



COMMITTEE TRANSMITTAL

May 11, 2020

To: Members of the Board of Directors

From: *Lu*
Laurena Weinert, Clerk of the Board

Subject: Proposed Amendment to the Orange County Local Transportation Authority Measure M2 Ordinance No. 3

Executive Committee Meeting of May 4, 2020

Present: Chairman Jones, Vice Chairman Do, and Directors Davies, Hennessey, M. Murphy, and Shaw

Absent: None

Committee Vote

Following the roll call vote, this item was declared passed 6-0 by the Members present.

Committee Recommendations

- A. Direct staff to initiate the process to amend the Orange County Local Transportation Authority Measure M2 Ordinance No. 3 to address the anticipated near-term negative growth in general fund revenues as it relates to the maintenance of effort requirement.
- B. Direct staff to set a date of June 22, 2020, for a public hearing and Board of Directors action to consider adoption of the amendment to the Orange County Local Transportation Authority Measure M2 Ordinance No. 3 as it relates to the maintenance of effort requirement.
- C. Approve updates to the Fiscal Year 2020-21 Measure M2 Eligibility Guidelines, including revised maintenance of effort forms addressing the changes needed to implement the proposed amendment.



May 4, 2020

To: Executive Committee

From: Darrell E. Johnson, Chief Executive Officer 

Subject: Proposed Amendment to the Orange County Local Transportation Authority Measure M2 Ordinance No. 3

Overview

The voter-approved Measure M2 Ordinance No. 3 requires that local jurisdictions meet a maintenance of effort requirement to remain eligible to receive Measure M2 funding. Local jurisdictions are experiencing a significant decline in general fund revenues because of the novel coronavirus pandemic, which is expected to impact their ability to meet this maintenance of effort requirement. An amendment to the ordinance is recommended to assist the local jurisdictions through this unprecedented period of economic uncertainty. The proposed amendment is presented for Board of Directors' consideration, and approval is requested to set a public hearing date initiating the amendment process.

Recommendations

- A. Direct staff to initiate the process to amend the Orange County Local Transportation Authority Measure M2 Ordinance No. 3 to address the anticipated near-term negative growth in general fund revenues as it relates to the maintenance of effort requirement.
- B. Direct staff to set a date of June 22, 2020, for a public hearing and Board of Directors action to consider adoption of the amendment to the Orange County Local Transportation Authority Measure M2 Ordinance No. 3 as it relates to the maintenance of effort requirement.
- C. Approve updates to the Fiscal Year 2020-21 Measure M2 Eligibility Guidelines, including revised maintenance of effort forms addressing the changes needed to implement the proposed amendment.

Background

In November 2006, Orange County voters approved the Renewed Measure M2 Ordinance No. 3, also called Measure M2 (M2). The Orange County Transportation Authority (OCTA) is committed to fulfilling the promises made in M2. This means delivering all projects and programs included in the M2 Expenditure Plan and complying with the specific requirements identified in the M2 Ordinance No. 3 (M2 Ordinance). Also included in the M2 Ordinance is an amendment process to address unforeseen circumstances.

Over the next few months, OCTA and local jurisdictions will have a clearer picture of the implications of the novel coronavirus (COVID-19) pandemic and its impact to sales tax revenues, fuel sales, and local agency general fund revenues (GFR). However, action is currently needed to ensure that OCTA can continue providing funds to eligible local jurisdictions.

Local jurisdictions are required to meet specific requirements in order to receive M2 revenues, one of which is related to maintenance of effort (MOE) spending levels. MOE is the amount the local jurisdiction's spend in discretionary non-transportation funds, or GFR, for streets and roads purposes. The intent is to ensure that M2 revenues do not supplant funding for streets and roads that a local jurisdiction was previously spending.

The original MOE level was established in 1991 with the first Measure M (M1) program using a five-year average of the funding amount local jurisdictions spent on streets and roads maintenance and construction between 1985 and 1990. The MOE amount remained unchanged during the 20-year life of M1; therefore, it did not keep pace with annual inflation. Recognizing the need for an adjustment, a process was included in the M2 Ordinance to update the MOE amount every three years. The adjustment is determined by looking back at the California Department of Transportation construction cost index growth during a three-year period and applying that growth rate to the MOE, with the exception that the increase cannot be greater than the jurisdiction's increase in GFR for the same period. The most recent adjustment approved by the Board of Directors (Board) on April 13, 2020, is only the third adjustment to the original MOE as established under M1.

