

**Board Report**

File #: 2021-0530, **File Type:** Motion / Motion Response**Agenda Number:** 11.

**PLANNING AND PROGRAMMING COMMITTEE
SEPTEMBER 15, 2021****SUBJECT: I-710 SOUTH CORRIDOR IMPROVEMENTS ENVIRONMENTAL PROCESS STATUS
UPDATE AND RESPONSE TO MOTION 47****ACTION: RECEIVE AND FILE****RECOMMENDATION**

RECEIVE AND FILE I-710 South Corridor Project Motion 47 Response.

ISSUE

At the May 27, 2021, regular Board meeting, Motion 47 (Solis, Sandoval, Butts, and Garcetti) on the I-710 (South) corridor improvements environmental process was approved (Attachment A). The Motion requested a report back at the September Board meeting.

BACKGROUND*Draft EIR/EIS Development*

The environmental studies for the I-710 corridor improvements started in 2008 to address significant traffic congestion, safety, and air quality issues resulting from increasing traffic volumes and infrastructure deficiencies. Metro, in partnership with Caltrans, Gateway Cities Council of Governments (GCCOG), Port of Los Angeles, Port of Long Beach, Southern California Association of Governments, and the I-5 Joint Powers Authority (collectively, the Funding Partners), completed scoping, alternatives analysis and other technical work in early 2011, leading to the preparation of the draft environmental document (DED) and preliminary engineering. The development of the potential improvement alternatives was guided by the stated purpose statement approved by all study Partners and regulatory and resources agencies:

- Improve air quality and public health
- Improve traffic safety
- Address design deficiencies
- Address projected traffic volume
- Address projected growth in population, employment, and economic activity related to goods movement

The development of the DED was guided by a public outreach framework.

The DED circulated on June 28, 2012, evaluated four build alternatives, three of which, in addition to

improvements to the mainline freeway, included a grade-separated freight corridor. Close to 3,000 comments were received during the initial circulation. In early 2013, the Study Team, consisting of Metro, Caltrans, and the GCCOG, decided that reevaluation of the alternatives and re-circulation of the DED were necessary to address:

- 1) changes in the Ports' growth forecast scenarios and initial assumptions made about the future distribution of truck trips in Southern California;
- 2) significant right of way requirements for the original design that could make the project infeasible; and
- 3) a proposal by the Coalition for Environmental Health and Justice (CEHAJ) comprising community-based organizations and public health advocates to consider a new alternative to be added to those considered in the DED. This alternative was known as Community Alternative 7 and proposed the construction of a zero-emission freight corridor and significant investment in active transportation improvements and community benefits.

In response to community input regarding the need to address corridor issues beyond the freeway itself, both Build Alternatives included the following programmatic elements: the phased-in Zero Emission Truck Technology Deployment Program (a.k.a. I-710 Clean Truck Program), Community Benefits Grant Program, Congestion Relief Program and the Transit Enhancements Program. The 710 Clean Truck Program (CTP) would deploy 4,000 near zero-emission (NZE) or zero-emission (ZE) heavy duty (Class 8) trucks for use within the I-710 Corridor by 2035, assuming that such trucks would be commercially available and funds would be available to purchase those.

The Metro Board of Directors adopted Alternative 5C as the Locally Preferred Alternative (LPA) on March 1, 2018 (Legistar File #2017-0849). In addition to approving the LPA for the I-710, the Board also approved two motions - Motion 5.1 by Directors Hahn, Solis, Garcia, and Dupont-Walker (Legistar File # 2018-0053) and Motion 5.2 by Directors Solis, Garcia, Ridley-Thomas, Butts, Najarian, and Hahn (Legistar File # 2018-0068) that provided additional direction to Metro staff to follow in implementing a I-710 Early Action Program.

Final EIR/EIS Development

Completion/closure of the environmental process requires the Federal Highway Administration (FHWA) to issue a Record of Decision (ROD), which confirms the formal federal approval of the FEIR/FEIS and allows Metro and Caltrans to proceed with the final design, right-of-way acquisition, and construction of the project elements. As part of the National Environmental Protection Act (NEPA) review process, FHWA is legally required to consult with the United States Environmental Protection Agency (EPA) and other state and local agencies on the Project's ability to meet project-level air quality conformity requirements. This multi-agency consultation process begins before the DED is prepared. A final air quality conformity determination is needed before the environmental document can be finalized.

Transportation conformity is required under Clean Air Act (CAA) section 176(c) (42 U.S.C. 7506(c)) to ensure that federally supported highway and transit project activities are consistent with/conform to the purpose of a state air quality implementation plan (SIP). Under these regulations, the I-710 Project would normally be considered a "Project of Air Quality Concern" (POAQC) because of the number of diesel trucks that currently travel on the freeway, the existing traffic congestion levels, and potential for the Project to significantly increase the number of diesel trucks traveling on the freeway. The underlying assumption is that new capacity on I-710 re-distributes traffic that had previously spilled over from the increasingly congested I-710 into communities on

local arterial streets and onto other regional freeways back onto the I-710. Although the determination of a POAQC is ultimately an FHWA decision, EPA's understanding of the benefits embedded in this Project and concurrence with Metro and Caltrans' recommendations are fundamental in supporting FHWA in their decision-making.

Because the I-710 CTP was already included as part of the I-710 investments when the DED was publicly circulated in 2017, Metro/Caltrans ascertained that there were grounds to challenge the Project's classification as a POAQC (since the Project's implementation would result in an overall reduction in diesel truck trips) thus obviating the need for a quantitative Particulate Matter (PM) "Hot Spot" analysis. This approach had never been tried before. The quantitative PM "Hot Spot" analysis methodology was a concern as preliminary tests indicated that the zero-emissions freight corridor alternative (Alternative 7) failed due to increases in particulate matter attributable to increases of roadway dust and brake/tire wear, that are created regardless of, and ultimately overwhelm, the tailpipe emission reductions expected with the deployment of cleaner truck technology. This outcome would have also been the case for the board-approved Alternative 5C or even a scenario introducing 100% zero emission trucks for the CTP. EPA has not yet established guidelines to identify and quantify potential mitigations for these entrained emission increases.

Metro and Caltrans have been coordinating with EPA throughout the environmental process. The idea of classifying the Project as "not a project of air quality concern" was initially discussed with EPA in August 2018. EPA was open to this idea but required:

- 1) a strong enough written commitment by Metro to the CTP;
- 2) more detail on the CTP program description, including funding and how the CTP would be administered, implemented, and enforced. EPA saw this approach as "legally vulnerable" because "it deviated from the standard regulatory procedures" and "could set precedent" but was open to discussions. In October 2018, EPA issued a white paper delineating all the requirements that would constitute the written commitment, including programming of funds towards program implementation.

In response to EPA's requirement for a written commitment, in July 2019, Metro, Caltrans, SCAG, and the GCCOG signed a Memorandum of Understanding (MOU) memorializing their commitment to the I-710 Clean Truck Program (Attachment B~~D~~). To address EPA's principal concern about funding for the CTP, at the January 2020 Board meeting, Directors Hahn, Solis, Butts, Garcia, and Najarian introduced Motion 8.1 (Legistar File #2020-0067) that directed staff to include the I-710 Clean Truck Program as an Early Action investment under both the Goods Movement Strategic Plan and the I-710 South Corridor Project. Following staff's response to this motion, the Metro Board also voted in March 2020 (Legistar File#2020-0129) to program \$50 million in funding from Metro-controlled sources, including but not limited to Measure R, as "seed funding" for the CTP, to be made available contingent upon a ROD issued by FHWA for the Project. The Board's action was to accomplish three important goals:

- 1) Sending a strong message of good faith and meaningful commitment by Metro to the EPA that Metro intends to fund and implement the Clean Truck Program following FHWA issuing a ROD for the I-710 Project;

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- 2) Programming the initial funding to allow Metro to develop the I-710 Clean Truck Program in partnership with regional stakeholders and regulatory agencies; and,
 - 3) Identifying local seed funding that would allow Metro to leverage matching funds from state and federal discretionary grant programs to fulfill the Board's \$200 million funding target to support the implementation of the I-710 Clean Truck Program.

Following Metro Board's approval of programming of \$50 million in I-710 Early Action funds as seed funding for the I-710 CTP, Metro led a multi-agency coordination meeting on June 9, 2020, with the goal of reaching an agreement on the project-level air quality conformity determination for the Project. This meeting included executive-level representatives from Metro, SCAQMD, FHWA, EPA, and Caltrans. The meeting was positive - all parties committed to working towards an agreement; however, EPA was not ready to agree on the conformity determination before having additional time to discuss the details of the CTP and the size of the commitment Metro/Caltrans were willing to offer (beyond the \$50 million).

Over the following three months, Metro and Caltrans staff held additional meetings with EPA, AQMD, and FHWA. The staff discussed the remaining concerns and further detail needed on both the technical and regulatory sides. Based on the information shared and the in-depth discussions held during the recent meetings, Metro/Caltrans provided the following additional information to help EPA make the final determination as recommended by Metro and Caltrans:

- Specifics of the Program Description (e.g. identification of target vehicles, tracking, reporting, auditing, incentive structures, etc.)
 - A Roles & Responsibilities document for the CTP's Steering Committee that memorialized all the important details and decisions that cannot be finalized at this time.
 - A phasing plan, including deployment years and number of trucks for the initial phase of the CTP, assuming \$50 million of initial investment. Future estimates for the remainder of the CTP deployment were also included, but only for illustrative purposes as the funding, infrastructure and technological variables are impossible to predict today.
- Justification of "back-stop" measures to guarantee the program's viability

Despite all these efforts, additional program development, and seed funding commitments, EPA continued to dispute the viability of the CTP, which presents an insurmountable barrier to applying the I-710 CTP, either as a project feature or as mitigation, as the means to reduce diesel truck trips in the I-710 Corridor and to achieve project level conformity. The EPA's final position was memorialized in their March 25, 2021 letter (Attachment B).

