



Board Report

File #: 2023-0441, File Type: Program

Agenda Number: 15.

PLANNING AND PROGRAMMING COMMITTEE SEPTEMBER 20, 2023

SUBJECT: MEASURE M 3% LOCAL CONTRIBUTION GUIDELINES REVISIONS

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

ADOPT revised Measure M Guidelines, Section VIII - 3% Local Contribution to Major Transit Projects (Attachment A).

ISSUE

In June 2023, the Board directed staff to release the draft revised Measure M Guidelines, Section VIII - 3% Local Contribution to Major Transit Projects (Guidelines) for a 30-day public comment period. As a result of completion of the public comment period, the revised guidelines are ready for adoption by the Board.

BACKGROUND

The Measure M Ordinance (Ordinance) requires local jurisdictions to pay three percent (3%) of the total cost of new major rail projects. The Measure M Guidelines adopted by the Board in 2017 guide Metro's implementation of this requirement. In April 2022, the Board requested that staff make several revisions to the Guidelines for consistency and flexibility. The Board adopted these revisions in February 2023 and directed Metro via Motion 10.1 by Directors Hahn, Dutra, Butts, and Sandoval (Attachment B) to make several additional revisions and clarifications. Staff presented the draft revisions to the Board in June 2023 and has circulated them for public comment.

DISCUSSION

Measure M Guideline Revisions

The current revisions make a substantive change to allow Metro competitive grant funds (e.g. Metro Active Transport, Transit, and First/Last Mile (MAT)) to be credited toward a jurisdiction's 3% local contribution. These types of funds were previously ineligible as a local contributions source. The additional flexibility may benefit some jurisdictions that are able to secure competitive funds for in-kind or FLM improvements supporting a major rail project.

All other revisions are clarifications of existing practice and were discussed in detail prior to the public comment period . These include: clarifying that a jurisdiction without a contribution obligation may credit qualifying in-kind/FLM investments toward a neighboring jurisdiction's local contribution; clarifying that projects or elements added after 30% design would not impact the current project segment's local contribution; and clarifying that in-kind contributions are allowed even if they were constructed prior to 30% design.

Metro released the draft Guideline revisions for public review on June 23, 2023, and advertised the public comment opportunity via mass email and an article in The Source. Six comment letters were received, five of them addressing the Measure M Guidelines revisions. One letter discussed other matters and Metro addressed them separately. The comments and responses have been summarized in Attachment C. Some comments requested changes to the Guidelines or Metro policy that are not acceptable. A request to eliminate the up-to-15-year sales tax withholding, for example, is inconsistent with the Measure M Ordinance. Others suggested adding discussion on information available elsewhere or on case-specific items not appropriate for a guideline document. None of the comments resulted in changes to the Guidelines, but Metro remains committed to collaborating with jurisdictions to develop feasible approaches to satisfying the local contribution.

Regionally Significant Project Elements

Directive C in Motion 10.1 requested that staff “evaluate a way to exclude the costs associated with regionally significant project elements - such as a new I-105 C Line station on the C Line (Green) or a Maintenance and Storage Facility (MSF) on the Gold Line Eastside Phase 2 - from the total project's cost's 3% local contribution calculation.” Metro's evaluation found that excluding the costs of these facilities from the 3% contribution cost basis was not financially advisable. However, since part of the cost for these facilities is related to other capital projects or existing rail lines, the full cost should not necessarily be allocated to the corridor project facilitating their construction. Instead, Metro will allocate part of the cost of these facilities to the other projects or rail lines that they serve.

In a recent example, costs for the Southwestern Yard were sub-allocated to various projects and operations based on the proportion of vehicles required for the specific project/operation out of the number of vehicles for which the yard was designed. This resulted in 49% of the cost of the yard being allocated to the Crenshaw/LAX Project (K Line) budget. The remaining costs were allocated to future projects (23%) and existing operations (13%), or were unallocated (16%). The Airport Metro Connector Project, for example, assumed 7% of the yard cost and included \$20M in the project budget accordingly. As Metro develops cost estimates for the other projects their share of the Southwestern Yard cost should also be included in the corridor life of project budget. Consistent with past practice, Metro may reevaluate the cost allocations as relevant project scopes are refined.