Discussion

Because of the potential economic impacts related to the COVID-19 pandemic, a limited amendment to the MOE requirements is proposed to ensure local jurisdictions can continue receiving M2 revenues. The M2 Ordinance requires jurisdictions to annually submit two items to OCTA related to MOE:

- 1) MOE certification – before the start of the annual fiscal year budget, local jurisdictions must certify that sufficient expenditures have been budgeted to meet the MOE benchmark.
- 2) Expenditure report – annually, local jurisdictions must submit a detailed financial report. This report is used to validate eligible uses of M2 funds and to report actual MOE expenditures to meet the MOE benchmark requirement.

These requirements – outlined in Section 6 of the M2 Ordinance, and in Section III of Attachment B to the M2 Ordinance – must be met in order for local jurisdictions to continue to receive M2 revenues. Attachment A provides the existing MOE language as included in the M2 Ordinance.

The M2 Ordinance allows for amendments for unforeseen circumstances, which is noted and further discussed in Section 12 of the M2 Ordinance. A specific process for amendments was established by the OCTA Board during M1 and has continued in M2. Amendments to the M2 Ordinance, which do not affect the Transportation Investment Plan, require a two-thirds vote from the OCTA Board, as well as a public hearing and notification process.

As the state-designated Local Transportation Sales Tax Authority responsible for administering M2, OCTA is committed to upholding the intent of the M2 Ordinance. As such, amendments should only be proposed when absolutely necessary to keep the M2 promises to voters. Amendments to M2 are not a normal occurrence. Over the last 29 years, between both M1 and M2, there have only been four ordinance amendments. During this same period, there have been ten plan amendments. Ordinance amendments are corrective changes in nature versus plan amendments, which address funding needs and cost savings through reallocation of funds between projects and programs within the same mode. The change required for MOE will require an ordinance amendment. Attachment B provides information on the amendment process, the language on amendments from the M2 Ordinance, and a history of the prior amendments.

Given the financial impacts anticipated to occur as a result of COVID-19, it will be challenging for all local jurisdictions to satisfy MOE expenditure report requirements for fiscal year (FY) 2019-20 and MOE certification and expenditure report requirements for FY 2020-21. For reference, OCTA sales tax collections in FY 2018-2019 were \$331 million. Due to COVID-19, OCTA is anticipating a 33 percent decline in sales tax in the fourth quarter of FY 2019-20. As a result, OCTA anticipates finishing FY 2019-20 with \$303 million in sales tax receipts, which represents a \$28 million (8.5 percent) decrease in sales tax when compared to FY 2018-19. In addition, an early forecast by Muni Services, the firm that prepares OCTA's short-term forecasted growth rate, is anticipating an additional 4.5 percent reduction in sales tax for FY 2020-21 to \$290 million.

In total, OCTA anticipates collecting \$41 million (12.4 percent) less sales tax in FY 2020-21 than in FY 2018-19 due to COVID-19.

The economic impacts of COVID-19 may not permit local jurisdictions to meet the MOE benchmark requirement for the FY 2019-20 and FY 2020-21. Initial estimates, based upon an informal OCTA poll, indicate local jurisdictions expect, on average, an approximate seven percent reduction in FY 2019-20 revenues (with some estimates as high as 14 percent), and an approximate seven percent reduction in FY 2020-21 revenues (with some estimates as high as 15 percent). City of Costa Mesa Mayor Katrina Foley sent a letter to OCTA Chief Executive Officer Darrell E. Johnson on April 16, 2020 (Attachment C), expressing concern related to lost revenues and requesting a suspension of the MOE requirement for three years, the reduction of the MOE benchmark requirement, and potentially allowing agencies up to seven years to repay the required MOE if they are not able to meet the requirement after the proposed suspension period.

Staff reviewed and considered several options ranging from no changes to the MOE requirement, to suspending the MOE requirement – the latter of which is inconsistent with the legislative intent of the M2 Ordinance because M2 revenues would supplant and not supplement local revenues.