DISCUSSION

Per Board direction, all work related to the development of a FEIR/FEIS for the I-710 Corridor Project was suspended by the end of May 2021. With the suspension of the FEIR/FEIS, Metro and Caltrans have initiated the I-710 Task Force to review the Purpose and Need for this project and to develop a multimodal set of strategies, projects, and programs that will meet the goals set forth by a community-inclusive group of stakeholders, including GCCOG, that will serve on the task force.

The goal is to identify and work with stakeholders to develop a multimodal investment strategy to improve

regional mobility, safety, and air quality in concert with fostering economic vitality (including opportunities for local hire), social equity, environmental sustainability, and access to opportunity for LA County residents—particularly for the most impacted residents that live adjacent to I-710. The focal point of Metro’s engagement strategy will be a new stakeholder committee called the I-710 South Corridor Task Force (I-710 Task Force), entrusted with the important responsibility of working collaboratively and constructively to accomplish the following outcomes: (1) review the purpose and need, (2) develop multimodal and multipurpose strategies to meet these goals in alignment with state and local policies, (3) identify projects and programs to realize these strategies, and (4) create an investment plan to implement priority projects that leverage local (Measure R/M) funding and provide benefit to local communities and the region at-large.

In partnership with Caltrans (District 7), Metro will conduct a series of workshops with the I-710 Task Force over the next six to eight months to accomplish these overarching goals. The first meeting of the I-710 Task Force is scheduled for Monday, September 13, 2021, from 6:00 pm - 8:30 pm (via Zoom). This process will be modeled upon Metro’s 2021 Goods Movement Strategic Plan (GMSP) that brought together a robust and diverse set of key stakeholders, including GCCOG, through a third-party facilitated workshop setting to develop a shared vision and set of objectives, strategies, and outcomes to advance Metro’s priorities of social equity, environmental sustainability, and economic vitality for LA County.

On July 7, 2021, the GCCOG convened a special meeting of their Board of Directors and Executive Committee to discuss current policy considerations, regulatory issues and funding opportunities for the I-710 South Corridor and other highways in the sub-region. Metro, Caltrans, SCAG, Port of Los Angeles, and Port of Long Beach participated. As a result of this discussion, the GCCOG Board and Executive Committee resolved to create an I-710 Ad Hoc Committee to return to the GCCOG with recommendations regarding the future of the project.

Metro will work with the GCCOG to share information and will host “joint sessions” at key intervals over the next six months to help receive feedback from the GCCOG I-710 Ad Hoc Committee, share discussion, and incorporate their findings into the I-710 Task Force’s recommendations. At the end of the process, the Task Force will report back to the Metro Board on its findings and make recommendations on the scope of its investment plan to realize the refreshed Purpose and Need of the I-710 South Corridor. A detailed work plan for the new I-710 Task Force is included in Attachment C.

DETERMINATION OF SAFETY IMPACT

The proposed actions have no adverse impact on the safety of Metro’s patrons, employees, or users of these facilities.

FINANCIAL IMPACT

This is a Receive and File report for information only with no financial impacts. Any Board direction provided on the information presented in this report could result in financial and/or schedule impacts.

Equity Platform

Equitable opportunities will be incorporated into all future decision-making, budget allocation, and community engagement for the Project(s) along the I-710. Staff will continue to work with stakeholders, including residents most impacted by projects, along the corridor to gather input and develop the framework for a I-710 South Corridor investment strategic plan to implement priority multimodal projects and programs based on their suggestions and feedback. Additional Program elements proposed by stakeholders will be considered and may be advanced in support of equitable outcomes. Transparent communication with the stakeholders will

help build consensus and trust moving forward and hopefully strengthen the communities' support for the needed improvements. Without timely investment to address the current corridor conditions, the I-710 users and corridor communities will continue to experience congestion, unsafe traffic conditions, spillage of freeway traffic onto local neighborhoods, pollution, and other negative impacts of the anticipated escalating traffic demand in the corridor.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Metro staff collaboration with local, regional, State, and Federal agencies, as well as the local communities towards the development of an Early Action Program for the I-710 Corridor and a long-term vision to improve I-710 is consistent with the following goals of the Metro Vision 2028 Strategic Plan:

Goal 1: Provide high-quality mobility options that enable people to spend less time traveling.

Goal 4: Transform LA County through regional collaboration by partnering with the GCCOG, Caltrans, impacted communities, and regional stakeholders to identify the needed improvements and take the lead in developing and implementing the Projects.

NEXT STEPS

Activities in pursuit of major highway investments on I-710 are ceased until the Board provides further guidance, and we reach agreement with necessary regional, state, and federal agencies.

Metro and Caltrans will continue to lead the 710 Task Force to revisit the I-710 South Corridor project Purpose and Need, develop multimodal strategies to address these goals, identify projects that advance the multimodal strategies, and create an investment and policy strategic plan to implement the prioritized projects.

The I-710 Task Force outcomes will be presented to the Metro Board in early 2022, with updates provided periodically during this process. Staff will seek Board adoption of the I-710 Task Force investment and strategic plan at that time.

ATTACHMENT

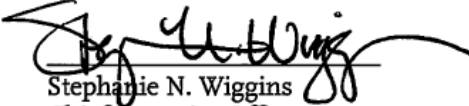
Attachment A - Motion 47 (May 21, 2021 Board Meeting)

Attachment B - March 25, 2021 Letter from EPA

Attachment C - Draft New Metro/Caltrans 710 South Corridor Task Force Engagement Strategy

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Stephanie N. Wiggins
Chief Executive Officer



Metro

Board Report

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Metropolitan Transportation
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File #: 2021-0368, **File Type:** Motion / Motion Response

Agenda Number: 47.

**REGULAR BOARD MEETING
MAY 27, 2021**

Motion by:

DIRECTORS SOLIS, SANDOVAL, BUTTS, AND GARCETTI

710 South Corridor Project

In March of 2018, the Metro Board of Directors approved Motion 5.2 which adopted Alternative 5C as the Locally Preferred Alternative for the 710 South Corridor Project Environmental Impact Report/ Environmental Impact Statement (EIR/EIS). The Motion also directed staff to implement an Early Action Program that would quickly deliver safety, mobility, and air quality benefits to the region, and to “re-evaluate and re-validate the remaining elements of Alternative 5C” upon completion of the Early Action Program. The Early Action Program includes a slew of projects throughout the 710 South Corridor such as streets and interchange improvements, active transportation facilities, the Clean Truck Program, and the Community Health Benefit Program. These Early Action Program improvements were required for completion before any mainline freeway work began.

Since approval of Motion 5.2, Metro staff has worked towards completion of the EIR/EIS. However, in just the last few weeks, the United States Environmental Protection Agency (EPA) opined that a particulate matter hot-spot analysis would be required for the 710 South Corridor Project’s EIR/EIS transportation conformity determination. Without this hot-spot analysis, the EPA cannot determine whether or not the Project is a project of air quality concern and a record of decision cannot be issued for the EIR/EIS. Additionally, at a recent meeting of the California Transportation Commission, Caltrans Director Toks Omishakin stated that Caltrans would “put an absolute pause on this project in the format that it’s currently in,” explaining that the Project does not align with the current trajectory of California’s transportation policy.

The issues raised by our federal and state partners suggest the need to re-think the Project scope and undertake a holistic, equity-based examination of the Project to ensure Metro’s investments do not disproportionately impact communities of color, inadvertently worsen induced demand, or work against existing greenhouse gas emissions reduction goals. There are elements currently included in the EIR/EIS that support local and state transportation goals and should move forward as individual projects separate from any mainline improvements to the 710 South Corridor.

SUBJECT: 710 SOUTH CORRIDOR PROJECT

RECOMMENDATION

APPROVE Motion by Directors Solis, Sandoval, Butts, and Garcetti that direct the Chief Executive Officer to:

1. Immediately cease further work to advance the current 710 South Corridor Project EIR/EIS;
2. Evaluate all improvements included in the EIR/EIS that can be advanced separately from mainline 710 South infrastructure improvements including, but not limited to, projects related to active transportation, operational improvements, clean truck infrastructure, and community health;
3. Identify additional locally-supported projects that can be advanced to enhance mobility along the 710 South Corridor and complement the non-freeway projects mentioned above, including but not limited to the West Santa Ana Branch, the LA River/Rio Hondo Confluence Station, LA River Master Plan, and the Atlantic Boulevard Bus Rapid Transit;
4. Collaborate with corridor cities, local stakeholders, community based organizations, the Ports of Los Angeles and Long Beach, and the Gateway Council of Governments to conduct outreach and develop a funding plan in order to advance a revised Early Action Program that includes projects identified in Directives 2 and 3. The revised Early Action Program should emphasize shovel ready projects and prioritize partnerships with labor to advance Metro's Project Labor Agreement and Construction Careers Policy;
5. Report back on all directives in September 2021.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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Tony Tavares, Director, District 7
California Department of Transportation, District 7
100 South Main Street, Suite 100
Los Angeles, CA 90012

Philip A. Washington, Chief Executive Officer
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 9012-2952

Re: EPA technical response for project-level transportation conformity status- Interstate 710 South

Dear Mr. Tavares and Mr. Washington:

In 2018, following publication of the Supplemental Draft EIR/EIS for the Interstate 710 (I-710) South Corridor project, Caltrans and Metro asked the EPA to consider a variation from project level transportation conformity analysis processes and requirements. Prior to this request, the transportation agencies were pursuing coordination related to required particulate matter (PM) hot-spot modeling assumptions and protocols. As an alternative, Caltrans and Metro proposed the I-710 Clean Truck Program to potentially offset the significant increase of diesel-emitting trucks that would result from the project, thereby attempting to remove the status of the project as a “Project of Air Quality Concern” and the need for a PM hot-spot analysis as part of the project-level transportation conformity determination.

