

## Metropolitan Transportation Commission Programming and Allocations Committee

April 10, 2019

Agenda Item 2f

### Proposed Agreements with the Kern Council of Governments, Tehama County Transportation Commission and Tuolumne County Transportation Council for Exchange of Federal Apportionment

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**Subject:** A request to authorize the Executive Director to enter into agreements with the Kern Council of Governments (Kern COG) the Tehama County Transportation Commission (Tehama CTC) and the Tuolumne County Transportation Council (Tuolumne CTC) to exchange a total of up to \$11.8 million in Congestion Mitigation Air Quality Improvement (CMAQ) funds.

**Background:** In response to an upcoming federal rescission of unobligated funds, in March, MTC staff received requests from the three regional Transportation Planning Agencies (RTPAs) listed below to exchange roughly a total of \$11.8 million in CMAQ apportionment.

Kern COG	\$10.0 million
Tehama CTC	\$1.3 million
Tuolumne CTC	\$0.5 million

The Fixing America's Surface Transportation (FAST) Act includes a provision that rescinds a portion of unobligated CMAQ funds as of September 30, 2019. Some regions are unable to use all of their CMAQ apportionment by this date. MTC will have no difficulty in securing (or obligating) all of the regional CMAQ funds to avoid this rescission. There are currently several CMAQ-funded projects ready to be delivered within the region, including the SFTMA Central Subway, but are currently on hold due to lack of CMAQ funds in the region.

The Kern COG, Tehama CTC, and Tuolumne CTC all have CMAQ balances subject to the September 30, 2019 FHWA rescission. In order to avoid losing these apportionment balances to their regions, the Kern COG requests to exchange up to \$10.0 million, the Tehama CTC requests to exchange up to \$1.3 million, and the Tuolumne CTC requests to exchange up to \$0.5 million in FFY 2018-19 CMAQ apportionment with MTC, for an equal amount of MTC's CMAQ apportionment to be repaid in FFY 2019-20.

These exchanges benefit the smaller rural counties by avoiding the rescission of their CMAQ balances, while allowing CMAQ projects currently on hold in the MTC region due to a lack of CMAQ funds to be delivered.

It is often difficult for smaller regions to fully utilize their federal funds and deliver projects through the federal-aid process. This exchange further allows these rural counties to pool multiple years of federal funding and consolidate into a single larger federal CMAQ project. MTC entered into

similar agreements the Calaveras Council of Governments and the Mariposa County Transportation Commission last year.

Caltrans staff has confirmed this exchange of earlier-year apportionment for later-year apportionment is allowed per Caltrans' Apportionment/Obligation Authority Management Policy, and has provided the form of letter for such exchanges.

The effective date of the transfer of CMAQ apportionment from these agencies to MTC is May 1, 2019. The effective date of the transfer of CMAQ apportionment from MTC to these three regions is October 1, 2019.

**Issues:**

**Provision to Eliminate Risk**

The CMAQ funds are subject to rescission by the Federal Highways Administration (FHWA) on September 30, 2019 unless agreements can be executed between MTC and these agencies in sufficient time. The exchanges will not take place unless the agreements can be executed in time for MTC to secure the funds.

**Recommendation:**

Refer to the Commission, approval of authorization for the Executive Director or designee to make final minor adjustments and sign Letters of Understanding with the Kern County Council of Governments, the Tehama County Transportation Commission, and the Tuolumne County Transportation Council for exchange of up to a total of roughly \$11.8 million, in CMAQ funds.

**Attachment:**

Draft Letters of Understanding with Kern COG, Tehama CTC and Tuolumne CTC for Executive Director's signature.



METROPOLITAN  
TRANSPORTATION  
COMMISSION

May 1, 2019

Mr. Rihui Zhang, Chief  
Division of Local Assistance  
Caltrans  
P.O. Box 942873  
Sacramento, CA 94273-0001

**- DRAFT -**

RE: Letter of Understanding between the Kern Council of Governments and the Metropolitan Transportation Commission for federal apportionment exchange.

Dear Mr. Zhang,

This letter constitutes our understanding of an exchange of federal Congestion Mitigation and Air Quality Improvement (CMAQ) apportionment between the Kern Council of Governments (Kern COG) and the Metropolitan Transportation Commission (MTC).

The Kern COG currently has a balance of CMAQ apportionment subject to federal rescission on September 30, 2019 under the Fixing America's Surface Transportation (FAST) Act. To avoid the loss of this apportionment balance, the Kern COG requests to exchange \$10,000,000 of its CMAQ fund balance subject to rescission on September 30, 2019, for an equal amount of CMAQ funds from MTC, to be transferred on October 1, 2019.

This letter is to formalize the exchange of \$10,000,000 in CMAQ apportionment from Kern COG effective May 1, 2019, with an equivalent amount of FFY 2019-20 CMAQ apportionment from MTC effective October 1, 2019.

This exchange is contingent upon execution of this Letter of Understanding in time for the MTC to secure the funds prior to the September 30, 2019 federal rescission. Should the Letter of Understanding not be executed in time for the MTC to secure the funds prior to the rescission or if any other timely use of funds deadlines are not met that would result in the loss of apportionment balance, MTC shall retain its full CMAQ apportionment and the Letter of Understanding is null and void.

This Letter of Understanding sets forth the MTC and Kern COG intent for the use of the identified CMAQ apportionment, and requests Caltrans to adjust each region's apportionment balance as appropriate. This exchange benefits Kern COG by preventing the region's loss of federal fund apportionments, while providing MTC with additional capacity to deliver CMAQ projects sooner. We are relying on our understanding that this exchange is allowed per Caltrans' Obligation Authority Management Policy.

