS) and to the Independent Cities Finance Authority (ICFA) for review and incorporated feedback from the groups. The Technical Advisory Committee will review the guidelines at their meeting on February 7, 2018.

### **DETERMINATION OF SAFETY IMPACT**

Approval of the Local Return Borrowing Guidelines will not impact the safety of Metro's patrons or employees.

### **FINANCIAL IMPACT**

Method 1 has minimum direct financial impact to Metro because all costs are borne by the local Jurisdiction. Under Methods 2 and 3 there is a potential financial impact, depending on the volume and timing of bond requests from local Jurisdictions. Should Metro issue debt to provide a direct loan, Metro's borrowing capacity for the respective sales tax would be reduced by that amount. Methods 2 and 3 involve Metro staff time to sell bonds and complete all the related administrative actions. These costs can be recovered by billing the local Jurisdiction for Metro staff time.

### **ALTERNATIVES CONSIDERED**

The Board could choose to consider each LR borrowing individually without establishing borrowing guidelines. This is not recommended as the borrowing guidelines contribute to consistency with respect to the review and approval of requests and contribute to equitable treatment across Jurisdictions.

### **NEXT STEPS**

Make the Local Return Borrowing Guidelines available to all interested parties.

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**ATTACHMENTS**

Attachment A - Borrowing Guidelines for Local Return Programs

Attachment B - Examples of Prior Local Return Borrowings

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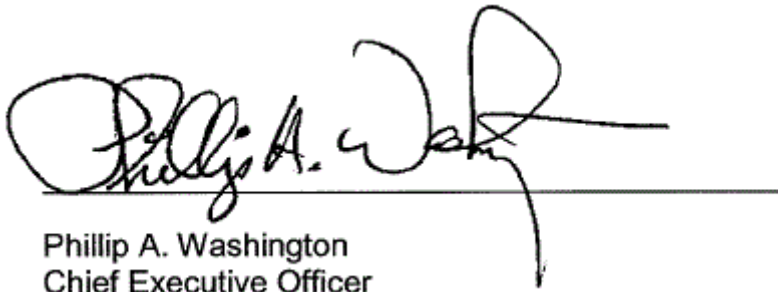
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**Borrowing Guidelines for Prop A, Prop C, Measure R and Measure M Local Return Programs**

The following guidelines are provided to establish consistency for Local Return borrowing under Los Angeles County Metropolitan Transportation Authority's ("Metro") four sales taxes, facilitate the review and approval of Local Return Borrowings, and ensure equitable treatment of local jurisdictions. A Jurisdiction borrowing against its Local Return funds must adhere to the Local Return Guidelines for the respective sales tax/taxes committed to secure the borrowing.

**Structures**

There are three basic methods that a Jurisdiction may use to borrow against its Local Return funds:

- Method 1) Issue its own debt – only Metro local return program/project approval with little financing oversight
- Method 2) Metro issues the bonds on the Jurisdiction's behalf – requires Metro Board approval and staff oversight
- Method 3) Borrow directly from Metro – requires Metro board approval and Metro controls the execution of any bond sale

**Approval Process and Issuance Procedures**

- Method 1) Direct Issuance by the Jurisdiction
  - A. The Jurisdiction requests approval for it to borrow via the normal Local Return approval process.
  - B. The Local Return Program Manager ("Program Manager") is delegated the authority to approve the borrowing. The Program Manager also has the authority to approve eligible Local Return projects.
  - C. The Program Manager notifies the Jurisdiction and the Board in writing within 30 days of the jurisdiction request for approval to borrow that the projects were in compliance with the LR Guidelines and the borrowing has been approved.
  - D. The Jurisdiction selects its debt issuance team, including conduit issuer (if applicable), municipal advisor, bond counsel, and underwriters if the debt is sold through negotiated sale or a private placement.
  - E. Metro Treasury staff assists the Jurisdiction by reviewing its borrowing documents as to information related to Metro.
  - F. The Jurisdiction issues the debt and is solely responsible for the repayment from its Local Return over the life of the bonds and compliance with Federal and State restrictions and requirements related to the issuance of tax-exempt or taxable debt.

