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OCTOBER 23, 2017

TO: BOARD OF DIRECTORS

THROUGH: PHILLIP A. WASHINGTON *PAW*
CHIEF EXECUTIVE OFFICER

FROM: THERESE MCMILLAN *Theresa*
CHIEF PLANNING OFFICER

SUBJECT: ACCELERATION/DECELERATION POLICY

ISSUE

This is a transmittal of a revised, draft Acceleration/Deceleration Policy, along with outlining an approach to obtaining stakeholder input prior to Board action in November 2017.

BACKGROUND

A concept for a proposed Acceleration/Deceleration Policy to guide decision-making on revisions to the sequencing of Measure M projects, due to factors beyond the control of Metro, was reviewed by the Board and its Executive Management Committee in September 2017. Feedback was received and direction given to return to the Board with a revised Policy at its November meeting. A draft Policy with revisions to the acceleration/deceleration factors is included in Attachment A.

DISCUSSION

Based on feedback received from Board, the draft Policy contains several substantive revisions and numerous other refinements. Substantive revisions include:

- Removing the reference to other priorities
- Adding a factor for savings from the time value of money

- Removing the reference to a future Transit-oriented Communities Policy and replacing that only in the Acceleration factors with general language about advancing Metro policies
- Adding a factor to facilitate advance funding by a local jurisdiction or other partner, subject to reimbursement via Metro
- Adding a factor regarding goods movement

The score assigned to each factor has been added, along with various text, all of which advances the initial concept into a further developed policy document with greater clarity.

NEXT STEPS

Staff will engage with stakeholders to obtain input on the draft Policy. Stakeholders include:

- Councils of Governments, local jurisdictions and SCAG
- Consumer groups
- Transportation providers
- Business and economic development groups
- Housing advocates

Outreach will generally be in the form of soliciting input via electronic mail, presentations by senior Metro staff and posting on *The Source*. Outreach will be targeted to achieve a reasonable cross section of stakeholders likely to provide input. Staff will summarize the feedback, make any appropriate revisions to the draft Policy in Attachment A and return to the Board at its November meeting with a recommendation for Board action.

ATTACHMENT

Attachment A – Draft Acceleration/Deceleration Policy

ATTACHMENT A

Proposed Policy – Project Acceleration/Deceleration Factors and Evaluation Process

EFFECTIVE DATE:

[date]

TITLE:

- This Policy shall be referred to as the **Measure M Acceleration/Deceleration Policy**.

PURPOSE:

- This Policy establishes clear, uniformly applied criteria to determine if a Measure M Project can be accelerated or has been decelerated with regard to funding, schedule and/or regulatory actions that are beyond the control of Metro. A comprehensive policy allows for rigorous and expeditious analyses and determinations. It provides for transparency and financial accountability.
- Projects can be accelerated as long as others are not negatively impacted, pursuant to the Measure M Ordinance.
- A project that is delayed negatively impacts the ability to advance others. A delayed project is an overall drag on maximizing the implementation capacity in the Measure M Expenditure Plan.

PROCESS:

1. Identify if one or more factors have occurred that suggest a potential for acceleration and/or deceleration. A screening tool will then be utilized to assist in identifying the factors that potentially have occurred, and whether an initial assessment of the propensity for acceleration and/or deceleration is warranted.
2. If warranted, staff will then conduct an analysis to confirm the acceleration and/or deceleration, determine the extent to which a project could be accelerated and/or decelerated, and what would be the impacts of that action.
3. The Board of Directors will review the staff analysis and may: a) give direction to subsequently provide notice and take action pursuant to controlling law; b) decline to find for acceleration and/or deceleration; or c) direct staff to undertake further analysis.
4. For projects found to be decelerated, staff shall assess and outline potential Recovery Options and present to the Board for further consideration.

GENERALLY:

- Multiple factors are typically needed to result in an acceleration or deceleration.
- In all cases, these are actions outside of Metro's control, and may not be the result of direct actions of the Board, unless those are consistent with amendment provisions and procedures included in the Measure M Ordinance.
- Factors directly impact the project's funding, schedule, scope or legal/regulatory environment.
- Acceleration factors considered may also indirectly relate to the project if they are demonstrated to substantially advance system performance, or adopted policies of the Board.
- Deceleration factors may only be directly related to the project.
- Factors are intended to be transportation mode-neutral, unless otherwise indicated (e.g., mode-specific funding revenues or fees).
- Funding considerations must be consistent with all applicable local, state, and/or federal rules and regulations; and Board-adopted debt policy.

DEFINITIONS:

- **Accelerators:** factors beyond the control of Metro that could result in facilitating early delivery of Measure M projects.
- **Decelerators:** factors beyond the control of Metro that could result in significant and costly delays to Measure M projects.

FACTORS:

Accelerators

	Accelerator	Points
Funding (30 points)	• Has new funding become available at an amount greater than 25% of the total project construction cost?	15
	○ Is this funding discretionary?	2
	○ Is this funding somehow conditional to the project or time-sensitive?	5
	○ Is funding cash flow available sooner as a result of a decelerated project?	3
	○ Are confirmed surplus funds available from another project in the same subregion, based on a final Life of Project budget?	2
	○ Would there be cost savings of at least 25% based on the time value of money resulting from this funding accelerator?	3
Process (25 points)	• Is this project currently undergoing or can commit to a streamlined planning and environmental review process that does not exceed three years in duration?	5
	• Has this project concluded the planning and environmental review process, needing no more than a refresh of the environmental document(s), not exceeding one year in duration to complete (Operation Shovel Ready)?	10
	• Can this project be designed to phase improvements to achieve early action, incremental benefits?	8
	• Has at least 75% of the required right-of-way and site acquisitions been completed or is anticipated to be completed within one year?	2
Partnerships (30 points)	• Has one or more of the local jurisdictions subject to the 3% contribution requirement for the project substantially advanced the implementation of one or more Metro Board adopted policies that would not have otherwise been achieved absent the actions of that jurisdiction related to the project?	6
	• Is the local jurisdiction and/or other local partner contributing at least 25% more than the required 3% contribution?	5
	• Are Multi-year Subregional Program funds provided by a subregion/ Council of Governments of at least 25% the cost of the project within the subregion/Council of Governments providing the funds?	6
	• Is a local improvement or financing district existing or will be established within three years of the groundbreaking date for the purpose of funding a portion of the greater than 3% contribution referenced above?	5