The EPA recognizes the collective challenges to protecting human health while delivering transportation projects within the I-710 Corridor, an area with communities already overburdened by existing goods movement and industry in an area with the worst air quality in the United States, including some of the highest PM_{2.5} levels in the country. After thoughtful consideration, multiple interagency meetings, and good faith efforts by EPA, Caltrans and Metro to identify a potential alternative path forward for the analysis of project-level transportation conformity, the EPA ultimately concludes that a PM hot-spot analysis is necessary for the project’s transportation conformity determination. Please see the attached Technical Response supporting this position, the details of which were also shared verbally during our November 20, 2020 senior leadership meeting with Caltrans, Metro, and the Federal Highway Administration.

EPA continues to support efforts to increase clean transportation along the corridor and we remain committed to partnering with you as you evaluate pathways to advance transportation solutions while being protective of human health. I understand that our staff are already in dialogue on possible

alternatives. If you would like to speak further, please contact me at (415) 972-3183, or your staff can contact Karina O'Connor, Project Level Transportation Conformity Lead, at (775) 434-8176 or Oconnor.Karina@epa.gov.

Sincerely,

Elizabeth J. Adams, Director
Air & Radiation Division

Attachment: Technical Response

cc: Vincent Mammano, Division Administrator, FHWA
Antonio Johnson, Planning Team Leader, FHWA
Abdollah Ansari, Senior Executive Officer, Metro
Ron Kosinski, Deputy District Director, Caltrans

Technical Response: Summary of Issues for the I-710 Highway Expansion Project and I-710 Clean Truck Program

I. Introduction and Purpose

A. Purpose of this Document

On November 20, 2020, after considerable coordination between Caltrans, Metro, Federal Highway Administration (FHWA) and EPA, EPA indicated that we would not be able to concur that the proposed I-710 highway expansion project was not a project of air quality concern under the Clean Air Act transportation conformity requirements. Caltrans and Metro requested more details regarding the specific legal and technical issues that we identified with using the I-710 Clean Truck Program to avoid completion of a particulate matter (PM) hot-spot analysis to satisfy transportation conformity requirements for the I-710 expansion project. In response, this document describes in more detail why, after careful consideration and based on the information before us, EPA does not agree that the I-710 Clean Truck Program renders the I-710 project as a project that is not of air quality concern, and describes how project sponsors should proceed with meeting conformity requirements.

B. Summary of Findings

EPA is very supportive of using zero emissions truck technology on the I-710 freight corridor, but it is critical that public agencies develop a program that meets all of the regulatory requirements so that emissions will not increase and negatively impact public health in the future. This document describes why EPA does not agree that (1) the I-710 Clean Truck Program renders the I-710 project as a project that is not of air quality concern and (2) that the project does not need a PM hot-spot analysis. To summarize:

- The I-710 project requires a PM hot-spot analysis under the Clean Air Act (CAA) and EPA's transportation conformity regulations because it is a highway expansion project that would result in a significant increase in the number of diesel vehicles.
- The clear purpose of the hot-spot regulations are to implement the Clean Air Act's requirements that projects do not cause or contribute to violations of EPA's national ambient air quality standards (NAAQS), worsen existing violations, or delay attainment or other milestones.
- There is no current air quality modeling that demonstrates that the I-710 Clean Truck Program sufficiently reduces emissions such that the I-710 expansion project does not create PM NAAQS hot-spots. In fact, we expect increases in the severity of existing violations even if the proposed I-710 Clean Truck Program were to be fully implemented given dust, tire wear and brake wear.
- The transportation conformity regulation allows mitigation measures to be included as part of a hot-spot analysis for a project but does not permit mitigation measures to avoid a hot-spot analysis for a project of air quality concern.
- As a mitigation measure, the I-710 Clean Truck Program would need a federally enforceable written commitment to be relied upon for a project-level transportation conformity determination.
- The project sponsor has not utilized more recent travel activity assumptions for truck movement along the I-710 freight corridor.

- The I-710 Clean Truck Program does not meet EPA’s guidance that diesel replacement programs can be used in a conformity determination if the older diesel vehicles are scrapped.

C. Background on the Los Angeles Air Quality and the Surrounding Community

The proposed project area, 18 miles of the I-710 freeway extending north from the Ports of Los Angeles and Long Beach, serves as a primary freight corridor connecting two of the busiest container ports in the country with downtown intermodal railyards and the goods movement network extending east into the Inland Valley. The greater Los Angeles area has among the worst air quality in the United States, including some of the highest PM_{2.5} levels in the country. In 2020, EPA determined that the South Coast Air District failed to attain the 2006 PM_{2.5} NAAQS (or standard) by its December 31, 2019 attainment date and bumped up the area to Serious for the 2012 PM_{2.5} standard, requiring additional planning work by the South Coast Air Quality Management District.

The I-710 corridor accommodates a daily count of approximately 50,000 diesel-fueled freight trucks and 165,000 other vehicles running directly through, and adjacent to, numerous densely populated communities with environmental justice concerns. These low-income and minority communities are already heavily burdened by pollution from existing goods movement and industrial activity and experience health disparities, including asthma burdens. These communities are vulnerable to any increases in particulate matter emissions associated with the proposed I-710 expansion project, and have historically voiced strong concerns about air quality impacts from freight-related projects in this area, including ongoing engagement with the I-710 project. Environmental and community groups have expressed support for exclusively zero-emission truck technology and associated infrastructure for the I-710 project.

D. Background on the Transportation Conformity PM Hot-spot Requirement

Transportation conformity applies to transportation plans, transportation improvement programs (TIPs), and federally-supported transportation projects (i.e., FHWA and FTA funded or approved projects) in nonattainment and maintenance areas for transportation-related pollutants, including PM, ozone, and carbon monoxide (CO).

Section 176(c)(1)(B) of the Clean Air Act (CAA) states that federally-supported transportation projects cannot:

- (i) cause or contribute to any new violation of any standard in any area;
- (ii) increase the frequency or severity of any existing violation of any standard in any area; or
- (iii) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. See CAA § 176(c)(1)(B).

To ensure that transportation projects meet these criteria, EPA’s transportation conformity regulations require a hot-spot analysis in PM₁₀ and PM_{2.5} areas for certain highway and transit projects. To ensure that CAA requirements are met, large projects that result in “a significant increase in the number of diesel vehicles” (40 CFR 93.123(b)(1)) need a quantitative PM hot-spot analysis. Such a project is referred to as a “project of air quality concern.” A hot-spot analysis is an estimation of likely future localized pollutant concentrations with the proposed project and a comparison of those concentrations to the relevant PM NAAQS. A hot-spot analysis assesses the air quality impacts on a scale smaller than an

entire nonattainment or maintenance area, including, for example, congested highways or freight terminals.

For a project that is not of air quality concern, the project-level conformity determination consists of verifying that there is a conforming regional transportation plan and Transportation Improvement Plan (TIP) and that the project is included in that conforming transportation plan and TIP.

The interagency consultation process must be used to develop project-level conformity determinations to meet all applicable conformity requirements for a given project. Project sponsors typically make the determination whether a highway project needs a quantitative PM hot-spot analysis through an interagency consultation process with FHWA, EPA, the State DOT, and the other state and local agencies involved.

E. I-710 and the PM Hot-spot Requirement

The proposed I-710 transportation project is an 18-mile project to increase capacity on I-710 by adding new general purpose lanes, truck by-pass lanes, and intersection improvements along this corridor. The latest iteration of the I-710 project had been determined to be a project of air quality concern since reports developed for the project's environmental documentation (such as the June 2018 modeling protocol for hot-spot modeling) showed that the project would increase heavy-duty diesel truck traffic as much as 6,900 trucks each day for some segments of I-710 (in addition to the existing 50,000 trucks and 165,000 other vehicles that drive on this highway every day).

On August 1, 2018, Caltrans requested that the EPA reconsider the I-710 project's status as a project of air quality concern (also referred to as a "POAQC"), with Caltrans' assumption that the I-710 Clean Truck Program would reduce diesel truck traffic (by funding the replacement of diesel trucks with zero emission/near zero emission (ZE/NZE) trucks).

In October 2018, Region 9 sent an email to Caltrans with an attachment with preliminary, staff-level information for a written commitment for the I-710 Clean Truck Program. In response, in October 2019, Caltrans and Metro sent a letter to EPA indicating that they did not agree that a written commitment would be required for the I-710 Clean Truck Program. EPA responded in a letter dated March 3, 2020 that we continue to believe that a written commitment describing the program was necessary. Further information regarding implementation of the I-710 Clean Truck Program was described in the June 4, 2020 Responses to Questions from USEPA/FHWA on the I-710 Clean Truck Program and the July 27, 2020 I-710 Clean Truck Program Responses to Technical Questions documents.

Caltrans' and Metro's I-710 Clean Truck Program Project Description, dated September 18, 2020, describes the major components of the I-710 Clean Truck Program and contains some information on related programs such as the Metro Countywide Clean Truck Initiative. According to this document, the I-710 Clean Truck Program would be implemented by a program administrator at the Los Angeles County Metropolitan Transportation Authority (Metro) with direction from the Metro Board of Directors and the I-710 Steering Committee with assistance from contractors and vendors. The Metro Board would have responsibility and authority for development and implementation as well as approval for any major policy decisions related to the program.

The September 18, 2020 description further states that the I-710 Steering Committee, a multi-agency group operating under the October 2019 Memorandum of Understanding, would be tasked with developing implementation details, eligibility requirements, institutional arrangements, management and administration for the program as well as identifying and obtaining funding, creating a phasing plan and comprehensive goals, and issuing quarterly reports. These roles and responsibilities are further elaborated in Appendix C of the September 2020 program description.

EPA's regulatory analysis of the approach proposed by Caltrans to reconsider the I-710 project's status as a POAQC, with Caltrans' assumption that the I-710 Clean Truck Program would reduce diesel truck traffic (by funding the replacement of diesel trucks with ZE/NZE) trucks) is based on a careful consideration of these documents as well as the NEPA documents developed for the I-710 project and information discussed in the Technical Workgroup meetings with Caltrans, Metro and FHWA. The legal and technical issues supporting EPA's decision that the proposed I-710 highway expansion project is a project of air quality concern under the Clean Air Act transportation conformity requirements, are described in more detail below.