In consultation with OCTA legal counsel, staff has developed a solution intended to be fair and reasonable for all jurisdictions with the goal of balancing local funding issues with the intent of M2 Ordinance. If approved, this will provide local jurisdictions with a path forward before the approaching FY 2020-21 MOE certification requirement deadline of June 30, 2020. Therefore, staff is recommending an amendment to the Orange County Local Transportation Authority M2 Ordinance No. 3, Section 6, MOE Section to:

- Require submittal of the FY 2019-20 expenditure report and accept the actual expenditures reported as meeting the MOE requirement, even if the total expenditure amount is below the MOE benchmark requirement for FY 2019-20.
- Modify the MOE budget certification requirement for FY 2020-21 to require that local jurisdictions certify a budget that commits to continuing the same proportional share of streets and roads expenditures to GFR, based upon the proportion of the current MOE benchmark to GFR that were reported in their respective Comprehensive Annual Financial Report for FY 2018-19, at a minimum. This approach allows the MOE amount to float with fluctuations in local agency GFR levels in FY 2020-21 while upholding the intent of the M2 Ordinance to use M2 revenues as supplemental funding. Attachment D provides the revised temporary MOE benchmark for FY 2020-21, and Attachment E provides the revised MOE certification form.

- Require local jurisdictions to submit the FY 2020-21 expenditure reports to confirm that they have met the proportional share of total GFR or MOE dollar amount as defined in Attachment D.

The proposed amendment language is provided in Attachment F. The process and timing for amending the M2 Ordinance and MOE submittals is shown below:

Actions	Date
Governor declared a state of emergency related to COVID-19	March 4, 2020
Governor enacted the stay-at-home order	March 19, 2020
M2 Eligibility Guidelines, FY 2020-21 approved	April 13, 2020
OCTA Executive Committee considers M2 amendment	May 4, 2020
OCTA Board considers M2 amendment and sets a public hearing date for June 22, 2020	May 11, 2020
Proposed amendment sent to local jurisdictions for public review prior to public hearing (Attachment F)	May 12, 2020
Taxpayers Oversight Committee provided an update on ordinance amendment	May 12, 2020
Issue public hearing notice (at least 30 days prior to public hearing)	May 21, 2020
Public hearing on amendment and roll call vote by Board (requires two-thirds vote)	June 22, 2020
Adopted amendment transmitted to local jurisdiction	June 23, 2020
Local jurisdictions required to submit the MOE certification for FY 2020-21 (Attachment E)	June 30, 2020
Local Fair Share disbursement for fourth quarter, FY 2019-20 (estimated date)	July 15, 2020
Amendment effective 45 days following adoption	August 6, 2020
Local Fair Share disbursement (estimated date)	September 16, 2020

Summary

An amendment to the M2 Ordinance to assist local agencies in managing the economic impacts of the COVID-19 pandemic is proposed. The amendment modifies the MOE requirements for FY 2019-20 and FY 2020-21 while upholding the legislative intent of the M2 Ordinance. Staff also requests the Board set a public hearing date for June 22, 2020, and approval of an updated MOE Certification Form is proposed.

Attachments

- A. Orange County Local Transportation Authority Ordinance No. 3, Maintenance of Effort Requirements Excerpt, Section 6, Page 3
- B. Procedures to Amend the Renewed Measure M Transportation Investment Plan and Ordinance No. 3, Language Excerpt and Amendment History
- C. Letter from Mayor Katrina Foley, City of Costa Mesa, to Darrell Johnson, Chief Executive Officer, Orange County Transportation Authority, dated April 16, 2020
- D. FY 2020-21 MOE Benchmark as a Percentage of FY 2018-19 GFR
- E. Appendix I, Maintenance of Effort (MOE) Certification Form
- F. Draft Ordinance Amendment Language, Section 6, Page 3

Prepared by:



Adriann Cardoso
Department Manager,
Capital Programming
(714) 560-5915

Approved by:



