



June 14, 2018

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The Honorable Sheila Kuehl, Chair  
Los Angeles County Board of Supervisors  
821 Kenneth Hahn Hall of Administration  
500 W. Temple Street  
Los Angeles, CA 90012

Dear Supervisor Kuehl,

The San Gabriel Valley Council of Governments (SGVCOG) appreciates the Board of Supervisors' leadership in the development of the Safe, Clean Water Program and the extended efforts to engage cities in the stakeholder process to draft a parcel tax for stormwater compliance programs, drought preparedness, water quality, and water sustainability. Moreover, the program's renewed focus on MS4 compliance and improving water quality, are greatly appreciated.

We especially want to call attention to two major changes between the April and May drafts that the SGVCOG not only strongly supports, but believes are essential to maintaining the tax measure's emphasis as a stormwater funding measure. Those are:

- **Projects must have a Municipal (permittee) sponsor.**
- **Projects must be in an approved stormwater management plan.**

There are still several elements that the SGVCOG would like changed or clarified.

**Transfer of Funds Agreement**

1. Recommend following Measures R and M contracting and reporting requirements for disbursement of Municipal Program (local return) funds. (Measures R and M being transportation-focused countywide sales tax measures passed in 2008 and 2016, allocating 15% and 17% respectively for local return.) Per the Measure R and M Guidelines, local jurisdictions sign an Assurances and Understandings agreement (Attachments 1 and 2), but those agreements do not contain local hire and/or Project Labor Agreement provisions. Were those requirements to be included in the SCW program, municipalities would likely have to hire outside expertise just to manage this aspect of a contract. Multiplied by 88 cities, this would amount to a significant contract administration expense.
2. Additionally, we recommend deletion of any contracting practices uniquely applicable to municipalities for funds distributed under either the Municipal or Regional Program.

### **Regional Program**

1. **Project Selection.** Recommend deletion of the requirement that a “spectrum of project types and sizes” be funded. Requiring that projects meet threshold project selection criteria, be included in an approved water quality plan, and be equitably distributed over time, will ensure that the most qualified projects are selected, and negates the need for the “spectrum of projects” clause.
2. **Watershed Area Steering Committee (WASC) Membership**
  - a. Recommend that the WASC include 10 municipal seats. Including a supermajority of MS4 permittees on the WASC (in this case municipalities) ensures that monies raised through a voter-approved stormwater tax measure will be spent on projects that most directly reduce taxpayers’ MS4-related liabilities.
  - b. Recommend elimination of the 16/33/50% formula for assigning municipal seats to the WASC. Because of the new provision that requires that each municipality receive project funding equivalent to funds raised within its jurisdiction over a period of time, there is no need to award additional seats to cities or the county under the 16/33/50 formula.
3. Recommend eliminating compensation for attendance at WASC meetings. Likely the WASC will meet frequently in order to develop the 5-year spending plan, review Feasibility Studies, and authorize Projects. With nine watershed committees, each having 16 members, the compensation adds up to \$7,200 per meeting. Moreover, the vast majority of WASC members are salaried employees who are already paid for their time. Alternatively, we recommend that compensation be limited to members that are not otherwise compensated for their attendance.
4. **Regional Oversight Committee & Scoring Committee.** In order to engender maximum credibility, recommend that the WASCs nominate prospective members, with confirmation by the BOS.
5. **Project Scoring**
  - a. In recognition of the importance of water quality in the SCW program, recommend scoring as follows: Water Quality 60%; Water Supply 25%, Community Investment/Leveraging 15%.
  - b. Confirm that the definition of “benefiting a DAC” for scoring purposes includes projects that address water quality of dry weather runoff and/or stormwater emanating from a DAC, although not located therein.
6. **Watershed Coordinators**
  - a. To ensure that Watershed Coordinators have a good working relationship with members of the WASC, recommend that the BOS appoint from a list of names recommended by the applicable WASC.
  - b. Recommend that the language be added to the program to clarify that WASCs exercise primary oversight of Watershed Coordinators.

7. Watershed Area Maps. Recommend splitting off the Arroyo Seco watershed from Upper Los Angeles River WASC and joining it to Rio Hondo WASC.

**Municipal Program**

1. Recommend clarifying that the 30% Maintenance of Effort limitation applies only to those projects that are operational as of election date.
2. Under the Municipal MOE program, recommend clarification of what constitutes an “eligible activity” for 30% funding.

