



## Board Report

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### PLANNING AND PROGRAMMING COMMITTEE JULY 18, 2018

**SUBJECT: SENATE BILL 1 ACCOUNTABILITY MEASURES**

**ACTION: RECEIVE AND FILE**

#### **RECOMMENDATION**

RECEIVE AND FILE report on Accountability Guidelines and the Baseline Agreements required by the California Transportation Commission (CTC) for seven projects awarded SB-1 grant funding on May 16, 2018.

#### **ISSUE**

At its May 2018 meeting the CTC awarded grant funding from the first cycle of three new discretionary funding programs created by Senate Bill 1 (SB-1)-the Trade Corridor Enhancement (TCEP), Solutions for Congested Corridors (SCCP), and Competitive Local Partnership (LPP) Programs. Metro received \$703 million in SB-1 grant awards across all eight of its project applications submitted for the LPP, SCCP, and TCEP competitions. Receipt of an SB-1 funding award by the CTC through these three discretionary programs triggers a requirement for Metro to enter into a Baseline Agreement with the CTC and commit to, and comply with, accountability measures and reporting requirements as outlined in the SB-1 Accountability and Transparency Guidelines (Accountability Guidelines). In recognition that these projects must remain on schedule to receive and maintain their SB-1 funding awards, staff will develop an SB-1 accountability report that provides a comprehensive, unified overview of the status of each project that has received an SB-1 discretionary grant award.

#### **BACKGROUND**

Following the adoption of guidelines for each of the three SB-1 discretionary programs (TCEP, SCCP, and LPP) in March 2018, the CTC announced a Call for Project Applications for each program. In response to this opportunity, Metro Planning staff worked across departments and with key stakeholders (e.g., Caltrans, Ports of Los Angeles and Long Beach) to (1) identify candidate projects through the Evaluative Criteria Framework, (2) develop and confirm project schedules, costs, and cashflow assumptions, and (3) create competitive grant applications for the three programs (Attachment A).

Staff submitted grant applications to TCEP, SCCP, and LPP for eight projects, as follows:

- Interstate 5 (I-5) Golden State Chokepoint Relief Project,
- State Route (SR) 71 Freeway Conversion Project,
- SR 57/60 Confluence: Chokepoint Relief Program,
- I-605/SR 91 Interchange Improvement: Gateway Cities Freight Crossroads Project,
- Rosecrans / Marquardt Grade Separation Project (as part of the America's Global Freight Gateway: Southern California Rail Project application),
- Airport Metro Connector 96th Street Transit Station Project,
- La Cañada Flintridge Soundwalls Project; and
- Metro Orange Line Bus Rapid Transit Improvements Project.

On April 25, 2018, CTC staff announced funding recommendations for these three programs- including recommended awards for each one of Metro's eight candidate projects totaling \$703 million. The CTC approved the recommendations and adopted grant awards for Metro's eight projects at their May 16, 2018 meeting.

## DISCUSSION

Pursuant to the Accountability Guidelines, Metro must enter into Baseline Agreements for seven of the eight projects that were awarded SB-1 funding through the LPP, SCCP, and TCEP. The eighth project-the La Cañada Flintridge Soundwalls project-does not require a Baseline Agreement as its LPP award and total project cost fall below the \$10 million award and \$25 million total cost thresholds triggering a Baseline Agreement established for the LPP. Attachment A shows the award funding for the seven projects requiring Baseline Agreements. The CEO or designated staff will execute the required Baseline Agreements under the authority provided by the Board through its October 2016 Board resolution providing the CEO signature authority and delegation for all federal, state, and local grant-related documents and correspondence for Board-approved transportation projects and activities.

### Baseline Agreements

Baseline Agreements commit project applicants and the respective implementing agencies to project scope, benefits, cost, and schedule for any projects receiving SB-1 grant funding. These project elements that are reflected in the Baseline Agreement are part of the CTC award language and are based upon the final application submitted by Metro as developed with input from and vetted by Metro staff across multiple departments. Subsequent to the initial Baseline Agreement, comprehensive reporting is required at various intervals including on the front-end of implementation, while in progress, and at completion as a form of follow-up accountability. **Per the adopted Accountability Guidelines, all projects are required to have a Baseline Agreement in place within four months of the program adoption (May 16, 2018), otherwise projects will not be able to seek funding allocations and funding awards could be deleted from the program.**

The required parties entering into a Baseline Agreement include the project sponsor ("Applicant"), or the agency delivering the project ("Implementing Agency"), Caltrans, and the CTC. Commitments identified within the Baseline Agreement include the following elements:

- Project cost, schedule, scope and anticipated benefits;
- Verification that the match funding sources are committed; and
- Confirmation that the costs, scope and benefits are representative of best estimates.