Kia Mortazavi
Executive Director, Planning
(714) 560-5741

**Orange County Local Transportation Authority Ordinance No. 3
Maintenance of Effort Requirements Excerpt**

Section 6, Page 3

SECTION 6. MAINTENANCE OF EFFORT REQUIREMENTS

It is the intent of the Legislature and the Authority that the Net Revenues allocated to a jurisdiction pursuant to the Ordinance for street and road projects shall be used to supplement existing local discretionary funds being used for transportation improvements. Each jurisdiction is hereby required to annually maintain as a minimum no less than the maintenance of effort amount of local discretionary funds required to be expended by the jurisdiction for local street and road purposes pursuant to the current Ordinance No. 2 for Fiscal Year 2010-2011. The maintenance of effort level for each jurisdiction as determined through this process shall be adjusted effective July 1, 2014 and every three fiscal years thereafter in an amount equal to the percentage change for the Construction Cost Index compiled by Caltrans for the immediately preceding three calendar years, providing that any percentage increase in the maintenance of effort level based on this adjustment shall not exceed the percentage increase in the growth rate in the jurisdiction's general fund revenues over the same time period. The Authority shall not allocate any Net Revenues to any jurisdiction for any fiscal year until that jurisdiction has certified to the Authority that it has included in its budget for that fiscal year an amount of local discretionary funds for streets and roads purposes at least equal to the level of its maintenance of effort requirement. An annual independent audit may be conducted by the Authority to verify that the maintenance of effort requirements are being met by the jurisdiction. Any Net Revenues not allocated pursuant to the maintenance of effort requirement shall be allocated to the remaining eligible jurisdictions according to the formula described in the Ordinance.

Attachment B, Section III – Requirements for Eligible Jurisdictions

Page B7-B10

III. REQUIREMENTS FOR ELIGIBLE JURISDICTIONS.

A. In order to be eligible to receive Net Revenues, a jurisdiction shall satisfy and continue to satisfy the following requirements.

1. Congestion Management Program. Comply with the conditions and requirements of the Orange County Congestion Management Program (CMP) pursuant to the provisions of Government Code Section 65089.

2. Mitigation Fee Program. Assess traffic impacts of new development and require new development to pay a fair share of necessary transportation improvements attributable to the new development.

3. Circulation Element. Adopt and maintain a Circulation Element of the jurisdiction's General Plan consistent with the MPAH.

4. Capital Improvement Program. Adopt and update biennially a six-year Capital Improvement Program (CIP). The CIP shall include all capital transportation projects, including projects funded by Net Revenues, and shall include transportation projects required to demonstrate compliance with signal synchronization and pavement management requirements.

5. Traffic Forums.

Participate in Traffic Forums to facilitate the planning of traffic signal synchronization programs and projects. Eligible Jurisdictions and Caltrans, in participation with the County of Orange and the Orange County Division of League of Cities, will establish the boundaries for Traffic Forums. The following will be considered when establishing boundaries:

- a. Regional traffic routes and traffic patterns;
- b. Inter-jurisdictional coordination efforts; and
- c. Total number of Traffic Forums.

6. Local Traffic Signal Synchronization Plan. Adopt and maintain a Local Traffic Signal Synchronization Plan which shall identify traffic signal synchronization street routes and traffic signals; include a three-year plan showing costs, available funding and phasing of capital, operations and maintenance of the street routes and traffic signals; and include information on how the street routes and traffic signals may be synchronized with traffic signals on the street routes in adjoining jurisdictions. The Local Traffic Signal Synchronization Plan shall be consistent with the Traffic Signal Synchronization Master Plan.

7. Pavement Management Plan. Adopt and update biennially a Pavement Management Plan, and issue, using a common format approved by the Authority, a report every two years regarding the status of road pavement conditions and implementation of the Pavement Management Plan.

a. Authority, in consultation with the Eligible Jurisdictions, shall define a countywide management method to inventory, analyze and evaluate road pavement conditions, and a common method to measure improvement of road pavement conditions.

b. The Pavement Management Plan shall be based on: either the Authority's countywide pavement management method or a comparable management

method approved by the Authority, and the Authority's method to measure improvement of road pavement conditions.

c. The Pavement Management Plan shall include:

(i) Current status of pavement on roads;

(ii) A six-year plan for road maintenance and rehabilitation, including projects and funding;

(iii) The projected road pavement conditions resulting from the maintenance and rehabilitation plan; and

(iv) Alternative strategies and costs necessary to improve road pavement conditions.

8. Expenditure Report. Adopt an annual Expenditure Report to account for Net Revenues, developer/traffic impact fees, and funds expended by the Eligible Jurisdiction which satisfy the Maintenance of Effort requirements. The Expenditure Report shall be submitted by the end of six (6) months following the end of the jurisdiction's fiscal year and include the following:

a. All Net Revenue fund balances and interest earned.

b. Expenditures identified by type (i.e., capital, operations, administration, etc.), and program or project.

9. Project Final Report. Provide Authority with a Project Final Report within six months following completion of a project funded with Net Revenues.

