Los Angeles County
Metropolitan Transportation
Authority
One Gateway Plaza
3rd Floor Board Room
Los Angeles, CA

File #: 2022-0448, **File Type:** Policy **Agenda Number:** 8.

PLANNING AND PROGRAMMING COMMITTEE
AUGUST 17, 2022

SUBJECT: CMAQ FUNDING UPDATE

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

A. RECEIVING AND FILE the Congestion Mitigation and Air Quality (CMAQ) Funding Update; and

B. ADOPT Modification to Financial Stability Policy to prioritize available CMAQ Program federal grants to the greatest extent possible for any eligible operations costs.

ISSUE

This Metro Board report responds to a Board action in April 2022 (Attachment A) to report back to the Board in August 2022 on an operations funding outlook beyond Fiscal Year (FY) 23 and a policy to use CMAQ first for any eligible operations costs.

BACKGROUND

CMAQ is a federal grant program for uses that mitigate congestion and provide air quality benefits. Metro receives an apportionment of about $156 million per year from CMAQ and uses the funds for buses, rail vehicles, rail capital projects (e.g., Regional Connector, Westside Subway Extension), rail operations, and carpool lanes. CMAQ must be programmed for a particular use in the federal transportation improvement program and obligated for that purpose within three years.

At its April 2022 meeting, the Board approved the use of CMAQ to fund a $21,749,863 cost increase to the I-10 High Occupancy Vehicle Lanes Project from Puente Avenue to SR-57. The Board approval included an amendment to the Board item to report back in August 2022 per Attachment A.

DISCUSSION

Metro staff, in practice, currently program a maximum amount of CMAQ on operations costs. CMAQ is eligible to be spent on rail operations costs, net of any fare revenue (which is not part of the federal share), for three years (up to five years if the third year is spread over three years) of the initial operations of a transit rail line. Metro Countywide Planning & Development Department staff currently estimate the initial three years of operations costs and fare revenue of all planned Metro rail lines based on their estimated revenue service dates and compute the eligible amount of reimbursable CMAQ expenses. The amount is reduced by 20 percent to account for the non-federal share and variances in the actuals versus estimates. Metro staff then include the estimated amount of reimbursable CMAQ in the Federal Transportation Improvement Program (FTIP), a federal requirement needed to qualify for reimbursement, and submit CMAQ grant applications for reimbursement when the operating expenses are incurred. The amount that is included in the grant applications is an estimated maximum amount that is reimbursable. Given this practice, Metro staff currently prioritize and attempt to maximize the amount of CMAQ that is used for operations. The proposed modification to the Financial Stability Policy would incorporate this practice into the policy.

Operations Funding in FY23

Metro staff provided the Board with operations funding as part of the FY23 budget development status update, proposed budget and budget presentation (Board files #2022-0153 and #2022-0243). In the April 2022 budget development status update provided during Metro's Finance, Budget, and Audit Committee, staff recognized as the source of the anticipated future operations deficit the combined effects of (1) the pace of fare and tax revenue increases being slower than the rate of decrease in stimulus funds and (2) the cost of operations increasing due to labor shortages, inflation, new rail line openings, and new rider initiatives. The FY23 proposed budget (page 52) identifies the amount of subsidy needed to pay for recurring operating expenses net of recurring operating revenues and one-time grants.

The one-time Coronavirus Response and Relief Supplemental Appropriations Act (CRRSAA) and the American Rescue Plan Act (ARPA) federal grants in the amount of $1,283.3 million will be expended in FY23. Sales taxes and other operating funds are not enough to mitigate the loss of the one-time federal stimulus funds, leaving a funding gap beginning in FY24 and projected to grow in future years. The funding gap will be addressed through the FY24 EZBB budget development process, along with cost control measures being evaluated by Task Forces.