For the MSF on the future E Line Eastside Extension Phase II Project, Metro will determine the number of vehicles needed for the initial operable segment and will allocate part of the MSF cost to the project based on the proportion of vehicles required out of the number of vehicles for which the yard is designed. The remainder of the cost will be allocated to future projects, such as the Eastside Extension to Whittier, or existing operations. Metro will present these cost allocations for Board consideration when the facility design process reaches 30% completion.

For the I-105 C Line infill station, Metro will estimate the cost of accommodating and constructing the new station on the existing C Line. This could include, as needed, utility relocations, temporary trackwork, platforms, special track, station access, etc. The share of these costs benefiting other rail lines would be identified and the 3% contribution for the jurisdictions along the West Santa Ana Branch Corridor would be reduced accordingly. At this time no funding for the infill station as a separate project has been identified.

This approach is intended to accurately calculate the share that local jurisdictions should contribute toward major rail projects by excluding elements that can be attributed to other parts of the Metro system. It focuses on Metro project elements and would not include jurisdiction-led improvements that may receive in-kind credit toward a 3% contribution. Such improvements would still be included in the total project cost at 30% design, which is the basis for the 3% contribution.

DETERMINATION OF SAFETY IMPACT

The proposed approval will not have any adverse safety impacts on employees or patrons.

FINANCIAL IMPACT

Approving the recommendations will have no impact on the FY 2023-24 Budget. However, the additional flexibility the revised Guidelines offer may increase the funding gap for rail capital projects.

EQUITY PLATFORM

The substantive changes resulting from this action include expanding eligible funding sources to include Metro competitive grant funds. This will provide additional flexibility to jurisdictions owing a 3% contribution, including those within Equity Focus Communities (EFCs), which is intended to support jurisdictions with fewer financial resources. The remainder of the revisions to the Guidelines clarify existing practices and enhance consistency of current policy with the Measure M Ordinance, and therefore have no impact on equity opportunities. The 3% local contribution is one of the financial resources supporting Metro's major rail transit projects program in the Measure M Expenditure Plan.

These projects will benefit communities by adding new high-quality reliable transit services, many of which will increase mobility, connectivity, and access to opportunities for historically underserved and transit-dependent communities. Metro will continue to conduct outreach and provide technical assistance on the 3% contribution requirement to affected jurisdictions, including assisting with identifying viable financing strategies.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

The recommendation supports the following strategic plan goals identified in Vision 2028: Goal 1: Provide high-quality mobility options that enable people to spend less time traveling, Goal 3: Enhance communities and lives through mobility and access to opportunity and Goal 5: Provide responsive, accountable, and trustworthy governance within the Metro organization.

ALTERNATIVES CONSIDERED

The Board could elect not to adopt the final revised Guidelines. This is not recommended as the proposed revisions resulted from Board direction and will ensure consistency between Metro's published guidance and the Measure M Ordinance.

NEXT STEPS

The final revised Guidelines will be posted on the Metro website, and Metro staff will continue working closely with cities and the county to implement the 3% contribution requirement, including focused outreach to present the Guideline revisions.

ATTACHMENTS

Attachment A - Measure M 3% Local Contribution Guidelines Final Revisions

Attachment B - Motion 10.1

Attachment C - Summary of Public Comments Received


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REVISED MEASURE M GUIDELINES, SECTION VIII. 3% LOCAL CONTRIBUTION TO MAJOR TRANSIT PROJECTS

The following shall replace Section VIII. in its entirety.