Further provisions require that the parties adhere to the respective funding program and the SB-1 Accountability Guidelines, including project reporting requirements and project document disclosure for auditing purposes. Attachment B includes the CTC's Project Baseline Agreement template detailing all the agreement recitals and provisions.

### **Reporting Requirements**

Comprehensive reporting is mandated through the Accountability Guidelines, and the Baseline Agreements provide a basis and benchmark for assessing the projects through the Commission's in-progress and follow-up accountability reporting. Quarterly progress reports are to be prepared by Caltrans with input from the Applicant and Implementing Agency through Fiscal Year (FY) 2019, beginning with the first progress report due to the CTC in October 2018. Starting in FY 2020, reporting will become semi-annual with presentations to the CTC in March and October.

Follow-up reporting consists of completion and final delivery reports. The Implementing Agency is required to submit a Completion Report to Caltrans within six months of construction contract acceptance or project operation. Additionally, a Final Delivery Report is to be submitted within 180 days of the project closeout when all activities on the project are concluded and all expenditures are paid and reconciled.

Implementing Agencies that do not comply with the Accountability Guidelines could be subject to adverse actions including, but not limited to:

- Written warning identifying deficiencies and timeline for correction;
- Appearance before CTC to explain the deficiencies and the timeline for correction; and
- Placement on a watch list.

For the most egregious situations, the Implementing Agency may be subject to further actions, including the following:

- Deemed ineligible for future allocations or programming actions; and
- Reduced reimbursements on all invoices until the noncompliance issues are corrected. This penalty shall remain in effect until the reporting cycle after the noncompliance has been resolved.

### **SB-1 Program Requirements per Adopted Accountability Guidelines**

In addition to the reporting requirements for the Accountability Guidelines, the CTC also adopted within each set of Guidelines for the TCEP, SCCP, and LPP explicit accountability measures governing the timely use of funds and approval of extensions for project award or delivery. These additional requirements are found in Attachment C.

The accountability measures provided within each set of Program Guidelines share similar features:

- Timely Use of Funds requires allocation requests be made in the fiscal year in which the

funding is programmed and contract awards made within six months afterwards.

- Time Extensions will only be granted by the CTC for unforeseen, extraordinary circumstances beyond the control of the implementing agency.
- Penalties for delays beyond a Program deadline or approved extension period include the deletion of the project-and its funding-from the Program.
- Cost overruns are the responsibility of the Project sponsor.

### **Development of an SB-1 Accountability Report**

To support Metro's efforts to monitor and maintain project schedules and costs and provide oversight by the Board, staff will develop an SB-1 Accountability Report that provides a comprehensive, unified overview of the status of each project that has received an SB-1 discretionary grant award from the CTC. This report will be presented to the Board on a quarterly basis, with the understanding that staff will come to the Board as needed to provide updates on the progress of these projects and their ability to meet the requirements of the Accountability Guidelines and the respective Program Guidelines under which they were awarded SB-1 funding. This is part of a larger portfolio of monitoring and reporting actions staff is undertaking to maintain our fiduciary stewardship of grant funds and ensure timely obligation and expenditure to deliver projects.

### **DETERMINATION OF SAFETY IMPACT**

Approval of this item will have no direct impact on the safety of Metro customers or employees. However, as these projects include safety enhancements, avoiding potential risks to maintaining the grant funding helps to ensure the timely realization of the projects' anticipated safety benefits.

### **FINANCIAL IMPACT**

Entering into the required Baseline Agreements for the SB-1 grant funded projects retains the \$698 million in SB-1 funding awarded to these seven projects. Further, committing to the reporting requirements and the project scope, benefits, costs and schedule demonstrate effective project delivery and high accountability and transparency around the utilization of SB-1 funds.

#### **Impact to Budget**

The approval of this item has no impact to the FY 2018 Budget.

### **NEXT STEPS**

Metro will:

- Work internally and coordinate with its partnering implementing agencies, including Caltrans, the Ports of Los Angeles and Long Beach and/or the San Gabriel Valley Council of Governments (Alameda Corridor-East Project), to furnish the project scopes, anticipated benefits, costs schedules and other items needed to develop and execute the Baseline

Agreements in a timely manner.

