



JULY 27, 2022

AGENDA ITEM # 7

**MEMORANDUM OF UNDERSTANDING REGARDING IMPLEMENTATION OF THE
“SACRAMENTO COUNTY TRANSPORTATION MAINTENANCE, SAFETY AND CONGESTION
RELIEF ACT OF 2022 - RETAIL TRANSACTIONS AND USE TAX”**

Action Requested: Authorize Executive Director to execute an MOU.

Key Staff: Kevin M. Bewsey, Executive Director
Tim Jones, Chief Financial Officer

Recommendation

Staff recommends the STA Governing Board authorize the Executive Director to execute a Memorandum Of Understanding (MOU) regarding implementation of the “Sacramento County Transportation Maintenance, Safety And Congestion Relief Act Of 2022 - Retail Transactions And Use Tax”.

Background

In 1988, the Sacramento Transportation Authority (STA) was created when Sacramento County voters approved Measure A, a 20-year half-cent sales tax for transportation improvements. In 2004, voters approved a 30-year extension to the program. The two sales tax measures have generated approximately \$3 billion in transportation funding for the region. During this time, STA, in its role as program administrator, has distributed these funds and collaborated with the County of Sacramento and the Cities of Citrus Heights, Elk Grove, Folsom, Galt, Isleton, Rancho Cordova, and Sacramento, Caltrans, Sacramento Regional Transit, ParaTransit, Capital Southeast Connector, SACOG, and Sacramento Metropolitan Air Quality Management District.

Late in 2018, the STA began work on a new half-cent sales tax measure for the November 2020 ballot. The STA solicited a variety of public, stakeholder and agency input to better understand the unmet transportation needs of the region. This outreach was used to develop a Proposed 2020 Measure A Transportation Expenditure Plan. By May of 2020 the STA Governing Board had adopted the Proposed 2020 Measure and the Board of Supervisors and of the city councils of all the cities in the county had approved it. However, by July of 2020 the persistent impact of the coronavirus had created uncertainty. While a majority of voters were still willing to support the proposed measure, the level of support needed to reach the two-thirds voter approval did not warrant going forward with a ballot measure and the STA Governing Board withdrew their request to place the measure on the ballot.

In 2021, a citizens’ group known as “A Committee for a Better Sacramento” (“Committee”) began to draft and circulate a forty-year, \$8.5 billion transportation ballot initiative. This effort was done as a citizens’ initiative, unlike STA’s previous measures and requires a simple majority instead of a two-thirds voter approval. This citizens’ initiative was finalized in February 2022. The half-cent sales tax program is known as the Sacramento County Transportation Maintenance, Safety, and

Congestion Relief Act of 2022—Retail Transactions and Use Tax (the “Initiative”). The Committee drafted the Initiative as an STA ordinance and identifies STA as the administering agency responsible for the implementation of the requirements of this Initiative, including the Expenditure Plan. As such, STA will develop the necessary policies to implement and administer the Initiative. STA staff anticipates initiating the development of these policies in December 2022 in collaboration with the Professional Advisory Group (PAG) and other stakeholders before being presented to the STA Governing Board for approval.

STA staff will collaborate with SACOG, which is the federally designated metropolitan planning organization for the greater region and the regional transportation planning agency for Sacramento County, to ensure the Initiative’s implementation aligns with the region’s long-range emissions reduction targets as envisioned in Senate Bill 375. The Initiative requires that projects not impair the ability of the region to meet federal air quality conformity requirements and that project sponsors mitigate GHG impacts for such projects.

During the May 2022 SACOG Board meeting, an informational item titled “Review & Analysis of Proposed Citizens' Transportation Tax Initiative in Sacramento County” was presented. The analysis identified approximately 26 capacity expanding projects out of 225 projects which were not consistent with the region’s long-range transportation and land use plan called the Metropolitan Transportation Plan and Sustainable Communities Strategy (“MTP/SCS”). The analysis suggests that the region may fall short of meeting its state-mandated 19 percent per capita GHG reduction targets if these 26 capacity expanding projects are constructed on or before 2035. The analysis further suggests how the Initiative may negatively impact the region’s eligibility to compete for major state transportation and housing funding programs, if it falls short of these emission reduction targets.

Subsequently, SACOG, the City of Sacramento Mayor, and the Initiative Committee developed guidelines that further the goal of meeting long-term emission reductions targets. In early June, a proposed framework of agreement was reached and at the June 2022 SACOG Board meeting a framework of agreement was approved which can be found in attachment 2.