INTRODUCTION

The Measure M Ordinance includes a provision for 3% local contribution to major rail transit capital projects. The rationale for the contribution is that local communities with a rail station receive a direct benefit due to the increased access to high-quality transit service that is above and beyond the project's benefit to the County as a whole. Countywide, the 3% local funding contribution represents more than \$1 billion in funding to support the project delivery identified in the Expenditure Plan. The 3% local funding contribution is a critical element of a full funding plan for these rail transit projects. These Guidelines provide multiple opportunities for jurisdictions to contribute non-monetary assets such as in-kind improvements constructed by the jurisdiction or in some cases a neighboring jurisdiction. While this flexibility reduces the financial burden on the jurisdiction, it also increases the funding gap for the overall project, with cost and schedule impact to Metro.

The Ordinance includes provisions that allow development of a mutual agreement between a jurisdiction and Metro, and a default payment mechanism if such an agreement cannot be reached. The agreements shall be in accordance with these guidelines.

PROGRAM METHODOLOGY

The Ordinance calculates the local contribution based upon the percent of project total centerline track miles to be constructed within a local jurisdiction's borders if one or more new stations are to be constructed within that jurisdiction. These guidelines reflect the nexus between mobility benefits provided to a jurisdiction based on the presence of a new station within the jurisdiction. The local contribution will be calculated by distributing 3% of the total project cost, estimated at the conclusion of thirty percent (30%) of final design, to jurisdictions based on centerline track miles per the Ordinance. For projects along a larger transit corridor with more than one operable segment, each operable segment will have its own "total project cost" for purposes of calculating the 3% local contribution for each segment. Jurisdictions will incur a 3% local contribution obligation only for operable segments that include station construction within their borders. Contributions for future segments, future stations on the current segment, other future projects, or project scope identified after 30% design will follow applicable policies to determine any required local contribution for those improvements. Other

arrangements agreed upon by every local jurisdiction in a project corridor with a local contribution obligation are also acceptable, provided that the total of all jurisdictions' contributions equals 3% of the estimated total project cost. A list of jurisdictions that may be affected, subject to changes determined by the environmental process, is included as Appendix A.

An agreement approved by both Metro and the governing body of the jurisdiction shall specify the total project cost as determined at the conclusion of thirty percent (30%) of final design, the amount to be paid by the local jurisdiction, and a schedule of payments. Once approved, the amount to be paid by the local jurisdiction shall not be subject to future cost increases.

Eligible Fund Contributions

Eligible fund sources to satisfy 3% local contribution include any funds controlled by the local agency or local agencies (e.g., General Fund, State Gas Tax Subventions, Prop. A, Prop. C and Measure R and Measure M Local Return Funds, Measure M Subregional Program Funds), or any funds awarded from ~~non-Metro~~ competitive grant process funding. Measure M Subregional Program Fund contributions must be accompanied by documented agreement from all jurisdictions that would otherwise be eligible for those sub-regional funds. Contributions, including in-kind and FLM investments, are eligible for credit with Metro approval even if made prior to 30% design.

In-kind contributions eligible to satisfy 3% local contribution include, but are not limited to, project specific right-of-way, waiver of permitting fees, local agency staff time (incurred and forecast) and other subregional investments that support a Metro transit corridor if those costs are specifically included in the project cost and contribution amount by the conclusion of thirty percent (30%) of final design. While the contributing jurisdictions are ultimately responsible for fulfilling the financial obligation per the Measure M Ordinance, they may receive credit for eligible in-kind, FLM, or other contributions made by non-contributing jurisdictions. Metro will not be responsible for implementing any part of interjurisdictional agreements that facilitate such credit.

In-kind contributions consistent with this section will not be considered "betterments" for the purposes of these Guidelines and are eligible to satisfy local contribution obligations in lieu of Metro withholding up to 15 years of Measure M Local Return.