Resources & Expenses ($ in millions)	**FY23 Proposed**
Transit Fares & Other Revenues	$ 150.9
Federal & State Grants	
Federal CRRSAA/ARPA	1,238.3
Federal & State Grants	104.4
Local Subsidies	$ 705.6
Total Operations Resources	**$ 2,199.2**
Transit Operations Expenses	**$ 2,199.2**

CMAQ will be prioritized to the greatest extent allowable to fund new rail service in FY24 and beyond for the initial three years of service for the Crenshaw/LAX and Regional Connector rail lines. There is no additional CMAQ that is available to fund more operating expenses to forestall the magnitude of the operating deficit as the maximum eligible amount of CMAQ available to Metro will be used for operating assistance.

Modifications to Financial Stability Policy
Staff recommend the addition of a CMAQ funding policy to an existing Board-adopted policy to facilitate its reference and use. The existing Financial Stability Policy from 2008 would be modified to add the following provision.

“S15. Prioritize available Congestion Mitigation and Air Quality (CMAQ) Program federal grants to the greatest extent possible for any eligible operations costs.”

The Financial Stability Policy with the proposed modifications is included as Attachment B.

DETERMINATION OF SAFETY IMPACT

Approval of this item will have no negative impact to the safety standards of Metro.

FINANCIAL IMPACT

Impact to Budget
The adoption of the modification to the Financial Stability Policy will direct staff to use as much CMAQ as available on operating costs. This is consistent with current practice and the use of CMAQ in the FY23 budget.

EQUITY PLATFORM

The modification to the policy will help fund Metro transit operations and the amount of service. This helps provide transit service to those who rely on transit the most. In 2022, most ridership activity has occurred in Metro’s Equity Focus Communities (EFCs).

IMPLEMENTATION OF STRATEGIC PLAN GOALS

This item supports the Strategic Plan Goal #5, which seeks to “Provide responsive, accountable, and trustworthy governance within the Metro organization.” The item provides information about the funding of Metro’s transit operations to assist in the agency’s financial decisions.

ALTERNATIVES CONSIDERED

The Board could choose not to approve this item and the current practice of using CMAQ to the greatest extent possible for operating assistance would not be incorporated into a Board-approved policy.

NEXT STEPS

Metro staff has programmed the estimated maximum amount of CMAQ reimbursable for the Crenshaw/LAX and Regional Connector operating expenses in the FTIP and will expect to submit for

CMAQ reimbursement when the rail lines begin revenue service and incur costs. Metro staff is also developing a financial outlook for FY24 that will be shared with the Board in the forthcoming months.

ATTACHMENTS

Attachment A - Metro Board Report # 2022-0124
Attachment B - Modified Financial Stability Policy

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Chief Executive Officer

Metro

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Metro

Board Report

File #: 2022-0124, **File Type:** Program **Agenda Number:** 10.

REVISED
PLANNING AND PROGRAMMING COMMITTEE
APRIL 20, 2022

SUBJECT: INTERSTATE 10 HOV LANES PROJECT PROGRAMMING INCREASE

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

CONSIDER:

A. APPROVING $21,749,863 of additional Congestion Mitigation and Air Quality (CMAQ) programming within the current FY22 budget allocation; and

B. AUTHORIZING the Chief Executive Officer or their designee to negotiate and execute the necessary amendments to existing agreements for additional funding to the I-10 High Occupancy Vehicle Lanes Project from Puente Avenue to SR-57.

DUPONT-WALKER AMENDMENT: Return to the board with other capital-only funding sources for this project in place of CMAQ should there be additional need for operations funding.