- Develop a comprehensive quarterly accountability report to track the development and implementation of these SB-1 program-funded projects in support of monitoring of project advancement to meet the deadlines provided for in the Accountability Guidelines and in each of the Program Guidelines.
- Develop an augmented accountability report to include other state and federal grant-funded projects (e.g. Infrastructure for Rebuilding America [INFRA], Better Utilizing Investments to Leverage Development [BUILD], Transit Intercity Rail Capital Program [TIRCP]) that can provide the Board with a unified and comprehensive report to track all projects receiving state and/or federal discretionary funds.

## **ATTACHMENTS**

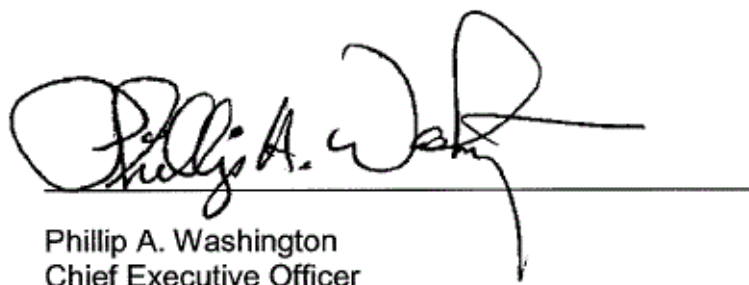
Attachment A - SB-1 Projects Requiring Baseline Agreements

Attachment B - CTC Baseline Agreement Template

Attachment C - Provisions in SB-1 Guidelines for the Timely Use of Funds, Time Extensions, and Penalties for Funding Awarded by the CTC

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Phillip A. Washington  
Chief Executive Officer

**SB 1 Awards from TCEP, SCCP, and LPP Subject to Baseline Agreements (\$ in millions)\***

TCEP Projects	Project Cost (YOE)	SB-1 TCEP Award	Notice of Determination (Required by November 2018)	Fiscal Year of Programmed Allocation			Contract Award Date (Required by December following end of fiscal year of programmed allocation)			Substantial Completion
				FY 18	FY 19	FY 20	Design (PS&E)	Right-of Way	Construction	
I-5 Golden State Chokepoint Relief Project	\$ 539.2	\$ 247.0	April 2018	-	-	\$ 247.0	June 2016	Jan. 2017	Sept. 2019	Jan. 2023
SR 71 Freeway Conversion Project	\$ 175.5	\$ 44.0	January 2018	-	-	\$ 44.0	July 2016	July 2017	Feb. 2020	July 2024
SR 57/60 Confluence: Chokepoint Relief Program	\$ 288.6	\$ 22.0 <sup>1</sup>	December 2013	-	\$ 22.0	-	June 2018	Sept. 2018	Jan. 2021	Dec. 2024
I-605/SR 91 Interchange Improvement: Gateway Cities Freight Crossroads Project	\$ 187.8	\$ 32.0 <sup>2</sup>	November 2018	-	\$ 32.0	-	Feb. 2019	Nov. 2018	Nov. 2020	Dec. 2023
Rosecrans/Marquardt Grade Separation Project (as part of Southern California Rail Project)	\$ 155.3	\$ 9.0	March 2018	-	-	\$ 9.0	May 2015	Sept. 2017	April 2020	June 2022

<sup>1</sup> \$17 million awarded for PS&E; \$5 million awarded for Right-of-Way

<sup>2</sup> \$3 million awarded for PS&E; \$29 million awarded for Right-of-Way

\*Shaded items represent critical milestones linked to SB 1 funding as required by CTC in each program's guidelines

SCCP Project	Project Cost (YOE)	SB-1 SCCP Award	Notice of Determination	Fiscal Year of Programmed Allocation			Contract Award Date (Required by December following end of fiscal year of programmed allocation)			Substantial Completion
				FY 18	FY 19	FY 20	Design (PS&E)	Right-of Way	Construction	
Airport Metro Connector/ 96th Street Transit Station Project	\$ 525.2	\$ 150.0	N/A	-	-	\$ 150.0	May 2017	April 2017	Dec 2019	June 2023

LPP Projects	Project Cost (YOE)	SB-1 LPP Award	Notice of Determination	Fiscal Year of Programmed Allocation			Contract Award Date (Required by December following end of fiscal year of programmed allocation)			Substantial Completion
				FY 18	FY 19	FY 20	Design (PS&E)	Right-of Way	Construction	
Orange Line Bus Rapid Transit Improvements	\$ 320.3	\$ 75.0	N/A	-	-	\$ 75.0	March 2020	Oct. 2018	March 2020	Aug. 2023
La Cañada Flintridge Soundwalls Project	\$ 10.7	\$ 5.0	N/A	-	-	\$ 5.0	July 2018	April 2019	June 2020	Nov. 2021