Betterments

Betterments are defined consistent with existing policy adopted by the Metro Board on Supplemental Modifications to Transit Projects (October 2013). A “betterment” is defined “as an upgrade of an existing city or utility’s facility or the property of a Third Party, be it a public or private entity, that will upgrade the service capacity, capability, appearance, efficiency or function of such a facility or property of a third party.” Once the 30% design project scope and cost have been determined as the basis of the 3% contribution calculation, subsequent betterments cannot be included in that calculation, nor counted toward a jurisdiction’s eligible contribution. However, they may be included in the project scope if carried at the jurisdiction’s expense.

Active Transportation and First/Last Mile Investments

These guidelines reflect provisions adopted by the Board that allow and incentivize local jurisdictions, through an agreement with Metro, to meet all or a portion of their 3% local contribution obligation through first/last mile (FLM) investments. All local FLM improvements must be consistent with station area plans that will be developed and adopted by Metro in coordination with the affected jurisdiction(s). The criteria for local FLM investments for FLM contributions are described in full in the First/Last Mile Guidelines adopted by the Metro Board of Directors on May 27, 2021 (File #2020-0365), specifically to carry out integration of FLM within transit capital projects.

FLM improvements consistent with this section will not be considered “betterments” for the purposes of these Guidelines and are eligible to satisfy local contribution obligations in lieu of Metro withholding up to 15 years of Measure M Local Return.

Local Contribution Limits

The 3% local contribution will only be calculated against the overall project scope and cost determined at the conclusion of thirty percent (30%) of final design and will not include costs for FLM improvements delivered by entities other than Metro. Local agencies cannot count other transportation investments that are not included in the project scope and cost estimate after the conclusion of thirty percent (30%) of final design. Metro staff will provide written notice to the affected jurisdiction(s) and a report to the Metro Board after the completion of thirty percent (30%) of final design.

Contributions for calculations assigned to the County of Los Angeles are to be determined by the County.

Opt-Out Option

Metro will withhold up to 15 years of Measure M Local Return Funds from local agencies that fail to reach a timely agreement with Metro on their 3% contribution prior to the award of any contract authorizing construction of the project within the borders of that jurisdiction. Local return funds from Proposition A, Proposition C, and Measure R are not subject to withholding. In some cases, principally in smaller cities, the default withholding of 15 years of local return from Measure M Local Return Funds will be less than a full 3% contribution. In these cases, Metro may accept either amount as the 3% contribution, and may execute a corresponding agreement with the jurisdiction. The cities that fulfill the 3% contribution requirement through the Local Return withholding mechanism, including offsets for approved FLM improvements and in-kind contributions, will suffer no further financial impact.

AUDIT REQUIREMENTS

Use of Measure M funds will be subject to audit and oversight, and all other applicable state and local laws.

REPORTING REQUIREMENTS

Metro will provide annual reports to the Measure M Independent Taxpayer Oversight Committee describing how uses of the Measure M Funds are contributing to accomplishing the program objectives.

REVISIONS TO PROGRAM GUIDELINES

These program guidelines may be revised by the Metro Board of Directors.

Metro



Board Report

File #: 2023-0104, File Type: Motion / Motion Response

Agenda Number: 10.1.

**EXECUTIVE MANAGEMENT COMMITTEE
FEBRUARY 16, 2023**

Motion by:

DIRECTORS HAHN, DUTRA, BUTTS, AND SANDOVAL

Related to Item 10: Measure M 3% Local Contribution Guidelines Revisions

In response to Metro Board direction (File No 2022-0258), Metro staff have undertaken substantial revisions to the Measure M guidelines, specific to the 3% Local Contribution requirement for transit capital projects. Staff's proposed guidelines (File No. 2022-0828) incorporate requests from jurisdictions to increase flexibility, provide more opportunities for in-kind contributions, and further incentivize the first-/last-mile investments that will make these major transit investments in our region more successful.