Mr. Ray Zhang  
May 1, 2019  
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This Letter of Understanding will be in effect for a one-time exchange of CMAQ funds through October 1, 2019.

We appreciate this opportunity to exchange federal fund apportionment and support our transportation partners. If you have questions, please contact Ahron Hakimi, Executive Director Kern COG at (661) 635-2901 or Ross McKeown, MTC's Assistant Programming Director, at (415) 778-5242.

Sincerely,

Sincerely,

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Ahron Hakimi  
Executive Director, Kern Cog

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Therese W. McMillan  
Executive Director, MTC

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METROPOLITAN  
TRANSPORTATION  
COMMISSION

May 1, 2019

Mr. Rihui Zhang, Chief  
Division of Local Assistance  
Caltrans  
P.O. Box 942873  
Sacramento, CA 94273-0001

- DRAFT -

RE: Letter of Understanding between the Tehama County Transportation Commission and the Metropolitan Transportation Commission for federal apportionment exchange.

Dear Mr. Zhang,

This letter constitutes our understanding of an exchange of federal Congestion Mitigation and Air Quality Improvement (CMAQ) apportionment between the Tehama County Transportation Commission (TCTC) and the Metropolitan Transportation Commission (MTC).

The TCTC currently has a balance of CMAQ apportionment subject to federal rescission on September 30, 2019 under the Fixing America's Surface Transportation (FAST) Act. To avoid the loss of this apportionment balance, the TCTC requests to exchange its CMAQ fund balance of \$1,218,394 subject to rescission on September 30, 2019, for an equal amount of CMAQ funds from MTC, to be transferred on October 1, 2019.

This letter is to formalize the exchange of \$1,218,394 in CMAQ apportionment from TCTC effective May 1, 2019, with an equivalent amount of FFY 2019-20 CMAQ apportionment from MTC effective October 1, 2019.

This exchange is contingent upon execution of this Letter of Understanding in time for the MTC to secure the funds prior to the September 30, 2019 federal rescission. Should the Letter of Understanding not be executed in time for the MTC to secure the funds prior to the rescission or if any other timely use of funds deadlines are not met that would result in the loss of apportionment balance, MTC shall retain its full CMAQ apportionment and the Letter of Understanding is null and void.

This Letter of Understanding sets forth the MTC and TCTC intent for the use of the identified CMAQ apportionment, and requests Caltrans to adjust each region's apportionment balance as appropriate. This exchange benefits TCTC by preventing the region's loss of federal fund apportionments, while providing MTC with additional capacity to deliver CMAQ projects sooner. We are relying on our understanding that this exchange is allowed per Caltrans' Obligation Authority Management Policy.

Mr. Ray Zhang

May 1, 2019

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This Letter of Understanding will be in effect for a one-time exchange of CMAQ funds through October 1, 2019.

We appreciate this opportunity to exchange federal fund apportionment and support our transportation partners. If you have questions, please contact Tim McSorely, Executive Director TCTC at (530) 385-1462 or Ross McKeown, MTC's Assistant Director of Programming, at (415) 778-5242.

Sincerely,

Sincerely,

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Tim McSorely  
Executive Director, TCTC

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Therese W. McMillan  
Executive Director, MTC



May 1, 2019

Mr. Rihui Zhang, Chief  
Division of Local Assistance  
Caltrans  
P.O. Box 942873  
Sacramento, CA 94273-0001

- DRAFT -

RE: Letter of Understanding between the Tuolumne County Transportation Council and the Metropolitan Transportation Commission for federal apportionment exchange.

Dear Mr. Zhang,

This letter constitutes our understanding of an exchange of federal Congestion Mitigation and Air Quality Improvement (CMAQ) apportionment between the Tuolumne County Transportation Council (TCTC) and the Metropolitan Transportation Commission (MTC).

The TCTC currently has a balance of CMAQ apportionment subject to federal rescission on September 30, 2019 under the Fixing America's Surface Transportation (FAST) Act. To avoid the loss of this apportionment balance, the TCTC requests to exchange its CMAQ fund balance of \$445,556 subject to rescission on September 30, 2019, for an equal amount of CMAQ funds from MTC, to be transferred on October 1, 2019.

This letter is to formalize the exchange of \$445,556 in CMAQ apportionment from TCTC effective May 1, 2019, with an equivalent amount of FFY 2019-20 CMAQ apportionment from MTC effective October 1, 2019.

This exchange is contingent upon execution of this Letter of Understanding in time for the MTC to secure the funds prior to the September 30, 2019 federal rescission. Should the Letter of Understanding not be executed in time for the MTC to secure the funds prior to the rescission or if any other timely use of funds deadlines are not met that would result in the loss of apportionment balance, MTC shall retain its full CMAQ apportionment and the Letter of Understanding is null and void.

This Letter of Understanding sets forth the MTC and TCTC intent for the use of the identified CMAQ apportionment, and requests Caltrans to adjust each region's apportionment balance as appropriate. This exchange benefits TCTC by preventing the region's loss of federal fund apportionments, while providing MTC with additional capacity to deliver CMAQ projects sooner. We are relying on our understanding that this exchange is allowed per Caltrans' Obligation Authority Management Policy.

Mr. Ray Zhang

May 1, 2019

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This Letter of Understanding will be in effect for a one-time exchange of CMAQ funds through October 1, 2019.

We appreciate this opportunity to exchange federal fund apportionment and support our transportation partners. If you have questions, please contact Darin Grossi, Executive Director MCLTC at (209) 533-5603 or Ross McKeown, MTC's Assistant Director of Programming, at (415) 778-5242.

Sincerely,

Sincerely,

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Darin Grossi  
Executive Director, TCTC

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Therese W. McMillan  
Executive Director, MTC