Framework of the Agreement

The June 9th, 2022 Agreement (“Framework”) states that the Committee has identified an estimated \$510 million in revenue, in addition to the \$8.5 billion in revenue projected in the Expenditure Plan. Based upon clarification from the Committee, the Initiative’s estimated tax revenue is conservative, and actual revenues could be approximately 6% higher due to recent inflationary effects. The Framework requests that recipient agencies pass resolutions acknowledging that the additional funds may be needed primarily for GHG mitigation efforts for projects not included in the MTP/SCS.

The Framework further defines the implementation of the Federal Air Quality Requirements and MTP & GHG Reduction Targets. Specifically, the Framework requires project sponsors to develop GHG mitigation measures. To ensure the most effective mitigation measures are in place and that the region’s long-range emissions reduction targets are met, STA will fund a SACOG study and a third-party analysis of the GHG impacts to be completed by December 31, 2023. The

Framework states that STA and project sponsors will follow SACOG's recommendation, If there is a significant deviation from the third-party review, the three-parties will meet and confer. Project sponsors will have to demonstrate to STA they can mitigate GHG impacts sufficiently to adhere to regional GHG reduction targets. SACOG would then consider any mitigated project in the next MTP/SCS.

The Framework includes the City of Sacramento committing \$100 million in Initiative funding to the California Mobility Center. The Center will foster innovation in clean transportation, including electric and automated vehicle technology, to develop future smart mobility solutions for the region.

The Framework requires SACOG, STA, the Committee, and the Capital SouthEast Connector JPA to each issue a public statement in support of the MOU and the agency's intent to implement the provisions of the Initiative. The Committee will reference this MOU in it's ballot argument in support of the Initiative.

Discussion

The STA's experience in administering voter approved sales tax measures along with STA's close working relationships with project sponsors makes it a logical choice to administer this citizens' Initiative. In addition, STA regularly collaborates with SACOG to leverage Measure A funds. STA staff will build on these established relationships to ensure an effective and efficient implementation of the Citizen's Initiative. STA staff will ensure the final GHG mitigation reduction plan will use a transparent process with opportunities for review and comment at key milestones and while incorporating the priorities of the STA Governing Board and project sponsors.

The Final MOU, shown in attachment 3, varies slightly from the Framework. The MOU does not include any of the project sponsors as party to the MOU. So the City of Sacramento, Caltrans or the Capital SouthEast Connector JPA are not a party to the MOU. Additionally, STA would agree to a Transportation Funding Strategy Partnership with SACOG to help leverage regional, state, and federal transportation funding for projects or programs that are consistent with the MTP/SCS.

STA staff believes that this MOU is the best way to satisfactorily resolve GHG mitigation concerns. While the STA Governing Board could take alternative action such as a developing a GHG Implementation Policy or a GHG Implementation MOU between STA and SACOG, these actions do not appear to satisfy the concerned groups. Consequently, Staff recommends the STA Governing Board authorize the Executive Director to execute an MOU substantially similar to the MOU in Attachment 3, regarding implementation of the "Sacramento County Transportation Maintenance, Safety And Congestion Relief Act Of 2022 - Retail Transactions And Use Tax".

Fiscal Impact

The proposed action would commit STA to funding and completing a SACOG study and third-party analysis by December 31, 2023. Funding for this work will come from the Initiative's spending categories that include capacity expanding projects not in the MTP/SCS.

Attachment(s)

1. Resolution
2. Framework of Agreement
3. MOU

SACRAMENTO TRANSPORTATION AUTHORITY

RESOLUTION NO. _____

**RESOLUTION OF THE SACRAMENTO TRANSPORTATION AUTHORITY
AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A MEMORANDUM OF
UNDERSTANDING (MOU) REGARDING IMPLEMENTATION OF THE
“SACRAMENTO COUNTY TRANSPORTATION MAINTENANCE, SAFETY AND
CONGESTION RELIEF ACT OF 2022 - RETAIL TRANSACTIONS AND USE TAX”**

WHEREAS, the Committee For a Better Sacramento (Committee) independently drafted and circulated a local initiative petition entitled the “SACRAMENTO COUNTY TRANSPORTATION MAINTENANCE, SAFETY AND CONGESTION RELIEF ACT OF 2022 - RETAIL TRANSACTIONS AND USE TAX” (the “Initiative”) for signatures and has submitted the Initiative to the County of Sacramento Office of Voter Registration & Elections; and