While the revisions represent a welcome change to those originally drafted and approved in 2017, there are still some clarifications that should be offered in order to fully address concerns from jurisdictions that welcome the future transit capital investments and want to ensure they are fully engaged and able to participate.

SUBJECT: MEASURE M 3% LOCAL CONTRIBUTION GUIDELINES REVISIONS MOTION

RECOMMENDATION

APPROVE Motion by Directors Hahn, Dutra, Butts, and Sandoval that the Board direct the Chief Executive Officer to make the following revisions to the proposed Local Contribution guidelines:

- A. Add language to allow cost-sharing, so that jurisdictions who have qualifying first-/last-mile or in-kind improvements, but do not have a 3% local contribution requirement, can credit those investments they make toward neighboring jurisdictions' 3% local contribution obligations;
- B. Provide jurisdictions with maximum flexibility in all sources of funding for first-/last-mile investments by striking the words "non-Metro" from the first sentence in the "Eligible Funds" section, so that Metro competitive grants may also be an eligible fund source to make qualifying investments, which would be consistent with grant-making policy such as Federal and State funds where local match must come from sources other than those Federal and State funds;
- C. Evaluate a way to exclude the costs associated with regionally significant project elements -

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such as a new I-105 C Line station on the C Line (Green) or a maintenance and storage facility on the Gold Line Eastside Phase 2 - from the total project's cost's 3% local contribution calculation;

- D. Clarify the local contribution obligation responsibility for any future station, such as a Rio Hondo Confluence Station, that is not part of a project's 30% design but may be added at a later date, to ensure that any 3% obligation for any such station will be borne solely by the jurisdiction (s) in which it is located;
- E. Confirm that qualifying first-/last-mile investments and in-kind contributions shall be considered eligible to credit toward a jurisdiction's 3% local contribution obligation, even if implemented prior to 30% design; and,
- F. Report back to the Board in no more than 120 days on the above requests, including a fact sheet for affected cities.

Summary Table of Public Comments Received

The table below summarizes and responds to the substantive comments submitted during the public comment period (6/23/23 – 7/24/23) for the Measure M 3% Guideline Revisions.

COMMENT	COMMENTS	RESPONSE	EDITS
General			
We are pleased that the revised local contribution guidelines for future rail projects provides requested clarifications on existing 3% contribution tools to meet our needs, along with new ways for local entities to provide their 3% local contribution.	West Santa Ana Branch City Managers Technical Advisory Committee	Thank you for your comment.	N
The City is pleased to see that the Metro Board of Directors adopted many of the recommendations proposed in October 2022 by the West Santa Ana Branch City Manager Technical Advisory Committee of the Gateway Cities Council of Governments.	City of Artesia	Thank you for your comment.	N
However, it is distressing to see that the revision where Metro can withhold 15 years of Measure M funds if a city fails to reach a timely agreement on the 3% local contribution with Metro remains. ... Measure M funds provide vital financial support to the City's General Fund, especially since it collects minimal property taxes and heavily depends on sales tax revenue.	City of Artesia	The up-to-15-year withholding requirement is included in the Measure M Ordinance and cannot be changed with a revision to the Guidelines. Metro recognizes the importance of local sales tax revenue for cities and is committed to working with jurisdictions to ensure transparency and a workable plan for satisfying the local contribution.	N