Report back in August 2022 on the following:

A. an operations funding outlook beyond fiscal year 23 and how cmaq can help forestall the expected operations deficit; and

B. a policy to use CMAQ first for any eligible operations costs.

ISSUE

The I-10 High Occupancy Vehicle (HOV) Lanes Project from Puente Avenue to SR-57 (the Project) is led by Caltrans with partial funding from Los Angeles County Metropolitan Transportation Authority (Metro). Additional funds are required to close out the Project to cover several contractor claims. The anticipated costs to close out the Project are as follows: Segment 2 (PA.P000340A-3) in the amount of $29,688,029 (State share is $16,103,191 and Metro's share is $13,584,837) and Segment 3 (PA.P000399A-2) in the amount of $12,841,343 (State share is $4,676,317 and Metro's share is $8,165,026). Metro's total share of the additional funds required to close out the project, using segregated Contractor's bid established based on funding agreements, is: $21,749,863. The Board's action to increase programming for the Project will enable Caltrans to close out the construction contract.

BACKGROUND

The Project is being delivered by Caltrans in two segments and has added approximately ten miles of HOV lanes in each direction (now open to traffic), closing the gap to provide a continuous HOV/Express Lanes facility from east of Downtown Los Angeles to the San Bernardino County. Metro's current contribution to the Project is as follows: $117,726,051 out of $203,001,051 programmed for Segment 2 per Funding Agreement Number PA.P000340A-3, effective as of February 3, 2020, and $157,450,000 out of $267,116,000 programmed for Segment 3 per Funding Agreement Number PA.P000399A-2, effective as of September 30, 2020.

Segment 1, between I-605 and Puente Avenue, was completed in 2016 with a savings of $10,910,051 in CMAQ funds. For Segment 2, between Puente Avenue and Citrus Avenue, construction was completed in January 2022. Segment 3, between Citrus Avenue and SR-57, is undergoing plant establishment (expected to be completed in February 2023) and was opened to traffic in April 2021.

DISCUSSION

The construction contract for the I-10 improvements between Puente Ave and SR-57 has several claims. The Contractor Claims for Segment 2 totaling $47,236,856 are for inefficiencies and escalation of material and labor cost due to project delays. The project delays were due to utility relocations, right-of-way possession, site condition that required redesign of retaining walls and roadways, and discovery of buried man-made objects that required removal. The Contractor Claims for Segment 3 total $8,458,049 primarily due to unsuitable material caused by ground water, pavement grinding issues, and other minor claims. In addition, Segment 3 needs $2,550,000 to replenish contingencies to complete the Project.

In a letter dated February 14, 2022 (Attachment A), the California Department of Transportation (Caltrans) requested that Metro contribute $21,749,863 in supplemental funding for Segment 2 and Segment 3 to complete construction and close out these segments. Metro staff supports the programming of additional funds as the claims are being negotiated and the requested additional funds are required for the Project's closeout. Metro's contribution to cover these additional costs was calculated based on the established work items relating to the HOV lane as the original funding agreement scope.

DETERMINATION OF SAFETY IMPACT

The proposed action has no known adverse impact to the safety of Metro patrons and employees or users of our facilities. The I-10 freeway is a state-owned facility and Caltrans standards will be adhered to in the construction of the proposed improvements.

FINANCIAL IMPACT

Caltrans Life of Project (LOP) budget of I-10 Segments Improvement for Segment 2 is $203,001,051 per Funding Agreement Number PA.P000340A-3 effective as of February 3, 2020 and Segment 3 is $267,116,000 per Funding Agreement Number PA.P000399A-2 effective as of September 30, 2020.

The current project budget allocations and shortfalls are summarized in the funding tables below:

Segment 2:

Project Cost $	**$147,564,080 (2022)**
Cost Type	Estimated Cost

Revenue

Funding Source	Type	Amount	Status
State	IIP & RIP	$6,838,000	Approved
	SHOPP	$ 28,312,000	Approved
	IIP Shortfall	$ 2,187,470	Pending CTC Approval
	SHOPP Shortfall	$ 13,915,722	Pending CTC Approval
Local	CMAQ	$ 81,776,051	Approved
	Net Toll Revenues	$950,000	Approved
	CMAQ Shortfall	$13,584,838	Pending Metro Board Approval
Total Revenue		**$147,564,080**	