10. Time Limits for Use of Net Revenues.

a. Agree that Net Revenues for Regional Capacity Program projects and Regional Traffic Signal Synchronization Program projects shall be expended or encumbered no later than the end of the fiscal year for which the Net Revenues are programmed. A request for extension of the encumbrance deadline for no more than twenty-four months may be submitted to the Authority no less than ninety days prior to the deadline. The Authority may approve one or more requests for extension of the encumbrance deadline.

b. Agree that Net Revenues allocated for any program or project, other than a Regional Capacity Program project or a Regional Traffic Signal Synchronization Program project, shall be expended or encumbered within three years of receipt. The Authority may grant an extension to the three-year limit, but extensions shall not be granted beyond a total of five years from the date of the initial funding allocation.

c. In the event the time limits for use of Net Revenues are not satisfied then any retained Net Revenues that were allocated to an Eligible Jurisdiction and interest earned thereon shall be returned to the Authority and these Net Revenues and

interest earned thereon shall be available for allocation to any project within the same source program.

11. Maintenance of Effort. Annual certification that the Maintenance of Effort requirements of Section 6 of the Ordinance have been satisfied.

12. No Supplanting of Funds. Agree that Net Revenues shall not be used to supplant developer funding which has been or will be committed for any transportation project.

13. Consider, as part of the Eligible Jurisdiction's General Plan, land use planning strategies that accommodate transit and non-motorized transportation.

**PROCEDURES TO AMEND THE
RENEWED MEASURE M TRANSPORTATION INVESTMENT PLAN
AND ORDINANCE NO. 3., LANGUAGE EXCERPT AND AMENDMENT HISTORY**

PROCEDURES

The Orange County Local Transportation Authority (OCLTA) Ordinance No. 3 approved by Orange County voters on includes a provision The following procedures are applicable to amend the Renewed Measure M Transportation Investment Plan (Plan) and the Orange County Local Transportation Authority (OCLTA) Ordinance No. 3, by the OCTLA Board of Directors (Board):

A proposed amendment which eliminates a program or project specified on page 31 of the Plan shall not be adopted unless the Board adopts a finding that the transportation purpose of the program or project to be eliminated will be satisfied by a different program or project.

A proposed amendment which changes funding categories, programs, or projects identified within the expenditure plan, page 31 of the Plan, shall be first approved by a two-thirds vote of the Taxpayers Oversight Committee.

Proposed amendments to the Plan and Ordinance No. 3 shall be presented to the Board. The Board shall set a date no sooner than 30 days thereafter for a public hearing to consider the proposed amendment(s), and the proposed amendment(s) shall be transmitted to the Board of Supervisors and the City Council of each Orange County city not less than 30 days prior to the public hearing.

Local agencies may offer comment in writing or in person at the public hearing and such comments shall be incorporated into the public record of the hearing.

The Board shall hold a public hearing prior to adoption of the amendment.

The amendment shall be passed by a roll call vote (at least a two-thirds majority) of Board members.

OCTA shall give written notice of the amendment to the County Board of Supervisors and all City Councils.

Amendment(s) to the Plan or Ordinance No. 3 shall become effective 45 days after adoption.

In addition, a proposed amendment which changes funding allocations among the four major categories of: freeway projects, streets and roads projects, transit projects, and environmental cleanup projects, as identified on page 31 of the Plan; or which changes funding allocations for Local Fair Share Program net revenues (Section IV, C, 3 of Attachment B) shall also be approved by a simple majority vote of the electors before going into effect.

SECTION 12. AMENDMENTS

The Authority may amend the Ordinance, including the Plan, to provide for the use of additional federal, state and local funds, to account for unexpected revenues, or to take into consideration unforeseen circumstances. The Authority shall notify the board of supervisors and the city council of each city in the county and provide them with a copy of the proposed amendments, and shall hold a public hearing on proposed amendments prior to adoption, which shall require approval by a vote of not less than two thirds of the Authority Board of Directors. Amendments shall become effective forty-five days after adoption. No amendment to the Plan which eliminates a program or project specified on Page 31 of the Plan shall be adopted unless the Authority Board of Directors adopts a finding that the transportation purpose of the program or project to be eliminated will be satisfied by a different program or project. No amendment to the Plan which changes the funding categories, programs or projects identified on page 31 of the Plan shall be adopted unless the amendment to the Plan is first approved by a vote of not less than two thirds of the Committee. In addition, any proposed change in allocations among the four major funding categories of freeway projects, street and road projects, transit projects and Environmental Cleanup projects identified on page 31 of the Plan, or any proposed change of the Net Revenues allocated pursuant to Section IV C 3 of Attachment B for the Local Fair Share Program portion of the Streets and Roads Projects funding category, shall be approved by a simple majority vote of the electors before going into effect.