II. Discussion

The Clean Air Act and EPA's transportation conformity rule require completion of a quantitative PM hot-spot analysis for the I-710 project because it is a project of air quality concern.

A. Statutory and Regulatory Requirements

The regulatory hot-spot analysis requirement was adopted to implement the Clean Air Act requirement that federally-supported transportation projects cannot "cause or contribute to any new violation of any standard in any area; increase the frequency or severity of any existing violation of any standard in any area; or delay timely attainment of any standard of any required interim emission reductions or other milestones in any area." See CAA §176(c)(1)(B). EPA has interpreted "in any area" to include not just entire nonattainment and maintenance areas, but also the localized area surrounding a transportation project. See 75 Fed. Reg. 14260, 14274 (Mar. 24, 2010).

EPA adopted the regulatory PM hot-spot requirements in 2006, including the requirement that a hot-spot analysis be completed for expanded highway projects with a significant increase in the number of diesel vehicles. The preamble for the final rule explains that this criterion was intended to identify projects with significant PM emissions increases. See, e.g., 71 Fed. Reg. 12467, 12491 (Mar. 10, 2006) ("The final rule's criteria for hot-spot analyses targets highway and transit projects that involve a significant increase in diesel vehicle traffic, since EPA believes that directly emitted particles from diesel vehicles are the primary consideration for potential PM_{2.5} and PM₁₀ hot-spots.") The 2006 preamble also contains a lengthy discussion of the technical basis for EPA's conclusion that projects that are not of air quality concern will not increase PM emissions. *Id.* at 12471-74 and 12490-93. We further said that PM hot-spot analyses must include emissions from re-entrained road dust. *Id.* at 12494.

The I-710 highway expansion project would result in a significant increase in the number of diesel vehicles and consequently in significant PM emissions increases. Therefore, the project meets the regulatory criterion for requiring a quantitative PM hot-spot analysis. This is particularly important in light of the factual circumstances of the project. First, the greater Los Angeles area has some of the highest PM_{2.5} levels in the country with people living and working all along the I-710 corridor. In addition, the Ports of Los Angeles and Long Beach are the terminus of the I-710 and are the largest container ports in the country, with a significant portion of freight moving every day by diesel truck.

B. Need for a PM Hot-Spot Analysis for I-710

The I-710 clearly meets the relevant regulatory criterion for a PM hot-spot analysis: Caltrans' June 2018 modeling shows an additional 6,900 heavy-duty diesel vehicles per day, which is consistent with numbers EPA has concluded constitute a "significant increase" in other instances. Even if the I-710 Clean Truck Program is implemented, the project would still result in a significant increase in heavy-duty trucks, which would increase PM emissions. Consistent with SIP inventories and past conformity analyses, brake/tire wear and road dust would be significantly increased by the I-710 project, and as a result, make air quality worse in communities along the I-710 corridor.

We expect increases in the severity of existing violations even if the proposed I-710 Clean Truck Program were to be fully implemented given dust, tire wear and brake wear emissions. Given that the project would likely result in localized increases in PM in an existing nonattainment area, determining that the project is not a project of air quality concern would be inconsistent with the conformity requirement in the Clean Air Act and EPA's implementing regulations.

C. I-710 Clean Truck Program as a Mitigation Measure

It is possible that the I-710 Clean Truck Program could be used to mitigate the impacts of the I-710 expansion *as part of* a hot-spot analysis. See 40 C.F.R. § 93.123(c)(4): "...mitigation or control measures shall be assumed in the hot-spot analysis only where there are written commitments...". However, mitigation measures cannot be used to *avoid* a hot-spot analysis for a project of air quality concern.

Mitigation should address a project's impact on the NAAQS in the conformity determination, which can only be determined through a hot-spot analysis with measures included, per the conformity rule and guidance. EPA addressed the inclusion of new technologies in a PM hot-spot analysis in the preamble to the March 24, 2010 final rule (75 CFR 14280):

Last, it is entirely appropriate that a hot-spot analysis include the effects of new technologies and fleet turnover that is expected to occur in a future analysis year. The conformity rule has always allowed the future effects of federal vehicle emissions standards, fleet turnover, fuel programs, and other control measures to be reflected in hot-spot analyses when they are assured to occur, because including such effects provides a reasonable estimate of future emissions that is more accurate than not including such effects.

For the emission reductions of the Clean Truck Program to be relied on for conformity, significant additional work would be necessary by the project sponsor to ensure the Clean Truck Program meets the regulatory requirements for mitigation measures, including a *written commitment* to such a measure that includes, among other things, "a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body." See 40 C.F.R. §§ 93.101 and 93.125(a).

Furthermore, under Metro's documentation, some of the final details, commitments and funding for the Clean Truck Program would be deferred to a later date as the Steering Committee sees how well the program performs in the first few years of operation. This leaves EPA with less certainty today that diesel truck traffic would not increase significantly and would limit the program from being an enforceable mitigation measure under the transportation conformity regulations. More EPA concerns on components of the I-710 Clean Truck Program and discussion on why it is a mitigation measure is included in Section IV below.

III. Modeling Issues

Another concern with Caltrans' and Metro's proposal is the lack of evidence that the I-710 Clean Truck Program would sufficiently reduce diesel vehicles on the I-710 expansion to the point where the project would no longer be of air quality concern. Under EPA regulations, mitigation would be included in the hot-spot analysis done for a project, so it can be demonstrated whether or not mitigation is sufficient for the project to meet the Clean Air Act and conformity requirements. In other words, it is important that the agencies involved understand how many truck replacements would be necessary to ensure that the proposed highway expansion does not negatively impact the PM NAAQS or interim milestones and that the public health of the people living along this corridor is protected. However, in this case, Caltrans and Metro are assuming the I-710 Clean Truck Program sufficiently reduces the number of diesel trucks such that the project no longer needs a hot-spot analysis, ignoring the need for an analysis that would support such an assumption.

As explained above, EPA's regulation requires Caltrans to perform a PM hot-spot analysis. In addition, even if the I-710 Clean Truck Program were improved to qualify as a mitigation measure, it is unclear to EPA at this time how many trucks would remain on the I-710 once the Clean Truck Program would be in effect and if that number would be sufficiently low to declare that there is not a significant increase in the number of trucks. In the last few years, there have been projects determined to need a hot-spot analysis where the daily increase in diesel trucks has been under 4,000 in California and elsewhere.

A. Review of truck travel

The estimated increases in truck traffic projected for the I-710 project is based on the I-710 travel demand forecasting model developed for the air quality analysis in the I-710 EIR/EIS, which was published in early 2017. Modeling conducted for the I-710's NEPA document estimating the number of trucks necessary to be offset is now outdated, and therefore does not satisfy the conformity requirement to use the latest planning assumptions in an analysis (40 CFR 93.110). Improved and updated modeling is needed to better understand how many trucks are still projected, both with and without the I-710 Clean Truck Program, and the air quality impacts of those levels of trucks. This analysis must be based on the latest planning assumptions, including vehicle miles traveled (VMT) per truck, to demonstrate whether or not the project would result in any new or worsened PM NAAQS violations.

The current estimate that 4,000 diesel trucks will travel two trips per day is based on a 2013 study.¹ We do not have more recent data on truck traffic so we do not know how many trucks currently travel an average of 42.5 miles each day on I-710 or if there would be at least 4,000 such trucks that could be targeted by the I-710 Clean Truck Program. Given the length of time to phase in the proposed program,

¹ Page 17 of November 15, 2013 Key Performance Parameters for Drayage Trucks Operating at the Ports of Los Angeles and Long Beach, Prepared by Andrew Papsen and Michael Ippoliti of CALSTART.

these diesel trucks may not all be on the road at the same time, and therefore, it is possible that more than 4,000 trucks (including more trucks traveling only one trip per day) may need to be replaced by the I-710 Clean Truck Program.

B. No scrappage/ No requirements for replaced vehicles

There are some program design elements which do not appear to support reduction in diesel traffic and PM emissions from the project. In order to be eligible for program funding for the I-710 Clean Truck Program, owners or operators would need to own trucks that travel “frequently” on I-710. The I-710 Clean Truck Program funds could be used to purchase additional trucks that the owners or operators agree will meet average weekday VMT thresholds within the 20-mile I-710 corridor. It is unclear what the minimum threshold would be since the stated objective of the program is to reach a target of 42.5 VMT per NZE/ZE truck per weekday “in aggregate, on average.”

EPA had previously assumed that the original trucks that are envisioned to be replaced through the I-710 Clean Truck Program (i.e., those that traveled “frequently” on I-710) would no longer be operating on the I-710 once the highway expansion is open to traffic. However, the I-710 Clean Truck Program does not include contractual restrictions or requirements to scrap the original vehicle, since, in Caltrans’ view, scrappage requirements would be considered as “barriers to program entry” by some applicants.² This approach does not appear to be consistent with EPA’s Diesel Retrofit and Replacement Guidance which discusses scrappage programs in light of parties seeking conformity or SIP credit. For more information about scrappage for truck replacements in conformity analyses, see EPA’s Diesel Retrofit and Replacement Guidance.³

Assuming that the financial incentive would be sufficient for some truck owners to accept, the I-710 Clean Truck Program could potentially incentivize *more* truck travel on I-710, for example:

- Since there is no requirement for trucks being replaced to be scrapped or in any way limited in traveling I-710, trucks being replaced could continue to operate on I-710 under the proposed program. With both the new and old trucks continuing to drive on I-710, this overall fleet expansion could increase VMT and particulate matter emissions, burdening local communities and possibly the larger nonattainment area.
- Under the proposed program, instead of relying on historical travel data, any truck owner agreeing to a minimum VMT on I-710 could receive the financial incentive, and applicants could get a higher ranking in the competition for funding “for agreeing to add additional VMT on I-710.” This aspect could incentivize more travel on I-710.
- The Program is described as having check-ins every six months to provide “early warning indicators so that corrective action can be taken by recipients to get back on track before penalties are invoked.” The only type of “corrective action” that EPA can envision would be for truckers to drive more miles on I-710. If this assumption is true, such an action could incentivize more heavy-duty truck travel on I-710.