\*Shaded items represent critical milestones linked to SB 1 funding as required by CTC in each program's guidelines

**ROAD REPAIR AND ACCOUNTABILITY ACT OF 2017**

**PROJECT BASELINE AGREEMENT**

*[insert Project Name]*

Resolution \_\_\_\_\_

**1. FUNDING PROGRAM**

- Active Transportation Program
- Local Partnership Program (Competitive)
- Solutions for Congested Corridors Program
- State Highway Operation and Protection Program
- Trade Corridor Enhancement Program

**2. PARTIES AND DATE**

- 2.1 This Project Baseline Agreement (Agreement) for the *[insert Project Name]*, effective on *[insert date Commission approved baseline]*, is made by and between the California Transportation Commission (Commission), the California Department of Transportation (Caltrans), the Project Applicant, *[insert Name of Project Applicant]*, and the Implementing Agency, *[insert Name of Implementing Agency]*, sometimes collectively referred to as the “Parties”.

**3. RECITAL**

- 3.2 Whereas at its *[insert meeting date Commission programmed project]* meeting the Commission approved the *[insert Funding Program]* and included in this program of projects the *[insert Project Name]*, the parties are entering into this Project Baseline Agreement to document the project cost, schedule, scope and benefits, as detailed on the Project Programming Request Form attached hereto as Exhibit A and the Project Report attached hereto as Exhibit B, as the baseline for project monitoring by the Commission.
- 3.3 The undersigned Project Applicant certifies that the funding sources cited are committed and expected to be available; the estimated costs represent full project funding; and the scope and description of benefits is the best estimate possible.

**4. GENERAL PROVISIONS**

The Project Applicant, Implementing Agency, and Caltrans agree to abide by the following provisions:



- 4.1 To meet the requirements of the Road Repair and Accountability Act of 2017 (Senate Bill [SB] 1, Chapter 5, Statutes of 2017) which provides the first significant, stable, and on-going increase in state transportation funding in more than two decades.
- 4.2 To adhere, as applicable, to the provisions of the Commission:
- Resolution *[insert number]*, “Adoption of Program of Projects for the Active Transportation Program”, dated *[insert date]*.
  - Resolution *[insert number]*, “Adoption of Program of Projects for the Local Partnership Program”, dated *[insert date]*
  - Resolution *[insert number]*, “Adoption of Program of Projects for the Solutions for Congested Corridors Program”, dated *[insert date]*
  - Resolution *[insert number]*, “Adoption of Program of Projects for the State Highway Operation and Protection Program”, dated *[insert date]*
  - Resolution *[insert number]*, “Adoption of Program of Projects for the Trade Corridor Enhancement Program”, dated *[insert date]*
- 4.3 All signatories agree to adhere to the Commission’s *[insert Funding Program(s)]* Guidelines. Any conflict between the programs will be resolved at the discretion of the Commission.
- 4.4 All signatories agree to adhere to the Commission’s SB 1 Accountability and Transparency Guidelines and policies, and program and project amendment processes.
- 4.5 The *[insert agency(s)]* agrees to secure funds for any additional costs of the project.
- 4.6 The *[insert agency(s)]* agrees to report to Caltrans on a quarterly basis; after July 2019, reports will be on a semi-annual basis on the progress made toward the implementation of the project, including scope, cost, schedule, outcomes, and anticipated benefits.
- 4.7 Caltrans agrees to prepare program progress reports on a quarterly basis; after July 2019, reports will be on a semi-annual basis and include information appropriate to assess the current state of the overall program and the current status of each project identified in the program report.
- 4.8 The *[insert agency(s)]* agrees to submit a timely Completion Report and Final Delivery Report as specified in the Commission’s SB 1 Accountability and Transparency Guidelines.
- 4.9 All signatories agree to maintain and make available to the Commission and/or its designated representative, all work related documents, including without limitation engineering, financial and other data, and methodologies and assumptions used in the determination of project benefits during the course of the project, and retain those records for four years from the date of the final closeout of the project. Financial records will be maintained in accordance with Generally Accepted Accounting Principles.
- 4.10 The Transportation Inspector General of the Independent Office of Audits and Investigations has the right to audit the project records, including technical and financial data, of the Department of Transportation, the Project Applicant, the Implementing

Agency, and any consultant or subconsultants at any time during the course of the project and for four years from the date of the final closeout of the project, therefore all project records shall be maintained and made available at the time of request . Audits will be conducted in accordance with Generally Accepted Government Auditing Standards.