Amendment History

Measure M Amendments

Ordinance Amendment

1. September 23, 1991: Procedures and Recommendation for Amendments to the Measure M Ordinance
2. September 26, 2011: Agencies which qualify as an “Eligible Jurisdiction” under Ordinance No. 3 (Measure M2) to also be an “Eligible Jurisdiction” under Ordinance No. 2. (Policy Resolution No. 3, Section II C1, subsection b)

Expenditure Plan Amendments

1. November 25, 1991: Reallocation of Funds Within Freeway Program
2. May 23, 1994: Reallocation of Freeway Program Funding Between I-5 and SR-91/SR-55
3. May 13, 1996: Cost Savings Transferred to CURE Accounts
4. June 9, 1997: Amendments to Local Streets and Road Component
5. December 10, 2001: Amend Freeway Program to Add SR-22 at \$203 Million
6. September 13, 2004: Amend Freeway Program to Advance SR-22 and Additional \$123.7 Million
7. September 24, 2007: Modify SR-57 Description Consistent with Project G in Measure M2 and Increase Funding by \$22 Million and Expand Limits of SR-22 to Include the West County Connection Improvements and Increase Funding by \$10 Million
8. March 8, 2010: Decrease SR-57 Funding by \$22 Million

Measure M2 Amendments

Ordinance Amendment

1. November 25, 2013: Strengthens the eligibility and selection process for TOC members to prevent any person with a financial conflict of interest from serving as a member. Also requires currently elected or appointed officers who are applying to serve on the TOC to complete an "Intent to Resign" form.
2. December 14, 2015 (corrected March 14, 2016): Accounts for additional funding from Project T allocated to the Fare Stabilization Program by changing Attachment B language to reflect a 1.47% delegation (rather than 1%) of Project U funding towards Fare Stabilization. Corrected amendment language was presented to the Board on March 14, 2016.

Transportation Investment Plan Amendments

1. November 9, 2012: Reallocation of Funds within Freeway Program Between SR-91 and I-405
2. December 14, 2015 (corrected March 14, 2016): Closeout of Project T and Reallocation of Remaining Funds within Transit Program between Metrolink Service Expansion (Project R) and Fare Stabilization Program (Project U). Corrected amendment language was presented to the Board on March 14, 2016.



CITY OF COSTA MESA

77 Fair Drive | P.O. Box 1200, Costa Mesa | California 92628-1200
Phone 714.754.5285 | Fax 714.754.5330 | www.costamesaca.gov | Katrina.Foley@costamesaca.gov

From the Office of the Mayor Katrina Foley

April 16, 2020

Darrell Johnson
Chief Executive Officer
Orange County Transportation Authority
550 S. Main St.
Orange, CA 92868

Dear Mr. Johnson:

Thank you for your continued work to serve Orange County cities and residents during the COVID-19 pandemic. The statewide shelter in place order, health care concerns, and financial strains are forcing local governments to respond to our communities' needs in unprecedented ways – I appreciate your partnership in this effort.

In the spirit of continued cooperation and in light of the current COVID-19 health and economic crisis, I, Katrina Foley, Mayor of the City of Costa Mesa, am writing to respectfully request that Orange County Transportation Authority (OCTA) relax the existing Measure M maintenance of effort (MOE) requirements. The relaxation of these requirements will greatly aid all Orange County cities as we continue to meet the immediate needs of our residents with limited financial resources due to the COVID-19 outbreak.

As you know, cities throughout Orange County are projecting significant deficits for the current fiscal year (FY 2019-20) ending on June 30, 2020 while projecting multi-million dollar revenue losses in the upcoming fiscal year. The COVID-19 crisis has also created challenges for cities to complete capital improvement projects due to the statewide social distancing requirements. The current mandates, as well as decreased revenue and across-the-board budget shortfalls, have significantly impacted cities' ability to meet OCTA's MOE requirements.