COMMENT	COMMENTER	RESPONSE	EDITS
<p>None of the previous transit line projects of similar scale were local cities required to pay a share of the construction costs. While the City understands the funding model has changed with the passage of Measure M, as the last region to receive a large-scale transportation project, it furthers the unequitable distribution of transportation to the region by burdening the WSAB corridor cities with the local 3% match. We respectfully request that cities along the line work with Metro to conduct the required first/last mile improvements near and around the station, and that any funding gaps be requested as part of the federal project funding submission.</p>	<p>City of Artesia</p>	<p>Jurisdictions were required to make local contributions for previous major rail projects. Metro will continue to work with jurisdictions to identify possible funding sources, including first-last mile improvements. However, for Federal grants Metro will need to demonstrate local financial commitment as a prerequisite to receiving Federal funding support. The 3% local contribution is a key component of that local financing.</p>	<p>N</p>
Calculation and Distribution			
<p>The 3% calculation for the local contribution should not include the segments where another jurisdiction has opted to not have a station constructed in their city boundary.</p>	<p>City of Torrance</p>	<p>Per the Ordinance, the local contribution is determined by the percentage of track miles within a jurisdiction's borders for jurisdictions where station construction occurs. Where a jurisdiction has track mileage but no station, that mileage would be extracted from the length of the project prior to determining the percentages for the jurisdictions containing station construction. Per the Ordinance the percentage will be applied to the total project cost at 30% design.</p>	<p>N</p>
<p>No jurisdiction should be required to pay for more than their share of 3% contribution based on centerline track miles within their own jurisdiction.</p>	<p>City of Torrance</p>	<p>Per the Ordinance, jurisdictions with station construction will share the local contribution according to the percentage of track mileage within their borders.</p>	<p>N</p>

COMMENT	COMMENTS	RESPONSE	EDITS
Funding Sources			
The guidelines should recognize in some in-kind capacity the dollar value of the air rights that we would be relinquishing when Metro builds the maintenance yard(s). If they are unwilling to consider this as an “in-kind” contribution towards the 3%, perhaps we can negotiate the air rights into an adjacent development opportunity and use the transaction to pay down the 3% contribution. In either scenario, I hope Metro can recognize the developmental impact of the maintenance facilities	City of Montebello	Metro will work with jurisdictions to evaluate in-kind contributions on a case-by-case basis as the transit project design progresses. Generally, however, credit toward a jurisdiction’s 3% contribution will be given for items that add value, and/or offsets costs, for the Metro project.	N
The City of Torrance also requests consideration for the inclusion of newly constructed transit centers (built by the local jurisdiction) and their amenities to qualify as part of the required three-percent (3%) local contribution for new rail lines and major transit projects.	City of Torrance	Locally led improvements may receive credit if they are included in the project scope and cost by 30% design or are qualifying FLM projects.	N
Timeline/Process			
There is no mention of a proposed time frame as to when a local jurisdiction must start the 3% contribution payment and the length of time the local jurisdiction has to pay off it’s 3% contribution. With no such time frame provided in these proposed guidelines, will each local jurisdiction be subjected to negotiating an individual payback schedule with Metro?	City of Bellflower	These procedural elements remain unchanged and are included in Metro’s publicly available Measure M Administrative Procedures. Payment of the local contribution should begin at the start of construction and end when construction is halfway complete. Metro will work with jurisdictions individually to develop a payment plan that works for both parties.	N



Measure M 3% Local Contribution Guidelines Revisions

Planning and Programming Committee
September 20, 2023



Metro

Measure M Guidelines Revisions

Current Revisions

- Clarify existing policy and expand eligible fund sources.
- Released for public review and comment from June 23, 2023 to July 24, 2023
- Five comment letters received by the deadline.
 - Main themes: financial burden; listing specific in-kind contribution; policy requests that are inconsistent with the Measure M Ordinance
- Responses in summary table (Attachment C)

Measure M Guidelines

Revisions

Regionally Significant Project Elements

- (Past) Southwestern Yard:
 - 49% allocated to Crenshaw/LAX Line project budget
 - Remaining allocated to other projects or operations based on vehicle need
 - E.g. 7% to Airport Metro Connector
- (Future) E Line Eastside Extension MSF costs to be allocated according to the vehicles needed for the current project segment
- (Future) I-105 C Line infill station costs to be allocated between WSAB and existing operations or other capital project; methodology TBD

Measure M Guidelines Revisions

Next Steps

- Publish final Guidelines revisions
- Outreach and workshops with project corridor cities