² Pages 2-3 of July 27, 2020 I-710 Clean Truck Program Responses to Technical Questions.

³ Page 9 of March 2018 Diesel Retrofit and Replacement Projects: Quantifying and Using Their Emission Benefits in SIPs and Conformity, Guidance for State and Local Air and Transportation Agencies, available at <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P100U3LT.pdf>.

IV. Technical Issues with Program Implementation and Enforceability

EPA continues to consider the I-710 Clean Truck Program to be a mitigation measure that would need to be federally enforceable as part of a conformity determination with a PM hot-spot analysis.⁴ EPA's PM Hot-spot Guidance provides a description of the types of "mitigation and control measures that could be considered by project sponsors to reduce emissions and any predicted new or worsened PM NAAQS violations" in Section 10 of the Guidance.⁵ The first category of mitigation and control measures discussed in this document is "Retrofitting, replacing vehicles/engines, and using cleaner fuels." The proposed I-710 Clean Truck Program belongs in this category, as it is designed to replace diesel vehicles with those that use cleaner fuels. Because this program would be a mitigation measure, a written commitment⁶ is necessary for it to be relied upon in a conformity determination, per 40 CFR 93.125(a):

a) Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under title 23 U.S.C. or the Federal Transit Laws, FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local CO, PM₁₀, or PM_{2.5} impacts. *Before a conformity determination is made, written commitments must also be obtained for project-level mitigation or control measures which are conditions for making conformity determinations* for a transportation plan or TIP and are included in the project design concept and scope which is used in the regional emissions analysis required by §§93.118 ("Motor vehicle emissions budget") and 93.119 ("Interim emissions in areas without motor vehicle emissions budgets") *or used in the project-level hot-spot analysis required by §93.116 [emphasis added].*

As noted above, in October 2018, Region 9 sent an email to Caltrans with an attachment with preliminary, staff-level information for a written commitment. In the Caltrans and Metro response letter of October 2019, Caltrans and Metro claimed that the I-710 Clean Truck Program "is not intended to mitigate air quality impacts. Rather, it has been designed in conjunction with the other elements that comprise the entire I-710 project – to improve air quality in general."

EPA does not see any distinction. The purpose of improving air quality in general does not change the fact that the I-710 Clean Truck Program is a mitigation or control measure. In fact, mitigation measures must necessarily improve air quality in order to offset a project's emissions. Section 10 of the PM Hot-Spot Guidance recognizes that there may be other programs not directly related to the project that improve air quality in general that are still mitigation measures. For example, in Section 10.2.5, EPA states: "Controlling emissions from other sources may sufficiently reduce background concentrations in the PM hot-spot analysis" and thus still count as mitigation measures.⁷

⁴ A written commitment can be enforced by EPA directly against project sponsors under section 113 of the Clean Air Act, which authorizes EPA to enforce the provisions of rules promulgated under the Act, and by citizens under section 304 of the Clean Air Act. See 58 FR 62199.

⁵ *Transportation Conformity Guidance for Quantitative Hot-spot Analyses in PM_{2.5} and PM₁₀ Nonattainment and Maintenance Areas*, EPA-420-B-15-084, November 2015, available on EPA's web site at <https://www.epa.gov/state-and-local-transportation/project-level-conformity-and-hot-spot-analyses#pmguidance>, p. 149.

⁶ As defined in 40 CFR 93.101, "Written commitment for the purposes of this subpart means a written commitment that includes a description of the action to be taken; a schedule for the completion of the action; a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and an acknowledgment that the commitment is an enforceable obligation under the applicable implementation plan."

⁷ Same source, Section 10.2.5, p. 152.

In the October 2019 letter, Caltrans and Metro provided several arguments, such as that the I-710 Clean Truck Program does not need a written commitment because the program is (1) a core element of the broader project, not a mitigation or control measure and (2) dependent upon a multi-agency commitment including agencies outside of Caltrans and Metro. The letter stated that if the I-710 Clean Truck Program is not successful due to future uncertainties that result in significant increases in diesel truck traffic, the program “would be subject to re-evaluation and/or supplemental documentation. Therefore the EIR/EIS is a written commitment that the Clean Truck Program is an integral part of the project.” The September 2020 document describing the Clean Truck Program contains no further discussion of a written commitment to be provided by Metro. Therefore, we assume that Caltrans and Metro’s position continues to be that they do not believe that a written commitment is necessary.

As we described in our March 3, 2020 letter, EPA’s position is that the Clean Truck Program is a mitigation measure and the EIR/EIS does not suffice as a written commitment under the requirements of EPA’s transportation conformity regulations. Caltrans’ and Metro’s proposal that the I-710 project does not need a PM hot-spot analysis depends on the I-710 Clean Truck Program reducing the number of diesel trucks. As explained above, EPA disagrees and believes the project requires a hot-spot analysis under the Clean Air Act and EPA’s implementing regulations. A program to reduce PM emissions that is necessary for a transportation project to demonstrate conformity requires a written commitment, per 40 CFR 93.125.

EPA’s October 2018 email included preliminary information for a written commitment. This paper (“Preliminary Information for the I-710 ZE/NZE Truck Deployment Program Written Commitment, October 23, 2018 – staff draft”) provided staff thoughts about the types of information that a written commitment should include per the regulatory definition in 40 CFR 93.101:

- a description of the action,
- a schedule for completion,
- a demonstration that funding has been authorized by the appropriating or authorizing body (and is surplus to what would be funded in the no-build alternative), and
- acknowledgment that the commitment is an enforceable obligation under the SIP.

We provided this document to help Caltrans consider what would be needed for the I-710 Clean Truck Program, given that at the time, there was just a mention of the program in the I-710 NEPA documentation without any detail.

To date, Caltrans and Metro have not developed a written commitment for this project. In addition, information provided to EPA thus far about the I-710 Clean Truck Program would not be sufficient to meet the regulatory definition of a written commitment as described in the following paragraphs below.

A. Description of the Action

A written commitment must contain a description of the program. (40 CFR 93.101). EPA’s October 2018 paper indicated that the written description of the program should be fairly detailed, and include information about the agency implementing the program, identification of potential participants, truck activity, data and assumptions relied upon to estimate VMT, tracking and enforcement and verification of the program parameters, scrappage of replaced vehicles, and information about the number and type of support facilities. Information provided to EPA thus far lacks detail as many aspects of the program are not described and are left to the Steering Committee to design, fund, and implement.

While Metro has authorized \$50 million and started defining the I-710 Clean Truck Program in its September 2020 document, many of the details of the program and the associated funding are undeveloped⁸ and are described as evolving as the Steering Committee reviews the program performance and adjusts the program as needed. In order to be considered a mitigation measure to support a hot-spot analysis and CAA conformity determination, the program must be well-defined and fully funded with certainty that the project will not negatively impact the PM NAAQS or interim milestones.

A critical part of the I-710 Clean Truck Program, needed to ensure that the program would reduce truck traffic to levels needed to meet the CAA requirements, is the verification and compliance components of the program. The September 2020 document describes some of the overall compliance activities that Metro anticipates would be needed to support the I-710 Clean Truck Program, for example: developing a website to track trucks deployed, funding sources, funding expenditures, and ZE/NZE VMT data within the corridor. The document also describes how truck VMT data would be collected via a GIS monitoring device, based on geofencing within the I-710 corridor and that if a recipient truck does not meet the annual VMT requirement for one year, the truck owner would be required to reimburse some or all of the funding. However, it is not clear what specific targets would be required for individual truck owners. Metro has stated repeatedly that the program would target 4,000 trucks, at 42.5 VMT per weekday, in aggregate, on average. How this aggregate estimate translates to individual contracts to be verified is unclear at this time.

In addition, an important part of the program description is what technologies are targeted by a diesel truck replacement program. This level of detail is necessary to include in the written commitment to ensure successful program implementation as well as to include the effectiveness of reducing PM emissions for such truck replacements in the PM hot-spot analysis.

The September 2020 program description identifies transition to ZE trucks as a goal and indicates that the proposed I-710 Clean Truck Program includes a feature that allows for the funding of up to 20 electric charging stations and 10 hydrogen refueling stations between 2022 and 2035. However, the I-710 Clean Truck Program would only provide 4% of the initial \$50 million in funding, i.e., \$2 million, as seed funding for infrastructure and a target of 10% ZE trucks.⁹

While inclusion of these targets is an improvement from previous documents on the I-710 Clean Truck Program, Metro has made no specific commitment to any percentage of ZE trucks.¹⁰ In fact, Metro has stated that NZE trucks satisfy the primary goal of the program to improve air quality and reduce diesel particulate matter. In addition, there is no commitment to fund electric vehicle or hydrogen refueling infrastructure since in Metro's view, it is not essential to meeting the ZE/NZE truck development

⁸ Page 12 of the September 2020 Program Description describes how the program will be developed in more detail in a I-710 Clean Truck Manual which would be developed by Metro and the I-710 Steering Committee and be updated for each deployment phase.

⁹ Pages 7-8 and 26 of September 18, 2020 I-710 Clean Truck Program, Program Description.

¹⁰ Page 3 of July 27, 2020 U-710 Clean Truck Program Responses to Technical Questions.

objectives. Under Metro's proposed program, infrastructure would be funded by partner agencies only after the Final EIR/EIS is deemed valid.

B. Schedule for Completion

A written commitment must contain a schedule for completion. (40 CFR 93.101). EPA's October 2018 paper indicated that the schedule should include a detailed (month and year) for the Program's start, opening of support facilities, the schedule for program verification, and end date. Information provided thus far lacks detailed milestones by which someone could judge whether or not the project is on schedule. The September 2020 document includes some information on the major milestones for initiation of the three phases of the program and the total number of trucks to be targeted in each phase and the expected criteria for eligibility, program documentation and compliance reporting, but no additional details or milestones are provided, and there are no specific commitments to ensure compliance with planned milestones (600 trucks by 2025, 1,700 additional trucks by 2030, and 1,700 additional trucks) given to the Steering Committee.