CITY OF COSTA MESA

77 Fair Drive | P.O. Box 1200, Costa Mesa | California 92628-1200
Phone 714.754.5285 | Fax 714.754.5330 | www.costamesaca.gov | Katrina.Foley@costamesaca.gov

From the Office of the Mayor Katrina Foley

Under ordinary circumstances, cities are required to provide financial documentation to OCTA in order to receive its fair share of Measure M funds and participate in competitive block grants. The required documentation assures OCTA that cities are maintaining a minimum level of city general funds for street and road expenditures from funding sources other than Measure M. These funding levels required by OCTA gradually increases each fiscal year. Failure to meet these requirements jeopardizes cities' Measure M annual funding and triggers an audit intended to bring cities back into compliance of the MOE.

Cities across the State rely on two primary sources of revenue streams to conduct business: property taxes and sales taxes. Due to the necessary closure of non-essential businesses to slow the spread of the virus, sales taxes throughout the County and State have hit record lows, resulting in massive and unforeseen reduced revenue to cities. Moreover, this reduced revenue comes at a time when cities are the first line of defense and response to its residents' public safety needs. To that end, we respectfully request that OCTA take the following actions to provide much needed relief for cities:

- Relax the MOE requirements for the current fiscal year and the next two fiscal years.
- Postpone increasing the MOE requirements. Increased MOE amounts should be reinstated when sales tax revenues reach the 2018-19 fiscal year levels.
- Any cities that do not meet the MOE requirements should be tracked and be allowed 7 years to make up the balance. This will ensure that the MOE commitments are still honored while providing cities with financial flexibility during the current crisis.

MAYOR
Katrina Foley
At Large

MAYOR PRO TEM
John B. Stephens
At Large

COUNCIL MEMBER
Andrea Marr
District 3

COUNCIL MEMBER
Manuel Chavez
District 4

COUNCIL MEMBER
Arlis Reynolds
District 5

COUNCIL MEMBER
Sandra L. Genis
At Large

COUNCIL MEMBER
Allan R. Mansoor
At Large



CITY OF COSTA MESA

77 Fair Drive | P.O. Box 1200, Costa Mesa | California 92628-1200
Phone 714.754.5285 | Fax 714.754.5330 | www.costamesaca.gov | Katrina.Foley@costamesaca.gov

From the Office of the Mayor Katrina Foley

Several cities have raised these issues during recent meetings with OCTA. We thank OCTA for agreeing to discuss a potential process for revising the MOE requirements moving forward. We ask that you take our requests into consideration as you determine a path forward and work with cities to find a solution that accommodates both OCTA and cities. We look forward to our continued partnership and collaborative efforts to continue serving the residents of Orange County.

Sincerely,

Katrina Foley
Mayor, City of Costa Mesa

cc: OCTA Board of Directors

**FY 2020-21 MOE Benchmark as a
Percentage of FY 2018-19 GFR**

Local Agency	(A) FY 2020-21 MOE Benchmark ¹	(B) FY 2018-19 GFR ²	(A/B) MOE Benchmark as a % of GFR
Aliso Viejo	538,604	20,264,249	2.66%
Anaheim	11,725,957	412,996,000	2.84%
Brea	838,243	65,445,918	1.28%
Buena Park	4,206,464	70,242,813	5.99%
Costa Mesa	8,607,340	143,753,298	5.99%
County of Orange	-	N/A	N/A
Cypress	3,607,878	36,691,594	9.83%
Dana Point	1,510,094	41,545,825	3.63%
Fountain Valley	1,564,638	61,380,673	2.55%
Fullerton	4,413,567	100,526,519	4.39%
Garden Grove	3,938,473	129,838,910	3.03%
Huntington Beach	5,921,206	236,631,000	2.50%
Irvine	8,001,915	221,961,000	3.61%
La Habra	1,737,300	48,583,838	3.58%
La Palma	201,688	12,057,831	1.67%
Laguna Beach	1,806,353	88,020,317	2.05%
Laguna Hills	331,579	22,047,533	1.50%
Laguna Niguel	908,566	43,809,474	2.07%
Laguna Woods	104,578	6,351,788	1.65%
Lake Forest	226,678	54,795,849	0.41%
Los Alamitos	182,250	14,165,860	1.29%
Mission Viejo	2,864,895	63,356,854	4.52%
Newport Beach	12,547,102	229,812,594	5.46%
Orange	3,392,885	124,241,260	2.73%
Placentia	770,006	35,796,833	2.15%
Rancho Santa Margarita	428,337	19,137,375	2.24%
San Clemente	1,316,842	65,789,926	2.00%
San Juan Capistrano	492,518	36,522,274	1.35%
Santa Ana	9,040,904	275,532,227	3.28%
Seal Beach	642,598	35,500,962	1.81%
Stanton	285,869	23,951,047	1.19%
Tustin	1,697,045	67,924,240	2.50%
Villa Park*	360,429	3,722,258	9.68%
Westminster	1,805,546	66,489,760	2.72%
Yorba Linda	2,608,191	38,335,027	6.80%
Totals	98,626,539	2,917,222,926	