## Method 2) Issuance by Metro on Behalf of the Jurisdiction

- A. The Jurisdiction takes the necessary legal actions to authorize the debt issuance, such as through an authorizing resolution by the governing body. The authorization should include the terms and conditions of the sale and the delegation of authority to enter into required agreements.
- B. The Jurisdiction selects its financing team and determines whether to sell through competitive or negotiated sale. For a negotiated bond sale, the Jurisdiction approves selection of bond underwriters.
- C. The Jurisdiction requests approval from Metro to borrow on its behalf via normal Local Return approval process. The Program Manager reviews the projects to be bonded to ensure compliance with the Local Return Guidelines.
- D. Local Programs/Treasury with assistance from the Jurisdiction prepares an item for the Oversight Committee findings as required by Measure R or Measure M.
- E. The Program Manager notifies the Jurisdiction that findings have been made by the Oversight Committee.
- F. The Program Manager and Treasury staff request authorization from the Board to approve the borrowing and enter into the MOU and Master Trust Agreement. Board authorization will include terms and conditions of the bond issue and concurrence with the financing team selected by the Jurisdiction. Any subsequent Local Return bonds will be issued under the master trust and a supplemental trust agreement.
- G. The Jurisdiction and Metro enter into a memorandum of understanding (“MOU”) and a trust agreement with a trustee bank. The MOU will cover the following points:
  - a. Metro will issue the bonds on behalf of the Jurisdiction for the Jurisdiction’s benefit to be used for approved Local Return projects.
  - b. The Jurisdiction and Metro will determine reasonable security features such as debt service coverage ratios and debt service reserve requirement sufficient to obtain ratings of A- from Standard & Poor’s or A3 from Moody’s.
  - c. Negotiate associated fees provided that all fees are reimbursed by the Jurisdiction.
  - d. The Jurisdiction will repay the bonds by pledging its share of the respective Local Return.
  - e. One-twelfth of annual debt service will be withheld from the Jurisdiction’s monthly Local Return allocation and be transferred to the Trustee. The balance will be remitted to the Jurisdiction.
  - f. The Jurisdiction will reimburse Metro for any and all costs incurred in the issuance and administration of these bonds.
  - g. The Jurisdiction will indemnify the Metro against all other possible expenses, liabilities, or required actions resulting from the outstanding bonds that would not otherwise have been incurred by the Metro.
- H. Following the sale of bonds the Jurisdiction is responsible for on-going debt management including arbitrage rebate calculations, annual continuing disclosure requirements and for spending bond proceeds in a timely manner.

### Method 3) Direct Loan between Metro and the Jurisdiction

This method is reserved for circumstances where the Jurisdiction is unable to borrow under the first two methods. Should Metro choose to borrow through the capital markets to advance the funds, it would generally be part of a larger Metro bond issue. This method reduces the total amount of borrowing available for Metro's own capital program.

- A. The Jurisdiction requests approval to borrow via the normal Local Return approval process.
- B. The Program Manager notifies the Jurisdiction in writing that the projects submitted for bonding are in compliance with the LR Guidelines.
- C. The Jurisdiction and Metro negotiate the loan terms and develop required documentation.
- D. The Jurisdiction obtains authorization from its governing body for the loan and to enter into the necessary legal documents to secure repayment of the loan.
- E. The Program Manager and Treasury staff request authorization from the Board to approve the loan and to enter into all appropriate legal agreements (i.e., MOU/Assignment Agreement/Promissory Note, other required documents) required to provide for repayment of the loan to Metro.

The MOU/ Promissory Note will cover at a minimum the following:

- A. Project description.
- B. Principal amount, interest rate, term.
- B. The Local Return committed by the Jurisdiction to repay the loan.
- C. Amortization/ repayment schedule. Typically one-twelfth of annual debt service will be withheld from the Jurisdiction's monthly Local Return allocation by Metro. The balance will be remitted to the Jurisdiction.
- D. Jurisdiction to reimburse its allocable share of costs incurred in the issuance and administration of the outstanding debt if the advance is part of a larger Metro bond issue.
- E. Other terms and conditions as appropriate.

**Examples of Prior Local Return Borrowings**

Method 1) Jurisdiction issues its own debt

In December 2012, the City of Lynwood issued certificates of participation secured by its Measure R Local Return through the California Statewide Communities Development Authority. The Board authorized the Local Return Program Manager to write a letter of concurrence for the City of Lynwood to use the funds as the City requested. The Lynwood debt issue required very little direct assistance from Metro staff.

Method 2) Metro issues bonds on the Jurisdiction's behalf

In 1998, Prop C Local Return bonds were issued by the MTA at the request of the City of Los Angeles and were secured by the City's Prop C Local Return. Under an MOU between the MTA and the City, the City was obligated to take all necessary actions for the issuance, sale and administration of the bonds and was also responsible for the costs of issuing the bonds

Method 3) Jurisdiction borrows directly from Metro

In October 2004, the City of Covina borrowed \$3.725 million as a part of Metro's \$176.345 million Prop C Sales Tax Bonds. Covina entered into an Assignment Agreement with Metro and the Trustee that allowed the City's Prop C local return to be used for payment of Covina's share of its debt service.

In December 2012, the Board approved a loan to the City of Inglewood, which will be repaid from Inglewood's Measure R Local Return.