Segment 3:

Project Cost $	**$210,100,343 (2022)** ($209,000,343 in Capital & $1,100,000 in Support)
Cost Type	Estimated Cost

Revenue

Funding Source	Type	Amount	Status
State	SHOPP	$41,750,000	Approved
	G-12 Award	$4,375,000	Approved
	SHOPP Capital Shortfall	$4,094,226	Pending CTC Approval
	SHOPP Support Shortfall	$582,092	Pending CTC Approval
Local	CMAQ	$148,634,000	Approved
	Net Toll Revenues	$2,500,000	Approved

	CMAQ Capital Shortfall	$7,647,118	Pending Metro Board Approval
	CMAQ Support Shortfall	$517,908	Pending Metro Board Approval
Total Revenue		**$210,100,343**	

IMPACT TO BUDGET

Adoption of the recommendation will not have an impact to the FY 2022 budget, as Metro staff has identified CMAQ funds to pay for the cost increase. The CMAQ funds were not included or identified for other uses in the Metro FY 2022 budget.

EQUITY PLATFORM

The Project is administrated by Caltrans. The environmental process for Segment 2 and Segment 3 were completed in December 2002 and included public participation. Throughout the construction phase, the outreach efforts consisted of sending press releases to the cities, communities, media outlets, and elected offices regarding construction work. Caltrans Public Affairs unit responded to constituent inquiries and scheduled as-needed community meetings. Progress reports and updated information have been posted on Caltrans website. Every effort has been made to avoid, minimize, and/or mitigate construction impacts on the corridor communities, such as building sound walls to mitigate noise at various locations throughout the project limits and help improve the quality of life for residents.

The Project transverses through an Equity Focus Community (EFC) within the City of West Covina. In 2019, 53% of the people in West Covina were Hispanic and 81.4% of workers in West Covina drove alone to work, followed by those who carpooled to work (9.32%). This action will complete a Caltrans project that promotes and encourages ridesharing; thereby alleviating congestion through the San Gabriel Valley. The Project was constructed within the existing Caltrans right-of-way and additional acquired right-of-way. It has DBE goal of 9.0 percent for Segment 2 and 10.0 percent for Segment 3. The contract was certified with 10 percent for Segment 2 and 10.4 percent for Segment 3 in DBE.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

Approval of staff recommendation would allow for Caltrans and Metro to close out the Project. The Project is consistent with the following Metro Vision 2028 Goals and Objectives:

Goal 1: Providing high-quality mobility options that enable people to spend less time traveling by providing improved mobility at this location through upgrading the Expressway to an access-controlled freeway and HOV lanes to encourage carpooling and improve transit efficiency.

Goals 4 and 5: Transforming LA County through regional collaboration with Caltrans and the corridor cities by contributing funds and providing resources to assist Caltrans in management and delivery of this project.

ALTERNATIVES CONSIDERED

The Board may choose not to approve staff's recommendation. However, this would be inconsistent with our commitment to partnering with Caltrans on the delivery of High-Occupancy Vehicle network improvements.

NEXT STEPS

Upon Board's approval of the recommended action, Metro staff will complete the necessary funding agreements.

ATTACHMENT

Attachment A - Caltrans letter 2-14-2022

Prepared by: Maher Subeh, Director of Engineering, Highway Program, (213) 418-3291
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Stephanie N. Wiggins
Chief Executive Officer

ATTACHMENT A

CALIFORNIA STATE TRANSPORTATION AGENCY GAVIN NEWSOM, GOVERNOR

California Department of Transportation

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100 S. MAIN STREET, SUITE 100, LOS ANGELES, CA 90012
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February 14, 2022

Mr. Abdollah Ansari
Senior Executive Officer
Highway Program
Los Angeles County Metropolitan Transportation Authority (LACMTA)
One Gateway Plaza
Los Angeles, CA 90012

Dear Mr. Ansari:

First, I would like to express the California Department of Transportation (Caltrans) appreciation for LACMTA's partnership in construction of the High Occupancy Vehicle (HOV) projects on Interstate (I) 5 North, I-5 South, and I-10 corridors to serve the people of the region. As you know, these mega projects that takes many years of collaboration and resources from both agencies to complete. The I-10 corridor consists of three segments, all of which are open to traffic. Two of the segments are completed having achieved Construction Contract Accepted (CCA). The last segment is targeted to achieved CCA in February 2023.