*Final CAFR has not been published. Draft CAFR provided by City of Villa Park on April 21, 2020 has been used.

¹FY 2020-21 MOE Benchmarks were taken from the Board-approved staff report on April 13, 2020.

²GFRs are from FY 2018-19 CAFRs published online .

CAFR - Comprehensive Annual Financial Report

FY - Fiscal year

GFR - General fund revenue

MOE - Maintenance of effort

N/A - Not Applicable



APPENDIX I

Maintenance of Effort (MOE) Certification Form

Jurisdiction: _____

Type of GENERAL FUND Transportation Expenditures:

Please complete and attach supporting budget documentation for each line item listed below, if the MOE certification is based on the MOE benchmark by dollar value. For FY 2020-21 only, the table does not need to be completed if the Agency is certifying to meet the percentage of general fund revenues.

MAINTENANCE	Total Expenditure
Subtotal Maintenance	\$

CONSTRUCTION	Total Expenditure
Subtotal Construction	\$

INDIRECT /OTHER	Total Expenditure
Subtotal Indirect /Other	\$

Total General Fund Transportation Expenditures	\$
(Less Total MOE Exclusions ¹)	\$
MOE Expenditures	\$
MOE Benchmark Requirement²	\$
(Shortfall)/Surplus	\$

Certification:

I hereby certify that:

- The City/County of _____ is aware of the State Controller’s “Guidelines Relating to Gas Tax Expenditures for Cities and Counties”, which is a guide for determining MOE Expenditures for Measure M2 Eligibility purposes and;
- The City/County of _____’s MOE Reporting Form is in compliance with direction provided in the State Controller’s “Guidelines Relating to Gas Tax Expenditures for Cities and Counties” and;

Choose one of the following:

- The City/County of _____ certifies that the budgeted MOE expenditures meet the fiscal year (FY) FY 20-21 MOE benchmark requirement based on dollar value.
- or
- The City/County of _____ certifies that it will meet the MOE % of general fund revenues and has included in its budget for FY 2020-21 the use of local discretionary funds for streets and roads purposes that is equal to _____% (Use percentage in MOE Benchmark by Local Agency Table) of the City’s budgeted general fund revenues.

Finance Director Signature

Finance Director (Print Name)

Date

¹Funding sources include Measure M, federal, state, redevelopment, and bond financing.
²MOE benchmark requirement was modified in light of the coronavirus pandemic. To calculate the City’s FY 2020-21 MOE benchmark requirement, please refer to the updated MOE benchmark table that was approved by the Board of Directors on May 11, 2020.

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“In order to address the impacts of the novel coronavirus pandemic (commonly referred to as COVID-19), for fiscal year (FY) 2019-20, jurisdictions shall comply with all submittal requirements under the ordinance, including, but not limited to, those requirements under Attachment B (III) - Requirements for Eligible Jurisdictions, but will not be required to meet the required maintenance of effort (MOE) amount for that particular jurisdiction for the FY 2019-20. For FY 2020-21, jurisdictions shall be required to comply with all submittal requirements under the ordinance, including, but not limited to, those requirements under Attachment B (III) - Requirements for Eligible Jurisdictions, but shall only be required to meet the MOE amount for that particular jurisdiction for the FY at the same proportional share of streets and roads expenditures to general fund revenues based upon the proportion of the FY 2020-21 MOE benchmark to general fund revenues that were reported in their respective Comprehensive Annual Financial Report for FY 2018-19. Jurisdictions are encouraged to use their best efforts during FY 2019-20 and FY 2020-21 to meet original MOE levels.”