WHEREAS, the Initiative was drafted as an ordinance of STA, to be administered and implemented by STA; and

WHEREAS, The Initiative contains Implementation Guidelines within its Expenditure Plan and sections J and K of the Implementation Guidelines require that projects funded by the Initiative shall not impair the ability of the region to meet federal air quality conformity requirements and maintain adherence to the then applicable regional greenhouse gas GHG reduction targets; and

WHEREAS, the Sacramento Area Council Of Governments (SACOG) is the federally designated metropolitan planning organization for the greater region and the regional transportation planning agency for Sacramento County as well as the counties of, Sutter, Yolo and Yuba; and

WHEREAS, SACOG is responsible for the region’s long-range transportation and

land use plan called the Metropolitan Transportation Plan and Sustainable Communities Strategy (“MTP/SCS”) which includes the region’s plan meet standards for reduction of GHG emissions as identified in State Senate Bill 375; and

WHEREAS, SACOG, City of Sacramento Mayor, and the Initiative Committee agreed upon a proposed framework for implementation of the Initiative, which was approved at the June 2022 SACOG Board of Directors meeting; and

WHEREAS, a MOU is needed with STA due to its role in administering and implementing the Initiative.

NOW, THEREFORE, BE IT RESOLVED, by the SACRAMENTO TRANSPORTATION AUTHORITY as follows:

1. **Authorize Executive Director.** The Governing Board of the SACRAMENTO TRANSPORTATION AUTHORITY hereby authorizes the Executive Director to execute an MOU regarding implementation of the “Sacramento County Transportation Maintenance, Safety And Congestion Relief Act Of 2022 - Retail Transactions And Use Tax”, in substantially similar form as that attached hereto. The MOU will be of no effect if the voters do not approve the Initiative.

On a motion by [Member] _____, seconded by [Member] _____, the foregoing Resolution was passed and adopted by the Governing Board of the Sacramento Transportation Authority at a regular meeting thereof this _____ day of _____ 202_, by the following vote, to wit:

AYES: [Members],

NOES: [Members],

ABSENT: [Members],

ABSTAIN: [Members],

RECUSAL: [Members],
(PER POLITICAL REFORM ACT (§ 18702.5.)

Chair of the Governing
Body of the Sacramento
Transportation Authority

(SEAL)

ATTEST: _____
Clerk of the Governing Board of the
Sacramento Transportation Authority

JUNE 9TH, 2022 AGREEMENT

Other items:

- City of Sacramento will contractually commit \$100M in measure funds to support the California Mobility Center prior to measure certification. This will be supported by Campaign.

MTP/SCS Deal:

Projects in the MTP/SCS are Eligible for Measure Funds without Further Requirements

- Per the above, if a portion of an Expenditure Plan project is planned or programmed for Construction in the MTP/SCS, that portion of the Expenditure Plan project shall be eligible for Measure funds, without further requirements. Projects in the MTP/SCS for project development are available receive project development dollars.

Prioritizing Additional Funds for GHG Mitigation

- Based upon a clarification letter from the campaign, the Initiative's estimated tax revenue is conservative, and actual revenues could be approximately 6% higher due to recent inflationary effects. This means there may be over \$510 million in additional revenues which, per the Initiative's express terms, will be available for allocation pursuant to the Expenditure Plan's spending categories and, more specifically, for authorized uses on eligible projects, including for GHG mitigation efforts. Per the measure, additional funds are available for mitigation efforts without a cap. Since additional revenues over projections will go directly to recipient agencies on a pro-rata basis, recipient agencies can pledge that the use of these additional funds be used first for GHG Mitigation.

Action I: The Campaign will send a clarification letter to STA to add to the public record prior to certification that actual additional revenues available for mitigation could be \$510M.

Action II: STA and the Campaign will jointly request that recipient agencies pass resolutions prior to the measure's passage acknowledging that these additional revenues may be needed primarily for GHG mitigation efforts.

