

DRAFT

3% Local Contribution to Major Transit Projects Administrative Procedures

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 approximately \$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. The Ordinance includes provisions that allow development of a mutual agreement between a jurisdiction and Metro, and a default penalty if such an agreement cannot be reached.

The Measure M Master Guidelines, adopted by the Metro Board in June 2017, included detailed language related to the 3% local contribution provision that has been incorporated here.

VIII. 3% LOCAL CONTRIBUTION TO MAJOR TRANSIT PROJECTS

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 approximately \$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. The Ordinance includes provisions that allow development of a mutual agreement between a jurisdiction and Metro, and a default penalty 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 on the centerline track miles within a local jurisdiction with a new station in those jurisdictions. These guidelines reflect the nexus between mobility benefits provided to a jurisdiction based on the location and proximity of a new station. The local contribution will be calculated by dividing 3% of the project's total cost, estimated after the conclusion of thirty percent (30%) of final design, by the number of new rail stations constructed on the line. For purposes of this section, determination of the local jurisdiction borders will be a new station located within one-half mile of the jurisdiction. Building on the Metro Board adopted First/Last Mile policy in 2016, which defines the "walkshed" around each station as a half-mile radius, the 3% local contribution requirement will be proportionately shared by all local agencies based upon the local agency's land area within a one-half mile radius of a new station. 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 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 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. In-kind contributions eligible to satisfy 3% local contribution include, but not limited to, project specific right-of-way and waiver of permitting fees, local agency staff time (incurred and forecast) if, those costs are specifically included in the project cost and contribution amount by the conclusion of thirty percent (30%) of final design.

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 Capital Improvement Contributions

These guidelines reflect provisions adopted by the Board that allow for local jurisdictions to meet all or a portion of their 3% local contribution obligation through active transportation capital improvements and first/last mile investments that are included in the project scope and cost estimate at the conclusion of thirty percent (30%) of final design. All local first/last improvements must be consistent with station area plans that will be developed by Metro in coordination with the affected jurisdiction(s). The criteria for local first/last mile investments for first/last mile contributions are being developed by Metro, specifically to carry out integration of first/last mile within transit capital projects. First/Last mile improvements consistent with this section and included in project scope at conclusion of 30% of final design will not be considered “betterments” for the purposes of these Guidelines, and are eligible for local contribution obligations.

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. 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 at 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 for 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 only Measure M Local Return Funds will be less than a formal 3% contribution. In these cases, the cities which default on making their full 3% contribution will suffer no further 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

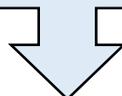
These program guidelines may be revised by the Metro Board of Directors.

The following flow chart details the procedural steps and milestones for executing and administering the 3% local contribution agreements.

Step 1 Establish Project Cost and 3% Local Contribution Assessments

Conclusion of 30% Final Design sets project scope and costs to calculate 3% local contribution.

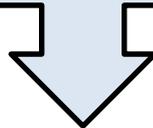
- Metro will notify and coordinate with agencies that may have a local contribution throughout the project development.
- The Metro Board will take action to acknowledge the conclusion of 30% Final Design for major transit projects, in order to identify the timing for calculating the 3% local contribution of the total project cost estimate at that time. The 3% contribution will be a percentage of the total project cost at 30% Final Design in year-of-expenditure dollars.
- Each affected agency will receive a notice of their local contribution amount estimate and payment schedule no less than 60 days prior to the Board action on the conclusion of 30% Final Design (as determined by Metro), which determines the 3% local contribution amount.
- Notice of the Board action on the project cost estimate at 30% Final Design will take effect beginning January 1, 2018. Agencies subject to the 3% local contribution with projects that had completed 30% Final Design prior to that date will not receive notices of Board Action.
- Board action will also specify the amount of the 3% local contribution assigned to each agency based on the Measure M Guidelines.



Step 2 Execute Local Contribution Agreements

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. The full amount of the local contribution should be paid by the completions of 50% of project construction. Once approved, the amount to be paid by the local jurisdiction shall not be subject to future project cost increases (amounts paid over time will be increase with the Construction Cost Index).

- Local jurisdictions may meet all or a portion of their 3% contribution through funding of active transportation capital improvements and first/last mile investments, that are included in the project scope and cost estimate at the conclusion of thirty percent (30%) final design.
- In-kind contributions eligible to satisfy 3% local contribution include, but not limited to, project specific right-of-way and waiver of permitting fees, local agency staff time (incurred and forecast) if, those costs are specifically included in the project cost and contribution amount by the conclusion of thirty percent (30%) of final design cost, and will be subject to the review and audit by Metro.
- Pursuant to the Measure M Ordinance, betterments are not an eligible contribution. The definition of “betterment” is detailed in Section VIII of the adopted Guidelines.
- Eligible fund sources to satisfy 3% local contribution include any funds controlled by the local agency or local agencies that can be legally expended on expenditures of this type.
- 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 project.



Step 3 Opt Out

If no agreement is entered into and approved prior to the award of any contract authorizing the construction of the project within the borders of the jurisdiction, or if at any time the local jurisdiction is in default of any sums due pursuant to the approved agreement, all funds contained in the Local Return/Regional Rail Subfund allocated to that jurisdiction may, at Metro’s sole discretion, be withheld for not longer than fifteen (15) years and used to pay for the project until the three percent (3%) threshold is met.

This Opt Out provision does not exclude negotiations with Metro for a funding agreement. Once a fully executed funding agreement is in place Measure M Local Return fund may be released, partially or in full, depending on the terms of the agreement whichever is sooner.



Step 4 Payment of Local Contributions

- Metro will invoice the local agency per the payment schedule identified in the executed Local Contribution funding agreement.
- If Measure M Multi-year Subregional Program funds have been identified as a source to meet the Local Contribution obligation Metro will draw down on those MSP funds per the payment schedule identified in the executed Local Contribution funding agreement, accounting for amounts that may be programmed for other purposes.
- Local agencies claiming in-kind contributions to satisfy their Local Contribution requirement will submit documentation of the in-kind service performed for Metro’s review and approval.
- Failure to submit payment may result in loss of Measure M Local Return funds not to exceed 15 years.



Step 5 Annual Auditing and Reporting for Measure M Funds

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