

**Board Report**

File #: 2021-0310, **File Type:** Motion / Motion Response**Agenda Number:** 12.

**PLANNING AND PROGRAMMING COMMITTEE
SEPTEMBER 15, 2021****SUBJECT: I-710 SOUTH CORRIDOR IMPROVEMENTS ENVIRONMENTAL PROCESS STATUS
UPDATE AND RESPONSE TO MOTION 48****ACTION: RECEIVE AND FILE****RECOMMENDATION**

RECEIVE AND FILE I-710 South Corridor Project Motion 48 Response.

ISSUE

At the May 27, 2021, regular Board meeting, Motion 48 (Hahn, Solis, Butts, and Dutra) on the I-710 (South) corridor improvements environmental process was approved. (Attachment A) Motion 48 directed the CEO to 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). 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;
- 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 C).

DISCUSSION

EPA Response Reaffirms Requirement for a PM Hot-Spot Analysis

After a multi-agency meeting and extensive discussions with the EPA, in their March 25, 2021 response to Caltrans and Metro (Attachment E), EPA ultimately rejected the Metro/Caltrans proposal to use the I-710 CTP, as a programmatic feature of the Project, to demonstrate how the project could help reduce trips made by diesel trucks within the corridor and thus qualify it as "Not a Project of Air Quality Concern" in order to fulfill the requirements of the Clean Air Act. EPA's position is summarized as follows:

- The I-710 project requires a PM hot-spot analysis under the Clean Air Act and EPA's transportation conformity regulations because it is a highway expansion project (in a non-attainment area and with a large percentage of truck utilization) that would result in significant increase in the number of diesel vehicles.

- The clear purpose of the hot-spot regulations is 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.
- EPA expects increases in the severity of existing PM violations even if the proposed I-710 Clean Truck Program were to be fully implemented given dust, tire wear and brake wear. 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 would not create PM NAAQS hot-spots.
- 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 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.

The EPA's position is ultimately to evaluate the I-710 CTP as a project mitigation, not as a project feature, as originally described in the I-710 Corridor RDEIR/SDEIS publicly circulated in July 2017, under that premise the I-710 CTP is not enforceable under CEQA and NEPA. The CTP was included as part of the I-710 investments because it directly addressed one of the most important elements of the Purpose and Need, to improve air quality, by reducing diesel truck trips and thus cancer risk in the corridor. Reframing the program as mitigation places additional regulatory burden and requirements upon the I-710 CTP. Metro and Caltrans staff has long recognized the regulatory challenges associated with seeking project-level conformity approval for the I-710 improvements.

As stated in the Background discussions, given that EPA has not yet developed acceptable and/or quantifiable ways to fully mitigate PM increases, Metro and Caltrans did not see a reasonable ending in proceeding with the PM "hot spots" analysis and instead, offered an alternative approach, including a technical demonstration of how the I-710 CTP would help reduce the number of diesel trucks traversing the corridor. As described above, despite many months of discussion and additional program development, EPA has 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.

Current Status

Metro has been actively engaged with the California State Transportation Agency (CalSTA) in their development of the draft Climate Action Plan for Transportation Infrastructure (CAPTI) which will implement Governor Newsom's Executive Orders (EOs) on Climate Change. These EOs rest on the foundation of climate legislation such as AB 32 (2006), SB 375 (2008), and SB 743 (2013), as well as Governor Brown's EO B-30-15 (2015). EO N-19-19 calls for actions to reduce greenhouse gas (GHG) emissions by leveraging discretionary state transportation funds. EO N-79-20 requires state transportation agencies to identify near-term actions and investment strategies to improve clean transportation, sustainable freight, and transit options.

The Project was initiated before these recent pieces of legislation and EOs. However, the Project's alternatives were developed in support of its purpose statement of improving air quality and public health, along with safety, mobility, and goods movement. Over the past several years, a number of strategies and concepts were

evaluated through the extensive alternatives development and refinement process to determine how and if, either as stand-alone or in conjunction with improvements to the I-710 freeway, each one of these would address the Project's purpose and need. Some of these ideas were included as part of the Project alternatives (e.g. Clean Truck Program, Active Transportation improvements) or incorporated in the I-710 studies in the No Build conditions (e.g. on-dock rail improvements and maximization of the Alameda Corridor capacity) based on freight rail projects in development by others. These Project elements on their own could not address the full purpose and need but can continue to be considered as part of a reevaluation of alternatives. Furthermore, other ideas such as converting existing mixed flow freeway lanes to priced/managed lanes and dedicating existing lanes only to clean trucks were not evaluated in detail during the environmental process because, at the time, it was not considered viable from an equity, legislative, mobility and/or operational standpoint. There is an opportunity now to work with our State and Federal partners, and local and regional stakeholders to evaluate these and other alternatives that can address the regional/local mobility and goods movement demands, and the need for air quality improvements.

State and Federal Support

Considering the Governor's EOs, environmental legislations, equity considerations, and the position taken by Caltrans, the Project, as currently defined under the Locally Preferred Alternative (5C), will not gain approval from the State. Furthermore, these considerations are significant enough to suggest the need to review the Project's purpose and need. Additional discussions with State/Federal agencies are needed to determine what ideas generated by the proposed I-710 Task Force (described below) could be supported. Continued coordination and consultation with EPA and Caltrans will also be critical to an alternatives development process because the issues outlined in response to particulate matter from entrained road dust and tire/brake wear will still need to be addressed under any improvement scenario that includes additional roadway capacity, or operational enhancements that may increase vehicle miles traveled.

In May 2021, Metro's then-CEO Phil Washington issued a Board Box (Attachment D) about the need to reimagine Metro's investment in the highway system and to engage all stakeholders in an open-minded manner to explore and create a set of principles guiding future highway investment. Staff anticipates the stakeholder engagement process that will inform development of solutions for the I-710 and plans will also help inform the broader discussion with Caltrans and CalSTA about the future of highway investments, with the goal of developing a set of guiding principles that would enable both agencies to make sustainable and long-lasting improvements that benefit the communities served along the 710 South Corridor.

Re-engaging Cities and Stakeholders Along the Corridor

Metro and Caltrans will seek to re-engage vital stakeholders that depend upon and are impacted by the movement of people and goods along the corridor. 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, 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.

Metro, in partnership with Caltrans (District 7), will conduct a series of workshops with the I-710 Task Force over the course of 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 at this event. 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 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 as to the scope of its investment plan that will realize the refreshed Purpose and Need of the I-710 South Corridor. A detailed work plan for the I-710 Task Force is included in Attachment E.

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 development and implementation of the Projects.

NEXT STEPS

Activities in pursuit of major highway investments on I-710 are ceased until further guidance is provided by the Board and agreements are reached 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.

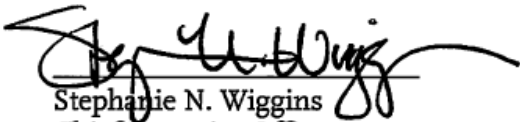
The I-710 Task Force outcomes will be presented to the Metro Board in early 2022, with updates provided periodically during this process. Staff will seek Board adoption of the I-710 Task Force investment and strategic plan at that time.

ATTACHMENT

- Attachment A - Motion 48 (May 21, 2021 Board Meeting)
- Attachment B - Multi-Agency MOU for I-710 CTP
- Attachment C - March 25, 2021 Letter from EPA
- Attachment D - CEO Board Box - Reimagining Highway Improvements
- Attachment E - Draft New Metro/Caltrans I-710 South Corridor Task Force Engagement Strategy

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