Process for Projects not in the MTP/SCS must Mitigate for GHG to Receive Measure Funds

- For projects that are not planned or programmed for construction in the MTP/SCS, project sponsors shall, in order to be eligible for Measure funds, develop mitigation measures for any projects that increase GHG emissions.
- STA will commission and fund a SACOG and a third-party analysis to provide a review of the entire measure, its capital projects not in the MTP/SCS, and its GHG impacts. This review must identify aggregate GHG impacts of the entire measure and mitigation efforts to cover the measure's aggregate GHG impacts. The analysis on both shall be complete by December 31, 2023. STA and project sponsors will follow SACOG's recommendation, if there is a significant deviation from the third-party review at which time the three-parties will meet and confer.
- Consistent with the analysis resulting from the process describe above, for projects not in the MTP/SCS, once a project sponsor has submitted to STA mitigation measures demonstrating that the project sponsor can mitigate any such project impacts to maintain adherence to the then applicable regional GHG reduction target, the project(s) shall be eligible for Measure funds. Therein, there should be no net increase to regional GHG emissions after mitigation measures are complete.
- SACOG will consider any mitigated project in the next MTP/SCS.

Action I: STA, the Campaign, SACOG, and the Connector JPA will work on drafting a four-party MOU to implement the process outlined above.

Action II: All parties will issue a public statement supporting the agreement and its intent to further the measure.

Action III: The Campaign will reference the agreed upon agreement in the "Yes" arguments for the campaign.

MEMORANDUM OF UNDERSTANDING REGARDING IMPLEMENTATION OF THE “SACRAMENTO COUNTY TRANSPORTATION MAINTENANCE, SAFETY AND CONGESTION RELIEF ACT OF 2022 - RETAIL TRANSACTIONS AND USE TAX”

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made and entered into as of this ____ day of July 2022, by and between the SACRAMENTO AREA COUNCIL OF GOVERNMENTS, the metropolitan planning organization for the Sacramento region (“SACOG”), and the SACRAMENTO TRANSPORTATION AUTHORITY, a California transportation authority formed pursuant to Public Utilities Code section 180000, et seq. (“STA”) (collectively, the “Parties” or individually, a “Party”). The Committee for a Better Sacramento (“CBS”) is expressly acknowledging this MOU to confirm that the MOU is consistent with the provisions and intent of the citizens’ initiative, as detailed below.

RECITALS:

A. A primarily formed, citizens’ ballot measure committee known as Committee for a Better Sacramento, including voter proponent (“CBS”), independently drafted, circulated for voter signatures, and now qualified for the ballot, a local initiative petition titled the “SACRAMENTO COUNTY TRANSPORTATION MAINTENANCE, SAFETY AND CONGESTION RELIEF ACT OF 2022 - RETAIL TRANSACTIONS AND USE TAX” (the “Initiative”). No government officials serve on CBS’s board, CBS is not controlled by any government official or candidate for office, and no government officials were involved in drafting, filing, or circulating the Initiative for voter signatures.

B. The County of Sacramento Office of Voter Registration & Elections has determined that CBS collected more than the requisite number of valid, verified voter signatures to require the Initiative to be presented to voters of STA in November 2022. If approved by a majority of voters of STA voting in the election, the Initiative will establish a 0.5% transactions and use tax within STA (coterminous with Sacramento County) dedicated to funding transportation and transit projects.

C. As an initiative ordinance of STA, the Initiative will be administered and implemented by STA. The Initiative contains an expenditure plan which details how STA is to allocate Initiative revenues and fund projects, subject to the terms of the Initiative (the “Expenditure Plan”). Sections J and K of the Expenditure Plan require that projects funded by the Initiative shall not impair the ability of the region to meet federal air quality conformity requirements and acknowledge that the region must currently meet a 19% per capita greenhouse gas (“GHG”) emissions reduction target. Section K mandates that projects are only eligible to receive funds from the Initiative if the project sponsor can mitigate any such project impacts to maintain adherence to the then applicable regional GHG emissions reduction target, the project is already included in the MTP/SCS (as defined below), or the project is exempt from the GHG emissions reduction target (meaning the project does not increase transportation capacity and therefore does not increase GHG).

D. SACOG is the federally designated metropolitan planning organization for the greater six county Sacramento region and the regional transportation planning agency for Sacramento County as well as the counties of Sutter, Yolo and Yuba. Among other responsibilities, SACOG is responsible to plan for the region’s ability to meet standards for reduction of GHG emissions. As referenced in the Initiative,

federal and state laws require SACOG to develop a Metropolitan Transportation Plan and Sustainable Communities Strategy (“MTP/SCS”) that address GHG emissions reductions requirements. Under the federal and state regulatory framework, the California Air Resources Control Board (“ARB”) establishes passenger vehicle GHG emissions reduction targets that SACOG must meet through the MTP/SCS. SACOG works with ARB to determine an accurate method for measuring the greenhouse gas emissions performance of the MTP/SCS, and ARB ultimately determines whether the MTP/SCS would meet the established GHG emissions reduction target. SACOG has developed an MTP/SCS that is designed to achieve the region’s GHG reduction targets, and SACOG engages in detailed annual monitoring of actual performance of the GHG emissions reductions.