**5. SPECIFIC PROVISIONS AND CONDITIONS**

5.1 Project Schedule and Cost

See Project Programming Request Form, attached as Exhibit A.

5.2 Project Scope

See Project Report or equivalent, attached as Exhibit B. At a minimum, the attachment shall include the cover page, evidence of approval, executive summary, and a link to or electronic copy of the full document.

5.3 Other Project Specific Provisions and Conditions

**Attachments:**

Exhibit A: Project Programming Request Form

Exhibit B: Project Report

**SIGNATURE PAGE**  
**TO**  
**PROJECT BASELINE AGREEMENT**

*[insert Project Name]*

Resolution \_\_\_\_\_

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Name \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_  
Project Applicant \_\_\_\_\_

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Name \_\_\_\_\_ Date \_\_\_\_\_  
Title \_\_\_\_\_  
Implementing Agency \_\_\_\_\_

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Laurie Berman \_\_\_\_\_ Date \_\_\_\_\_  
Director \_\_\_\_\_  
California Department of Transportation

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Susan Bransen \_\_\_\_\_ Date \_\_\_\_\_  
Executive Director \_\_\_\_\_  
California Transportation Commission

**Provisions in SB-1 Program Guidelines for the Timely Use of Funds, Time Extensions,  
and Penalties for Funding Awarded by the CTC**

**FY 2018-2020 Trade Corridor Enhancement Program (TCEP)<sup>1</sup>**

Major criteria for determining eligibility

Two requirements determined eligibility for FY 2018-2020 TCEP projects – the deadlines for a project to execute a Notice of Determination and a Construction Contract Award.

**Notice of Determination (NOD):** Capital costs will only be programmed if a NOD is filed, in accordance with CEQA, within six months of program adoption, which occurred on May 16, 2018.

**Construction Contract Award:** The construction contract award must be made within six months of the end of the fiscal year in which the CTC has programmed funding for construction. As the end of the fiscal year is June 30<sup>th</sup>, the award must be made by December 30<sup>th</sup> of the same calendar year. As the final fiscal year programmed in this TCEP cycle is FY 2020, a project must be able to award a construction contract by December 30<sup>th</sup>, 2020 to be eligible for programming consideration in this cycle of TCEP.

Timely Use of Funds

**Allocations:** Allocations must be requested in the fiscal year of project programming, and construction allocations are valid for six months from the date of allocation unless the CTC approves an extension.

**Project Development or Right-of-Way:** Funds allocated for project development or right-of-way costs must be expended by the end of the second fiscal year following the fiscal year in which the funds were allocated. The implementing agency must invoice Caltrans for these costs no later than 180 days after the fiscal year in which the final expenditure occurred.

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<sup>1</sup> <http://catc.ca.gov/programs/sb1/tcep/docs/sb1-tcep-final-guidelines-v2-101817.pdf>

## ATTACHMENT C

Projects that receive funds for capital costs (Right-of-Way and Construction) will only be programmed if a Notice of Determination (NOD) is filed by November 16, 2018 (six months after the program adoption).

For projects that are receiving funds in fiscal year 2019, allocation requests must be made by June 2019, and if the construction component is receiving funds, a construction contract award must be made by December 2019.

For projects receiving funds in the fiscal year 2020, allocation requests must be made by June 2020, and a construction contract award must be made by December 2020.

### Time extensions

**Allocations:** The CTC may extend the deadline only once for allocation and only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed twelve months.

**Contract Awards:** The CTC may extend the deadline only once for contract award and only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed twelve months.

**Expenditures:** The CTC may extend the deadlines for expenditures for project development or right-of-way, or for contract completion no more than one time, only if it finds that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed more than 20 months for project completion and 12 months for expenditure.

## ATTACHMENT C

### Penalties for delays and cost overruns

If the NOD is not filed by November 16, 2018 for a project that received capital funds, the project will be deleted from the program.

If the project schedule slips to the point that programmed funds are not allocated within the fiscal year programmed or within the time allowed by an approved allocation extension, the project will be deleted from the program.

### Cost Overruns

Any cost overruns are at the expense of the project sponsor.