**District Program**

1. Technical Assistance Teams (TAT)
  - a. In order to bolster the credibility of the TATs, recommend review and approval of TAT membership and composition by the Regional Oversight Committee.
  - b. Recommend that TATs be funded in whole or at least in part by the District Program, otherwise there’s a functional disconnect in having them compensated by the WASCs but composed of District employees.
2. Recommend that the District prepare a draft budget showing how its estimated \$30 million per year will be spent. Currently, the SCW Draft Program Elements only specifically accounts for \$25 million over a five-year period that will be spent on education and job training. The District Program also includes funding for Watershed Coordinators, whereas TATs and scientific studies are to be funded out of the Regional Program. It would be helpful to review an estimated budget to understand how the District anticipates use of its 10% of annual SCW Program revenues.

The SGVCOG again, thanks the BOS and LACDPW for their leadership and for the positive response to our past three recommendation letters. Should you have any questions, please contact Eric Wolf, Senior Management Analyst, at [ewolf@sgvcog.org](mailto:ewolf@sgvcog.org), (626) 457-1800.

Sincerely,



Marisa Creter  
Executive Director  
San Gabriel Valley Council of Governments

Attachments

- Attachment 1 – Measure R, Appendix I, Assurances and Understandings Regarding Receipt and use of Measure R Local Return Funds
- Attachment 2 – Measure M, Appendix I, Assurances and Understanding Regarding Receipt and use of Measure M Local Return Funds

Cc.

Hon. Janice Hahn, Chair Pro Tem, Los Angeles County Board of Supervisors

Hon. Hilda L. Solis, Supervisor, First District, Los Angeles County

Hon. Mark Ridley-Thomas, Supervisor, Second District, Los Angeles County

Hon. Kathryn Barger, Supervisor, Fifth District, Los Angeles County

Katy Young, Office of Supervisor Sheila Kuehl

Teresa Villegas, Office of Supervisor Hilda Solis

Mark Pestrella, Director of Public Works, Los Angeles County

Russ Bryden, Los Angeles County Department of Public Works

**ASSURANCES AND UNDERSTANDINGS REGARDING  
RECEIPT AND USE OF MEASURE R LOCAL RETURN FUNDS**

The undersigned, in conjunction with the receipt of funds derived from the one-half cent sales tax approved pursuant to Assembly Bill 2321, Measure R Ordinance of the Los Angeles County Metropolitan Transportation Authority (“LACMTA”), and as required by LACMTA's Measure R Local Return (“LR”) Guidelines, hereby provides the following assurances and understandings.

A. The undersigned hereby assures LACMTA:

1. That the Measure R LR funds are to be used to augment, not supplant, existing local revenues being used for transportation purposes;
2. That Measure R LR funds will be used for public transportation purposes as defined in LACMTA's Measure R LR Guidelines;
3. That the undersigned will submit to LACMTA for the use of Measure R LR funds:
  - a. An Expenditure Plan, annually, by August 1<sup>st</sup> of each year, including a proposed budget of the current year’s expenditures;
  - b. An Expenditure Report, annually, by October 15<sup>th</sup> of each year, including an update of the prior year’s expenditures;
4. Unless otherwise required by LACMTA, an audit certified by a Certified Public Accountant, will be conducted by LACMTA within 180 days of the close of the fiscal year;
5. That all projects proposed for Measure R LR funding will meet the legal requirements of the Measure R Ordinance and LACMTA's LR Guidelines criteria.

B. The undersigned further understands and agrees:

1. That LACMTA will require the undersigned to return any Measure R LR funds and may impose interest penalties on any expenditure found to be illegal or improper under the terms of the Measure R Ordinance or the LACMTA's LR Guidelines;
2. That the undersigned will, for projects to be funded in part or in whole with Measure R LR funds, comply with all applicable federal, state, and local laws and regulations, including without limitation: American With Disabilities Act (ADA), CEQA and NEPA, affirmative action, transit accessibility and public health and safety requirements and fair labor practices;
3. That the undersigned will utilize the State Controller's Uniform System of Accounts and Records to accommodate uses and disbursements of Measure R LR funds which will allow financial and compliance audits of Measure R LR funds transactions and expenditures to be conducted;

4. That any Measure R LR funds not expended within five (5) years, under the Timely Use of Funds time period, or held in a Capital Reserve account approved by LACMTA, thereafter will be returned to LACMTA upon request.
5. In addition to implementing new Measure R eligible projects and programs, Jurisdictions may use Measure R LR funds to supplement existing Measure R eligible projects and programs should there be a current or projected funding shortfall. LACMTA reserves the right to request appropriate documentation from a Jurisdiction to support the existence of a funding shortfall.