Caltrans closed out Segment 1 of the project with the Contractor in 2018, we are now in claim negotiation with both contractors on Segment 2 and Segment 3. With the contractor submitted claims, both segments will need additional funds from Caltrans and Metro to settle the claims and close the projects with each contractor. Caltrans has been discussing the claims with LACMTA team for many months. This letter is a formal request documenting the amounts and the reasons for the LACMTA share of the project cost increase for Segment 2 and Segment 3.

Project Segment 2 (EA 07-1170U) has a total project estimated cost increase of $29,688,029 in construction capital, of which $13,584,837 is LACMTA share. Segment 3 has a total estimated cost increase of $12,841,343 in construction capital and support, of which $8,165,026 is LACMTA share.

Cost increases for projects such as these with multiple fund sources, are based on the work items that each fund type was programmed for per the STIP and SHOPP guidelines and the CTC approved funds.

For Segment 2, before the Construction contract was advertised, we established the segregated Engineer's Estimate (EE), which identified the items of work that will be funded by SHOPP (Caltrans fund) and CMAQ (Metro fund) for the HOV lane project and a combined soundwall project. The funding proportions for the project was established based on this segregated scope. The project cost split was re-established based on the segregated EE percentages and Contractor's bid prices after award of the contract. After construction complete, the project cost split was re-calculated to include change orders and claims relating to the work for SHOPP, CMAQ, and the soundwall project. Based on these calculations, the LACMTA share was calculated for the CMAQ and RIP (from Soundwall) funds.

Segment 3 project is funded by SHOPP and CMAQ funds. We used the same approach as above to calculate the cost split for Caltrans and LACMTA share.

For the reasons given above, Caltrans is requesting for LACMTA fund their proportional share of the cost increase for these two projects. We request the LACMTA submit the request to add additional funds for these two projects to the LACMTA Board for approval at April 2022 Board meeting.

Please don't hesitate to contact me at (818)254-5439 if you require any additional information.

Sincerely,

Gregory Farr

Gregory Farr
District 7 Assistant Division Chief
Program & Project Management
California Department of Transportation

c: Mark Archuleta, Deputy District Director - Construction
Susan Chang, Deputy District Director - PPM

Attachment B:

Financial Stability Policy

(Modified August 2022)

Policy Statement

We have an important responsibility to the taxpayers of Los Angeles County to prudently manage our long and short-term finances. In time of economic change and uncertainty, it is especially important for us to ensure our ability to deliver safe, quality and reliable transportation services that are based upon a strong and stable financial foundation.

The Financial Stability Policy is divided into three sections: Goals, Strategies, and General Fiscal Policies. Additional financial guidance is found in the Business Planning Parameters and Debt Parameters. The purpose of the policy is to ensure that we prudently manage our financial affairs, establish appropriate cash reserves, limit the level of debt that may be incurred, ensure that the debt assumptions are based on financial parameters similar to or more conservative than those that would be placed on us by the financial marketplace and to provide management with a framework for developing the upcoming year's budget and other longer range financial plans and establishing future business targets for management to achieve.

Financial Goals

G1. Maintain public safety on our bus and rail system as the top priority.

G2. Maintain an operating and capital financial base that is sufficient to deliver safe, quality transportation improvements and transit service efficiently and cost-effectively to meet the levels of demand.

G3. Continuously improve productivity.