C. Demonstration of Funding

A written commitment must contain a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body (40 CFR 93.101). This criterion has not been met, given that only \$50 million of the estimated \$200 million in program funding has been identified. In addition, since it is not clear if 4,000 trucks would offset the I-710 project's impacts, additional funding may be needed.

Information on funding for the I-710 Clean Truck Program is described in multiple sections throughout the September 2020 document. First, under 2. Program Goals and Milestones, the document states that in March 2017, Metro identified \$200 million as a funding target for the I-710 Clean Truck Program and in April 2020, Metro's Board programmed \$50 million for the first phase of the project.¹¹ Section 9, Funding for the I-710 Clean Truck Program, also identified the \$200 million target, but indicated that this total may not be needed due a variety of factors related to costs, and indicated that Metro hopes to get the remaining \$150 million by leveraging the initial \$50 million with assistance from the I-710 Steering Committee. The project sponsors for the I-710 Clean Truck Program have not yet identified funding sources for the estimated funding target, haven't committed to the funding sources, and may not have estimated the full funding necessary to mitigate the additional diesel traffic anticipated by implementation of the project. There is no assurance or guarantee that other funding will be obtained.

As stated above, in the fall of 2018, EPA provided draft information on the major components needed to support a written commitment to the I-710 Clean Truck Program. For funding, we indicated that the demonstration of funding should include, but not necessarily be limited to:

- the level of funding for the program in each year the program is in effect,
- funding agencies and legal authority, and
- the sources of the funding, including a discussion of how the funding will be documented and enforced over the time that the program operates.

The funding sources that were mentioned in the September 2020 document were only a list of potential sources that Metro would expect the Steering Committee to investigate to leverage the limited funding that Metro has obtained. Funds from these potential sources are uncertain, and therefore, there is currently insufficient commitment that the funding necessary to support the program is available.

¹¹ Page 6 of September 18, 2020 I-710 Clean Truck Program, Program Description.

The project sponsor has the responsibility for implementing the I-710 Clean Truck Program. However, Caltrans and Metro have placed responsibility for obtaining funding with a multi-agency Steering Committee. Metro has assigned this group of representatives from different agencies the task of identifying funding opportunities for the program, though the Steering Committee has no legal responsibility for the I-710 project or the associated Clean Truck Program. The anticipated roles and responsibilities identified only assign the Metro's board responsibility to approve fiscal plans, funding levels and approval of budgets and programming of the initial \$50 million as needed for the Clean Truck Program.

EPA is concerned that \$200 million may not be enough to ensure that the I-710 expansion project would not negatively impact the PM NAAQS and public health. The September 2020 document provides an average incentive estimate of \$45,000 to \$56,000 per NZE truck that is currently being considered for the I-710 Clean Truck Program.¹² If those costs, with the other estimated costs for the Incentive Reserve, Administration and ZE Power Infrastructure, and an assumption of 10% zero emission incentives at \$150,000 to \$188,000 are extended for replacement of the full 4,000 trucks, total costs could be closer to \$300 million. Based on these assumptions, the \$50 million that was programmed by the Metro Board is less than 20% of the total funding anticipated by extension of Metro's proposed budget for the first phase. A higher per truck funding commitment would also likely be needed to provide a realistic incentive.

D. Commitment is an Enforceable Obligation

A written commitment must include an acknowledgement that the commitment is an enforceable action. (40 CFR 93.101). The responsibility for the program's implementation belongs to Metro and Caltrans as the project sponsors, per 40 CFR 93.125(b). There has been no acknowledgement thus far that the I-710 Clean Truck Program would be an enforceable commitment by Metro.

The September 2020 document describes the different groups expected to implement the I-710 Clean Truck Program. The groups include the Metro Board of Directors, the I-710 Steering Committee and Metro staff with help from contractors and vendors. The Metro proposal states that the I-710 Steering Committee would be drawn from the Countywide Clean Truck Initiative (CCTI) and representatives from selected agencies and localities with a focused interest in the I-710 corridor. The roles and responsibilities of these groups are discussed in Appendix C of the September 2020 document as well as in the Memorandum of Understanding document that Metro is relying upon to create the I-710 Corridor Air Quality Steering Committee to Implement the I-710 Clean Truck Program.

The Steering Committee is tasked with obtaining funding to implement the program and is the main group to make recommendations and suggestions to improve the program, increase program applicants and participation, and optimize NZE/ZE travel within the I-710 corridor. The Metro board can authorize course corrections for the I-710 Clean Truck Program to ensure consistency with program objectives, milestone, and NZE/ZE VMT targets, but the Steering Committee must review, advise, and make the recommendations needed for these corrective actions.

¹² The cost breakdown provided the September 2020 document, in section 10.5. Cost Breakdown – Initial Deployment Phase, indicates a low cost breakdown of \$45,000, and a high cost of \$56,000 per low NOx Certified emission truck.

However, the proposed multi-agency Steering Committee does not meet the regulation's requirements for mitigation measures in 40 CFR 93.125(b): "Project sponsors voluntarily committing to mitigation measures to facilitate positive conformity determinations must comply with the obligations of such commitments."

Conclusion

As described in this document, EPA finds there are significant issues with this proposal that are in conflict with the Clean Air Act and the transportation conformity regulation. EPA continues to support using ZE truck technology on the I-710 freight corridor but does not accept the proposal that the I-710 Clean Truck Program eliminates the need for a PM hot-spot analysis for the I-710 project. It is critical that public agencies develop a program that meets all of the regulatory requirements so that emissions will not increase and negatively impact the PM NAAQS and public health in the future.

We appreciate the opportunity to outline our concerns and hope to continue working with you on a new direction for the I-710 project and I-710 Clean Truck Program.

ATTACHMENT C

I-710 South Corridor Task Force

Draft document

PURPOSE:

Metro seeks to re-engage vital stakeholders that depend upon and are impacted by the movement of people and goods along Interstate 710 (I-710) between the Ports of LA and Long Beach (San Pedro Bay [SPB] Ports) and State Route 60.

Metro's goal is to identify and work with stakeholders to develop a multimodal, multidimensional investment strategy to improve regional mobility and air quality in concert with fostering economic vitality, social equity, environmental sustainability, and access to opportunity for LA County residents—particularly for the most impacted residents that live adjacent to I-710. These residents are represented by local elected officials who serve on the Gateway Cities Council of Governments (COG). In July 2021 the COG formed an I-710 Ad Hoc Committee (AHC) composed of 14 Board members. Metro intends to work closely with the AHC to ensure locally-supported solutions emerge from the process described here.

The original I-710 project scope approved by the Metro Board (Alternative 5C) in 2018 to advance through the EIS/EIR process comprised highway, active transportation, community benefit, and clean-truck technology elements. The scope also included a recommendation to widen and modernize the freeway, generating great concern from local communities over the impending disparities created by displacement required near major freeway interchange improvements for this alternative.

As the project advanced through the EIS/EIR process over the past three years, the Metro Board and the State of California aggressively advanced new policies and executive orders in support of more equitable, climate friendly, and sustainable outcomes through transportation investment decisions.

US E.P.A.'s decision to halt the EIS/EIR process due to air quality conformity concerns has allowed Caltrans and the Metro Board to re-examine the project through this more advanced equity and environmental policy focus, leading to the withdrawal of support for Alternative 5C and suspension of the EIS/EIR process in recognition of the project's misalignment with current policy objectives.

In response to these developments, the Metro Board and Caltrans have agreed to develop a more comprehensive approach over the next six months to engage local communities and regional stakeholders in a process that will lead to improved mobility, air quality, health outcomes, and other important improvements, particularly for those residents most impacted by the movement of goods and people in, through and around the I-710 corridor.

ATTACHMENT C

This process will first focus on identifying and discussing vital issues to be addressed during this process, including development of a shared understanding of priority areas of focus, with a commitment and plan for leading with equity that will allow the 710 South Corridor Task Force to conduct its work as found in the proposed goals for the task force.

PROPOSED GOALS FOR THE 710 TASK FORCE:

The **I-710 South Corridor Task Force (the 710 Task Force)** will be entrusted with the important task of working collaboratively and constructively to accomplish the following outcomes by March 2022:

1. Review and re-assess the Purpose and Need of improvements to the I-710 corridor between the SPB Ports and SR-60;
2. Develop multimodal strategies to meet the Purpose and Need, in alignment with the existing regional and state policy framework;
3. Identify an array of projects and programs, prioritized in the near-term to long-term, that will realize the goals to meet the needs of stakeholders and corridor users;
4. Create a prioritized investment plan that will allow Metro and Caltrans—in partnership with 710 South Corridor Task Force members and local, regional, state, and federal agencies—to implement these projects and programs; and
5. Report to the Metro Board and State of California with the outcomes of the 710 Task Force work by March 2022.

The **710 Task Force** will also continue to meet on a regular basis (2-4 times per year), in conjunction with the COG, to help Metro and Caltrans deliver the investment plan developed by this group and to provide a recurrent forum for dialogue, input, and support regarding important mobility, air quality, equity, sustainability and economic issues affecting I-710 stakeholders.

ENGAGEMENT PROCESS:

Metro in partnership with Caltrans (District 7) will convene the 710 Task Force over the course of the next six to eight months (September 2021 – February 2022) to accomplish these overarching goals. Metro will work with 710 Task Force members, particularly with the community groups, to determine what inclusive and meaningful engagement looks like.

Concurrent and in parallel to this process, the COG has convened an Ad Hoc Committee (AHC) of its Board Members to create a locally-supported approach to developing recommendations for the future of the I-710 corridor. Metro will work with the COG to share information and will host “joint sessions” at key intervals over the next six months to share discussion and help integrate recommendations from the COG 710 AHC.