### FY 2018-2021 Solutions for Congested Corridors Program (SCCP)<sup>2</sup>

#### Major criteria for determining eligibility

The main criterion for determining project eligibility in the FY 2018-2021 SCCP was that a project must meet the latest possible timely use of funds deadlines for construction within this funding cycle, which require the allocation of construction funds by June 2021 and construction contract award by December 2021.

#### Timely Use of Funds

Funding allocations must be requested in the fiscal year of project programming, and are valid for award for six months from the date of allocation unless the CTC approves an extension.

After award of contract, the implementing agency has up to 36 months to complete (accept) the contract. At the time of fund allocation, the Commission may extend the deadline for completion of work and the liquidation of funds if necessary to accommodate the proposed expenditure plan for the project.

#### Penalties for delays and cost overruns

When programmed funds are not allocated within the fiscal year programmed or within the time allowed by an approved extension, the project will be deleted from the Program. Failure to meet either of the aforementioned deadlines will result in loss of SCCP funds.

To allocate construction funds by June 2021, projects must be ready-to-advertise and committed local funds must be available by April 2021. Delays in the environmental, design, and/or right-of-way phases threaten project readiness. Once funds are allocated, Metro is required to award a construction contract within six months. Cost overruns that contribute to project delay or jeopardize availability of committed funds may lead to loss of funds.

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<sup>2</sup> <http://www.catc.ca.gov/programs/sb1/sccp/docs/sb1-sccp-final-adopted-guidelines-and-resolution-120617.pdf>

### Time extensions

Time extensions can only be granted once for each stage of delivery if an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance.

The CTC may extend a deadline for allocation and award upon the request of the implementing agency for a period no longer than 12 months and only if the delay is attributable to an extraordinary circumstance beyond the control of the implementing agency.

The CTC may provide an extension for the deadline for expenditure and for project completion only due to an extraordinary circumstance. The time of extension cannot exceed more than 12 months for expenditure and 20 months for project completion.

### Cost Overruns

Any cost overruns are at the expense of the project sponsor.



### FY 2018-2020 Local Partnership Program – Competitive Program (LPP)<sup>3</sup>

#### Major criteria for determining eligibility

The main criterion for determining project eligibility in the 2018 LPP Competitive Program was whether a project could meet the latest possible timely use of funds deadlines for construction within this funding cycle which are to allocate construction funds by June 2020 and award a construction contract by December 2020.

#### Timely Use of Funds

**Allocations:** Allocations must be requested in the fiscal year of project programming. Construction allocations are valid for award for six months from the date of allocation unless the Commission approves an extension.

**Contract Award:** After award of the contract, the implementing agency has up to 36 months to complete (accept) the contract. At the time of fund allocation, the CTC may extend the deadline for completion of work and the liquidation of funds if necessary to accommodate the proposed expenditure plan for the project.

**Project development or right-of-way:** Funds allocated for project development or right-of-way costs must be expended by the end of the second fiscal year following the fiscal year in which the funds were allocated. The implementing agency must invoice Caltrans for these costs no later than 180 days after the fiscal year in which the final expenditure occurred.

#### Time extensions

Time extensions can only be granted once for each phase of the project as follows:

- **Allocation:** If the CTC determines that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed 12 months.
- **Contract Award:** If the CTC determines that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed 12 months.

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<sup>3</sup> <http://catc.ca.gov/programs/sb1/lpp/docs/sb1-lpp-revised-final-guidelines-and-resolution-120617.pdf>

## ATTACHMENT C

- **Expenditures for project development or right-of-way, or for contract completion:** If the CTC determines that an unforeseen and extraordinary circumstance beyond the control of the responsible agency has occurred that justifies the extension. The extension will not exceed the period of delay directly attributed to the extraordinary circumstance and cannot exceed more than 12 months for expenditure and 20 months for project completion.

### Penalties for delays and cost overruns

Any funds for which a contract has not been awarded within six months or prior to the expiration of an extension to the period of allocation will be deallocated.

Failure to meet either of the aforementioned deadlines will result in loss of LPP funds. To allocate construction funds by June 2020, projects must be ready-to-advertise and committed local funds must be available by April 2020. Delays in the environmental, design, and/or right-of-way phases threaten project readiness.

Once funds are allocated, Metro is required to award a construction contract within six months. Cost overruns that contribute to project delay or jeopardize availability of committed funds may ultimately lead to the loss of funds.

### Cost Overruns

Any cost overruns are at the expense of the project sponsor.