G4. Establish and maintain General Fund balances equal to 5% of the operating budget to ensure that we can adjust to economic downturns, extraordinary cost increases and other financial emergencies.

GS. Maintain the highest possible credit rating and reputation for prudent financial management.

FY2008-2009 Financial Strategies

S1. We give top priority to funding of public safety on our bus and rail system. Present the details of the safety and security budget to the Board of Directors for separate approval at the time of annual budget adoption.

S2. Adjust transit operating expenses as needed to reflect changes in service demand, technology, productivity and revenue availability.

S3. Endeavor to keep growth in regional bus and rail operating expenses (as measured by growth in bus and rail operating cost per vehicle service hour) at or below the rate of inflation. The proposed budget presented to the Board for adoption will include a summary of actions taken or proposed to reduce expenditures.

S4. New programs proposed for Board adoption will include a cost recovery analysis to determine the cost of implementing the program in measurable terms.

SS. Departments who provide services to the public or outside entities will perform a cost recovery analysis during the fiscal year budget process and make the information available as part of budget adoption.

S6. Any capital project savings above $200,000 must return to the Board for approval prior to the reprogramming or transfer of funds to other projects or programs.

S7. Implement technology and productivity advancements designed to reduce or avoid increasing operational costs.

S8. Explore greater efficiency, effectiveness and ways to increase ridership.

S9. Work to increase and optimize ridership on our system through partnerships that foster transit-oriented development and improve access to the system.

S10. Regularly review productivity improvement programs and results as part of the annual budget process.

S11. Adopt an annual budget that includes an allocation to capital programs adequate to meet annual baseline reinvestment needs for projects and programs which are essential to ensure system performance.

S12. Pursue grant funding for capital projects pursuant to the priorities as addressed in the Long Range Transportation Plan, Short Range Transit Plan, and Five-Year Capital Improvement Program.

S13. Use debt financing prudently to leverage local, regional, state and federal funding for major cyclical capital investments, such as, transit vehicles, facilities, fare collection equipment, and train control renovation and replacement.

S14. Increase revenue from other sources such as advertising, parking, concessions, and joint development while meeting customer needs and providing safe, reliable service.

S15. Prioritize all available Congestion Mitigation and Air Quality (CMAQ) Program federal grants to the greatest extent possible for any eligible operations costs.

General Fiscal Policies

Fl. Complete and accurate accounting records shall be maintained in accordance with Generally Accepted Accounting Principles as promulgated by the Government Accounting Standards Board. The fiscal year-end for financial reporting purposes shall be June 30.

F2. An independent certified public accounting firm shall perform an examination of our consolidated financial statements (including Single Audit requirements) and retirement plan financial statements on an annual basis. The goal is to receive an unqualified opinion on the financial statements and an opinion that we are in compliance with Federal Single Audit requirements in all material respects and to receive the government Finance Officers Association (GFOA) award for excellence in financial reporting.

F3. Funds shall be invested within the guidelines of the Board's approved Investment Policy and in compliance with applicable state law, California Government Code Section 53600 etseq.

In accordance with the Investment Policy, the Board shall approve the Financial Institutions Resolution that designates the officials empowered to open, close, or authorize changes to accounts and authorizes the officials to designate individuals as Official Signatories for financial accounts.

F4. The policies and procedures described herein shall be known as the Financial Stability Policy and shall supersede all other financial policies previously adopted by the Board.

FS. An annual actuarial analysis shall be performed on all our self-administered retirement plans. We shall make annual contributions that, when combined with employee contributions, fund actuarially computed costs as they accrue.

F6. Appropriate insurance coverage shall be maintained to mitigate the risk of material loss. For self-insured retentions, we shall record the liabilities, including losses incurred but not reported, at 100% of the net present value.

The goal is to maintain restricted cash balances in amounts equal to the present value of estimated liabilities but in no event less than the next year's projected cash outflows. An actuarial review of self-insured liabilities will be made annually.