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At the end of the six-to-eight month process, the 710 Task Force will report back to the Metro Board on its findings and make recommendations as to the scope of its investment plan that will realize the reevaluated Purpose and Need of the I-710 South Corridor.

STAKEHOLDER ROSTER:

The Metro Board and Caltrans have stated that the investment in the I-710 must be reassessed through a process that engages local community stakeholders, especially those most impacted by the freeway corridor, in concert with the key regional stakeholders that depend upon the movement of people and goods along I-710 (i.e., the SPB Ports).

For the 710 Task Force to be effective it must represent a broad set of community and regional voices that will help this group review the Purpose and Need of the corridor and develop multimodal and multipurpose strategies, projects and programs, and investment priorities to advance social equity, environmental sustainability, economic vitality, and access to opportunity for local communities and the region.

Metro also recognizes that additional small-group discussions—particularly with community/equity-focused groups—may be necessary to ensure that the work of the larger 710 Task Force remains focused on and incorporates the needs of the local impacted communities.

710 TASK FORCE PROPOSED PARTICIPANTS 43 MEMBERS

Type	Number	Organization
LA County	1	LA County Department of Public Works
MPO	1	Southern California Association of Governments
Ports	2	Port of Los Angeles
		Port of Long Beach
Railroad	3	Alameda Corridor (ACTA)
		Union Pacific RR
		BNSF Railway
Trucking	3	Harbor Trucking Association
		Total Transportation Services (TTSI)
		International Brotherhood of Teamsters, Local Union 848
Air Quality	2	SCAQMD
		CARB
Academic	3	METRANS / CSULB
		USC Equity Research Institute (ERI)
		Harbor College

ATTACHMENT C

Community Based Organizations, Equity, Health and Environmental Advocacy	9	BREATHE Los Angeles County
		Southeast Los Angeles (SELA) Collaborative
		Communities for a Better Environment
		East Yard Communities for Environmental Justice
		Legal Aid Foundation of LA-LB (LAFLA)
		California Endowment
		Coalition for Clean Air
		Environmental Defense Fund
		Long Beach Alliance for Children with Asthma
Local Jurisdictions	8	LA County Supervisorial District 1
		LA County Supervisorial District 2
		LA County Supervisorial District 4
		City of Bell*
		City of Commerce*
		City of Cudahy*
		City of Long Beach
		LA City Council District 15 (San Pedro)
		<i>*Representing the COG Ad Hoc Committee</i>
Gateway Cities Council of Government <i>(ex officio representation by staff)</i>		
Transit Agencies	2	Long Beach Transit
		Metrolink
Economic, Labor and Workforce Development	5	LA County Economic Development Corporation
		International Longshoremen Workers Union
		Warehouse Workers Union
		Watson Land Company
Freight Industry	2	BizFed
		LA Customs Broker & Freight Forwarders Association, Inc.
Policy	2	Pacific Merchant Shipping Association (PMSA)
		Automobile Club of Southern California (AAA)
		CalStart

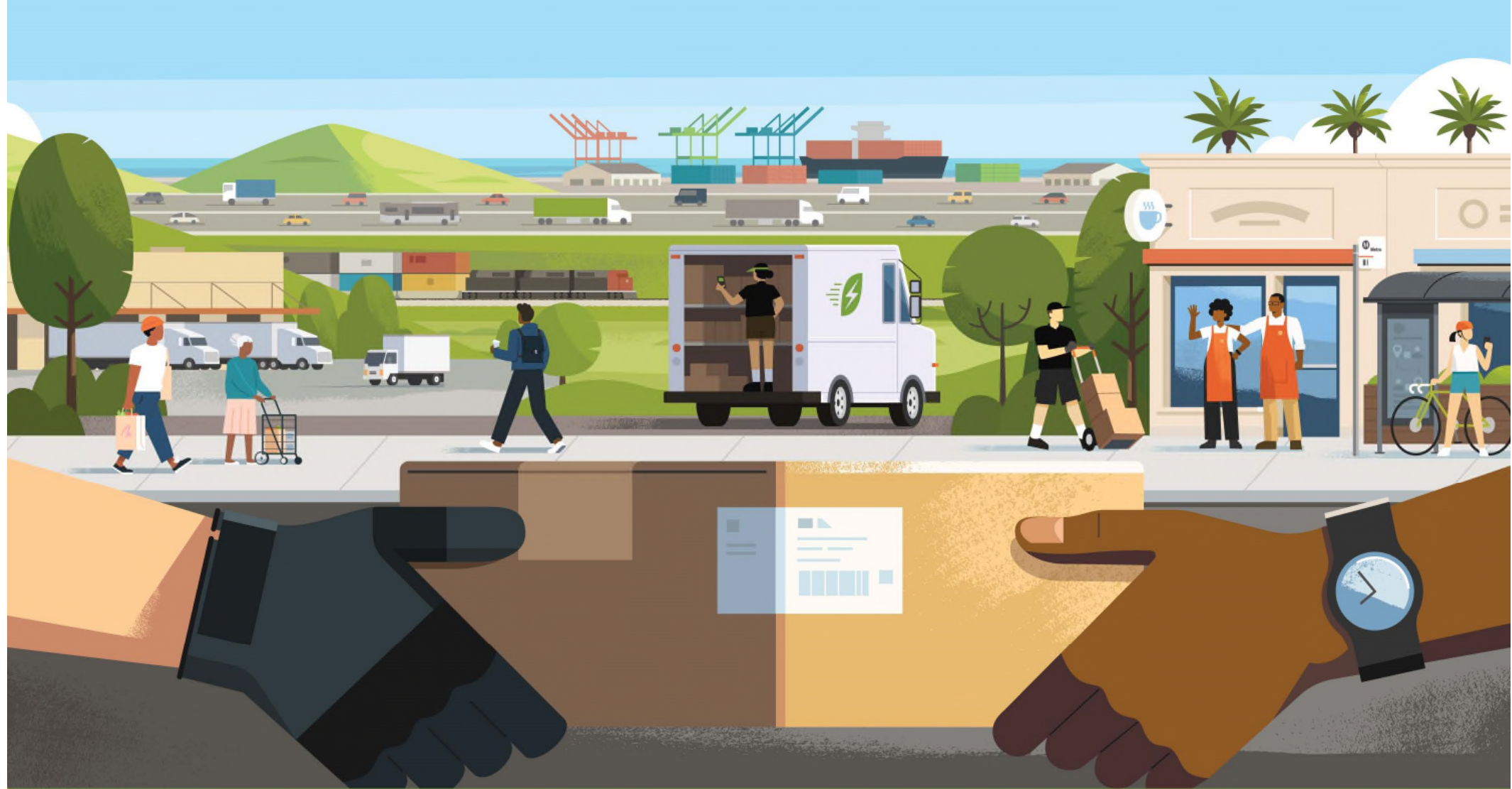
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SCHEDULE OF MEETINGS:

Metro and Caltrans will convene the 710 Task Force approximately every three weeks. This schedule will help advance the work of the group over the next six months, while allowing Metro and Caltrans to develop meeting materials, information, and opportunities for additional engagement in between meetings.

ATTACHMENT C

Metro and Caltrans will develop the topics and flow of meetings for the 710 Task Force with its membership and will also work with community representatives to help develop a meaningful public comment and input process to help inform the 710 Task Force's work.



Planning and Programming Committee
Presentation on Items 11 & 12
Response to I-710 South Corridor Project Motions 47 & 48
September 15, 2021

Motion 47 Response

Work on the 710 South Corridor Project EIR/EIS has been **suspended**.

Existing Project elements in the EIR/EIS will be examined through the new 710 Task Force process, including additional locally-supported, complementary non-highway projects.

Motion 48 Response, Item 1

EPA and Conformity Requirements

EPA re-affirmed to Metro and Caltrans that it intends to require a Particulate Matter (PM) Hot Spot conformity analysis

- **\$50 million commitment from Board for the I-710 Clean Truck Program (CTP) helped - allowed Metro/Caltrans to re-engage EPA on conformity determination**
- Ultimately EPA would not agree to create precedent with Metro/Caltrans proposal to use the CTP as a programmatic feature to reduce diesel emissions
 - CTP would demonstrate reduction in diesel truck trips
 - CTP deemed by EPA to be non-enforceable under CEQA & NEPA
 - **EPA concerned with PM increases caused by entrained road dust and tire/break wear – not just tailpipe emissions**
 - I-710 Project held to higher standard than most highway projects
- Mitigations (e.g. CTP), while allowed as part of the Hot Spot Conformity Analysis, cannot substitute for the analysis
- EPA could not provide acceptable/quantifiable ways to fully mitigate entrained road dust and tire/break wear PM increases
- **Result: No viable way to demonstrate air quality conformity for 710 Project.**

Motion 48 Response, Items 2 & 3

Potential for State and Federal Support

Current Project elements (non-freeway)

- Include the Clean Truck Program, transit enhancements, or active transportation improvements, for example
- Individually would not fully address the Project's original purpose and need
- Are eligible to be considered as part of a re-evaluation of alternatives developed through the 710 Task Force

Ideas that were not fully vetted during the environmental process

- Some examples include conversion of existing mixed flow freeway lanes to new purposes, priced/managed lanes or dedicating lanes for ZE trucks
- To be considered as part of the 710 Task Force process

State and Federal support for the Project will ultimately require a re-evaluation of the Project, from Purpose and Need to Project Elements

710 Task Force: Re-envisioning the Project

The Metro Board via Motions 47 & 48 called for a new process for examining how to make improvements within the 710 Corridor that focused on collaboration with affected communities and local stakeholders.

In response, Metro and Caltrans will convene a robust set of 710 Corridor stakeholders to review the Purpose and Need for investment within the corridor.

- **Focus:** Bringing Community Based Organizations to the table
- Work together to develop effective community outreach strategies.
- Modeled after Goods Movement Strategic Plan engagement process

Equity: Metro will lead the reimagining of the 710 Corridor project with equity by seeking engagement with impacted communities, understanding disparities experienced, and developing multimodal approaches to delivering benefits for these communities while improving regional mobility, safety and air quality.