**IN WITNESS WHEREOF** the undersigned has executed this "Assurances and Understandings Regarding Receipt and Use of Measure R LR Funds" this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by its duly authorized officer:

CITY OF \_\_\_\_\_

BY \_\_\_\_\_

\_\_\_\_\_  
(Title)

DATE \_\_\_\_\_

**ASSURANCES AND UNDERSTANDINGS REGARDING  
RECEIPT AND USE OF MEASURE R LOCAL RETURN FUNDS**

## APPENDIX I

### **ASSURANCES AND UNDERSTANDINGS REGARDING RECEIPT AND USE OF MEASURE M LOCAL RETURN FUNDS**

The undersigned, in conjunction with the receipt of funds derived from the one-half cent sales tax approved pursuant to SB767, Measure R Ordinance of the Los Angeles County Metropolitan Transportation Authority (“LACMTA”), and as required by LACMTA's Measure M Local Return (“LR”) Guidelines, hereby provides the following assurances and understandings.

A. The undersigned hereby assures LACMTA:

1. That the Measure M LR funds are to be used to augment, not supplant, existing local revenues being used for transportation purposes;
2. That Measure M LR funds will be used for public transportation purposes as defined in LACMTA's Measure M LR Guidelines;
3. That the undersigned will submit to LACMTA for the use of Measure M LR funds:
  - a. An Expenditure Plan, annually, by August 1<sup>st</sup> of each year, including a proposed budget of the current year's expenditures;
  - b. An Expenditure Report, annually, by October 15<sup>th</sup> of each year, including an update of the prior year's expenditures;
4. Unless otherwise required by LACMTA, an audit certified by a Certified Public Accountant, will be conducted by LACMTA within 180 days of the close of the fiscal year;
5. That all projects proposed for Measure M LR funding will meet the legal requirements of the Measure M Ordinance and LACMTA's LR Guidelines criteria.

B. The undersigned further understands and agrees:

1. That LACMTA will require the undersigned to return any Measure M LR funds and may impose interest penalties on any expenditure found to be illegal or improper under the terms of the Measure M Ordinance or the LACMTA's LR Guidelines;
2. That the undersigned will, for projects to be funded in part or in whole with Measure M LR funds, comply with all applicable federal, state, and local laws and regulations, including without limitation: Americans With Disabilities Act (ADA), CEQA and NEPA, affirmative action, transit accessibility and public health and safety requirements and fair labor practices;
3. That the undersigned will utilize the State Controller's Uniform System of Accounts and Records to accommodate uses and disbursements of Measure M LR funds which will allow financial and compliance audits of Measure M LR funds transactions and expenditures to be conducted;
4. That any Measure M LR funds not expended within five (5) years, under the Timely Use of Funds time period, or held in a Capital Reserve account approved by LACMTA, thereafter will be returned to LACMTA upon request.

5. In addition to implementing new Measure M eligible projects and programs, Jurisdictions may use Measure M LR funds to supplement existing Measure M eligible projects and programs should there be a current or projected funding shortfall. LACMTA reserves the right to request appropriate documentation from a Jurisdiction to support the existence of a funding shortfall.
6. The undersigned acknowledges Metro's support of Disadvantaged Business Enterprises/Small Business Enterprises (DBEs/SBEs) and agrees to utilize a procurement process on its Measure M LR projects that, whenever practical, encourages the participation of DBE/SBEs.

**IN WITNESS WHEREOF** the undersigned has executed this "Assurances and Understandings Regarding Receipt and Use of Measure M LR Funds" this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by its duly authorized officer:

CITY OF \_\_\_\_\_

BY \_\_\_\_\_

\_\_\_\_\_  
(Title)

DATE \_\_\_\_\_

ASSURANCES AND UNDERSTANDINGS REGARDING  
RECEIPT AND USE OF MEASURE M LOCAL RETURN FUNDS