	<ul style="list-style-type: none"> Is there a proposal by a local jurisdiction or other third party to advance funding, which would deliver all or a functional segment of the project 25% faster, subject to a reimbursement agreement with Metro? 	2
	<ul style="list-style-type: none"> Is there a program to collect a fee in-lieu of providing required parking and local traffic mitigation fees/improvements, with revenues allocated to transit passes and other transportation demand management (TDM) strategies? 	3
	<ul style="list-style-type: none"> Is there a goods movement impact fee program to fund improvements in conformance with California and federal laws? 	3
Innovations (15 points)	<ul style="list-style-type: none"> Is there an equal or superior, less costly improvement to accomplish the capacity and performance intended by the transportation project? 	3
	<ul style="list-style-type: none"> Are there technological innovations that will reduce the planned capital and/or operating cost of the project? 	3
	<ul style="list-style-type: none"> Is there an opportunity to combine two or more projects/segments to achieve economy of scale and minimize impacts of multiple back-to-back construction over a long period of time such that the combined project construction cost is reduced by at least 25%? 	3
	<ul style="list-style-type: none"> Is this project the subject of a public-private partnership proposal or other unsolicited proposal that can reduce the estimated construction cost by a minimum of 10% or accelerate the delivery date by at least 10 years? 	6

Decelerators

	Decelerator	Points
Funding (35 points)	<ul style="list-style-type: none"> Is there an unrealized funding source for the project that was assumed in the financial plan, which reduces available project funding from that source by at least 25%? 	20
	<ul style="list-style-type: none"> Is the cost of the project so high that it cannot be constructed within the three-year window in the Expenditure Plan for the "Opening Date?" 	15
Process (25 points)	<ul style="list-style-type: none"> Is there a determination, upon identifying the Locally Preferred Alternative or completion of the planning and environmental review process, that proceeding with the project as originally conceived is incompatible with the community and cannot be compatibly constructed because funding is insufficient to design it as desired? 	10
	<ul style="list-style-type: none"> Is the project a subject of litigation that delays the project for more than six months and/or delays the project schedule such that the three-year window in the Expenditure Plan for "Opening Date" cannot be met? 	10
	<ul style="list-style-type: none"> Are there significant environmental clearance complications that are lengthy or costly to address such the project is likely to be delayed for more than 12 months and/or the project schedule would be delayed such that the three-year window in the Expenditure Plan for "Opening Date" cannot be met? 	5

Partnerships (30 points)	<ul style="list-style-type: none"> Have disproportionate or unwarranted project design requests by a local jurisdiction occurred such that six months or more is added to the planning and design review process, and the project schedule would be delayed such that the three-year window in the Expenditure Plan for "Groundbreaking Start Date" cannot be met? 	20
	<ul style="list-style-type: none"> Have excessive permit requirements been imposed by the responsible agency or denials by an agency such that the project is delayed for more than 30 days and/or the project schedule is delayed such that the three-year window in the Expenditure Plan for "Opening Date" cannot be met? 	10
Innovations (10 points)	<ul style="list-style-type: none"> Are there requests to defer a project for speculative or long-term technological improvements that are not available during the three-year window in the Expenditure Plan for the "Opening Date"? 	5
	<ul style="list-style-type: none"> Is Metro prevented from utilizing by law or regulation, any available state-of-the-art, proven technologies that can increase capacity, reduce travel times and improve safety, that are required to keep the project on time and on budget? 	5

PROPENSITY FOR ACCELERATION OR DECELERATION:

High:	67-100	Automatically advances to staff analysis and Board consideration
Medium:	34-66	Advances to staff review, which determines whether Board consideration is warranted
Low:	0-33	Does not advance to staff review nor Board consideration
Exception:	N/A	Project acceleration/deceleration can unambiguously be demonstrated by an exceptional condition regardless of scoring (e.g., unexpected full funding from outside source)

MEASURE M PROJECT EVALUATION READINESS TOOL (M-PERT)

- M-PERT is an evaluation tool only—not a determinative decision tool.
- Required initial screening step (unless exceptional condition, per above).
- All Measure M projects ordered as listed in the Expenditure Plan are included.
- The above acceleration and deceleration factors are set forth as "yes" or "no" questions to answer.
- A score given to each factor to measure its relative strength in impacting project timing; a "yes" answer returns the possible score for that factor, as listed above.
- An overall score given as a low, medium and high indicator for acceleration/deceleration.
- An accounting of evaluations conducted is logged and reported.
- The M-PERT tool is for use by Metro staff, Board Directors and their deputy staff.

ANNUAL REPORTING AND EVALUATION:

- The CEO shall report annually on the number of screening inquiries conducted for each project using M-PERT (Measure M Project Evaluation Readiness Tool).
- The CEO shall determine annually whether adjustments to this Policy are appropriate and forward a recommendation to the Board for consideration and action.