710 Task Force: Re-envisioning the Project

Partnership: Partner with the Gateway Cities COG to develop and deliver an investment plan developed through the 710 Task Force process that implements projects and programs designed to realize multimodal strategies that address the re-established purpose and need.

Ultimate goal: Develop a collaborative engagement process where local stakeholders, impacted communities and regional partners can work together to develop a new approach to investing in the 710 Corridor that will reduce disparities, increase benefits and improve mobility and safety within the corridor for local residents and the regional movement of people and goods.

First meeting: Took place on Monday, September 13, 2021 @ 6pm (Zoom)

710 Task Force: Community Outreach

Central to the 710 Task Force's work will be a **commitment to community outreach and public engagement**

Community-Based Organizations (CBOs) will have a seat at the table

- Metro will partner with CBOs to develop an effective strategy to inform and engage residents from impacted communities as part of process

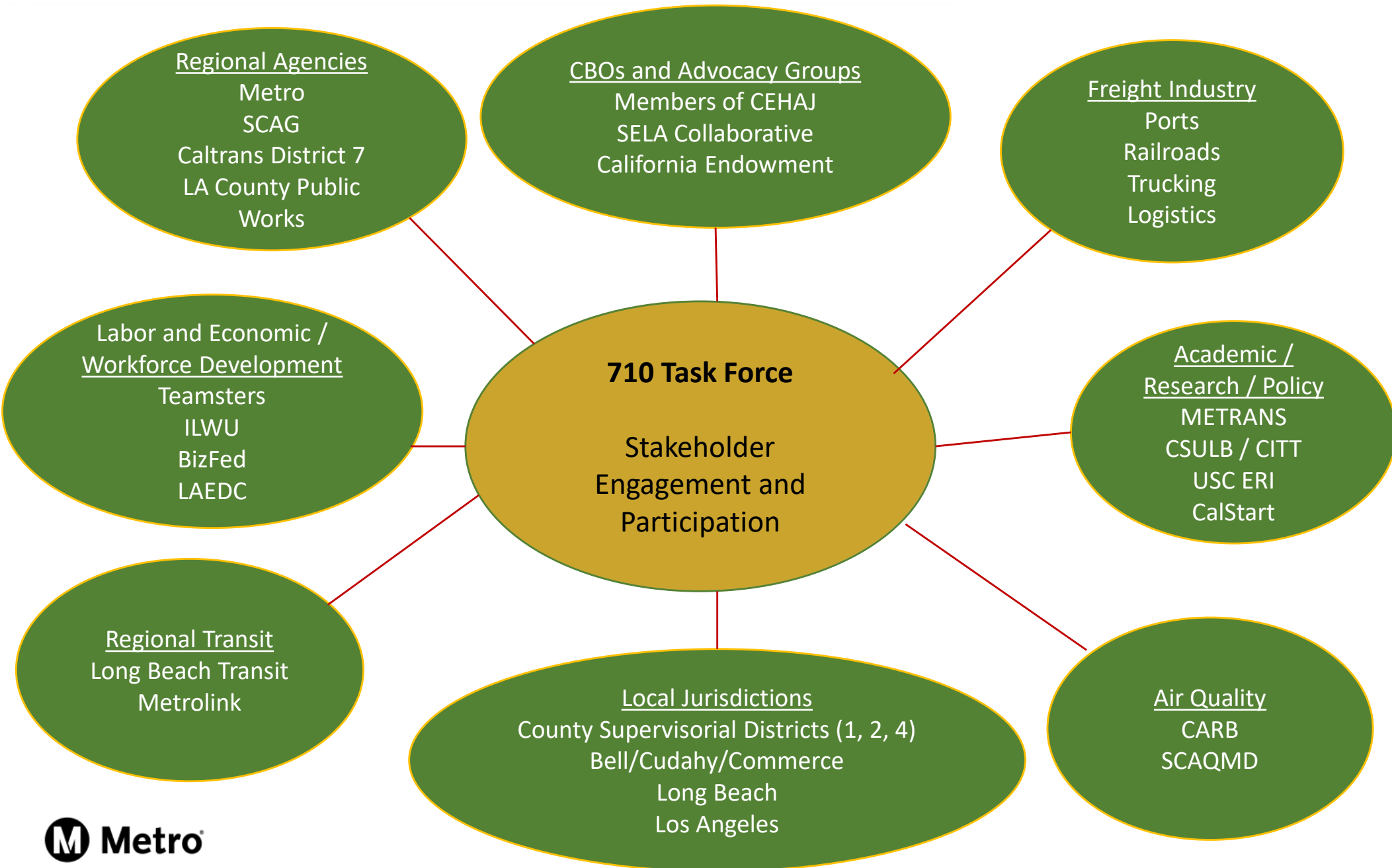
Re-engage residents **previously contacted** through the prior 710 Project process

Employ innovative outreach methods

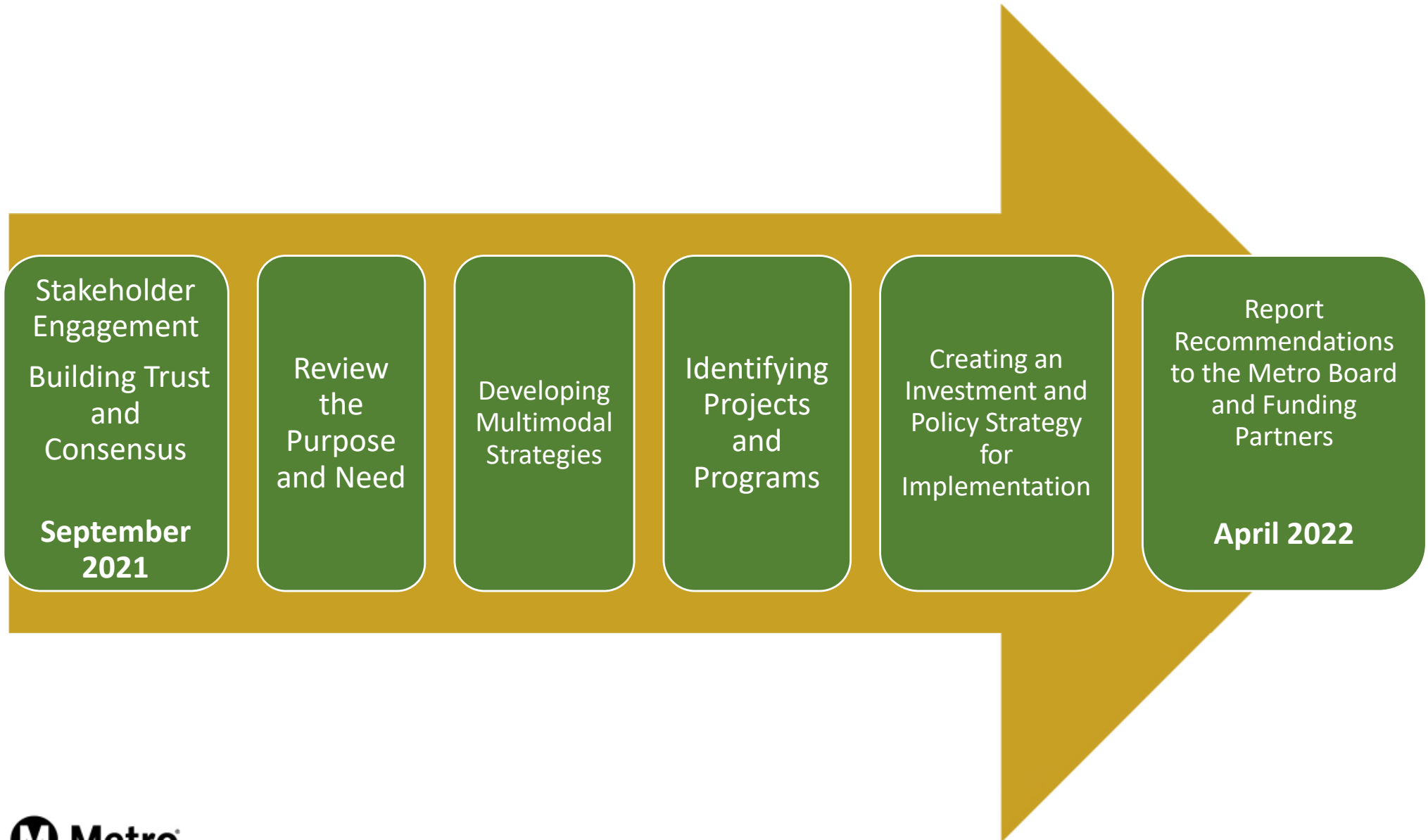
Bring outreach into local communities to meet residents where they are

Public encouraged to attend and provide comment at 710 Task Force meetings

710 Task Force: Stakeholder Engagement



710 Task Force: Process and Goals



710 Task Force: Meeting #1 Recap

Attendance: Excellent turnout – approximately 150 participants

Topics: Introductions and Keynote Addresses
History of the 710 Corridor and Lessons Learned
How the 710 Task Force Can Come Together
How to Build an Effective Community Engagement Strategy

What We Heard: Build stronger outreach effort to engage corridor residents
Create longer lead times for notices, agenda and materials
Overcome the digital divide
Translation services for meetings and materials
Eliminate “jargon” and provide clear information

Next Meeting: Equity Assessment Tool
Charter and Terms of Engagement
Review Purpose and Need

710 Task Force: Next Steps

Work with community-based organizations to develop public engagement strategies, identify resources and plan events

Engage Task Force members to link outreach network opportunities to coordinate / build on existing engagement structures

Finalize webpage and public-facing information to meet transparency goals

- Post meeting recording, summary, additional information

Evaluate and finalize Task Force membership

Identify opportunities to create focus groups and community input opportunities before Meeting #2

Coordinate with Gateway Cities COG Ad Hoc Committee on joint meetings