E. The Initiative directs revenues to fund, subject to the Initiative’s requirements, certain capital projects, including but not limited to certain Caltrans projects and portions of the Capital Southeast Connector project, that are not currently planned or programmed for construction in the MTP/SCS and will therefore have to mitigate GHG emissions in order to be eligible to use Initiative funds for construction.

F. Through this MOU, the Parties intend to set forth a structure to implement the provisions of Sections J and K of the Expenditure Plan to establish whether projects that are not within the MTP/SCS will be eligible to receive Initiative funds, as per the terms of the Initiative. This MOU is necessary to establish a framework for intergovernmental cooperation between the STA, as the agency responsible for the Initiative funds, and SACOG, as the agency responsible for planning for, and implementation of, the GHG emissions reductions target. This will help ensure that the agencies which may receive funding for projects requiring mitigation will effectively achieve sufficient GHG mitigation and avoid impacting the region’s ability to meet GHG reduction targets. This MOU also confirms that the implementation provisions contained in this MOU are consistent with both the text of the Initiative and CBS’ intent in preparing the Initiative and submitting it to the voters; nothing in this MOU is intended to alter or in any way change the language as set forth in the Initiative qualified for the ballot by the voters. Finally, by documenting the mutual understandings of the Parties prior to the election, the Parties hereto are better positioned to convey objective information to the voters and the Parties’ various member agencies regarding the Initiative’s implementation if adopted.

NOW, THEREFORE, the Parties have reached the following understandings, and for good and valuable consideration, which is hereby acknowledged and received, the Parties set forth their understandings, together with CBS’s confirmation that the provisions are consistent with the Initiative, as follows:

1. **Recitals.** The Parties and CBS acknowledge and agree that the Recitals are true and correct statements. The Parties’ understandings set forth in this MOU are made in reliance upon the Recitals, as well as upon the confirmation by CBS pursuant to paragraph 8, below.
2. **Prioritizing Additional Funds for GHG Mitigation.** CBS has informed the Parties that the Initiative’s estimate of tax revenues is conservative and actual revenues could be approximately 6% higher. This means there may be over \$500 million in additional revenues which, per the Initiative’s express terms, will be available for allocation pursuant to the Expenditure Plan’s spending categories and, more specifically, for authorized uses on eligible projects, including for GHG mitigation efforts. Additional Initiative funds are available for mitigation efforts without a cap, and will be prioritized

for this purpose. Since additional revenues over projections will go directly to recipient agencies on a pro-rata basis, recipient agencies can pledge that the use of a portion of these additional funds be used first for GHG mitigation. This section shall not be construed to limit or eliminate any mitigation obligations under the Initiative or as set forth in this MOU.

2.1. STA and CBS will each request that recipient agencies pass resolutions acknowledging that additional revenues may be needed primarily for GHG mitigation efforts for projects not included in the MTP/SCS.

3. **Process for Projects Not In MTP/SCS.** For projects that are not planned or programmed for construction in the MTP/SCS, project sponsors shall, in order to be eligible for Initiative funds, develop mitigation measures to achieve the necessary reduction target for regional GHG emissions. With the mitigation measures, there should be no net increase to regional GHG emissions from the MTP/SCS. STA will commission and fund a SACOG study, and a third-party analysis, to provide a review of the entire Initiative, its capital projects not in the MTP/SCS, and its GHG impacts. This review must identify aggregate GHG impacts of the entire Initiative and mitigation efforts to cover the Initiative's aggregate GHG impacts. The SACOG study and third-party review shall be completed by December 31, 2023.

3.1. In implementing the GHG mitigation process for projects not in the MTP/SCS, the following shall apply:

- (1) STA and the project sponsors shall be allowed to review and comment on the SACOG study and third-party analysis;
- (2) STA and the project sponsors will follow SACOG's recommendation; and,
- (3) If there is a significant deviation from the third-party review the three parties will meet and confer.

3.2. Consistent with the analysis resulting from the process described above, for projects not in the MTP/SCS, once a project sponsor has submitted to STA mitigation measures demonstrating that the project sponsor can mitigate any such project impacts to maintain adherence to the then applicable regional GHG reduction target, the project shall be eligible for Initiative funds. There should be no net increase to regional GHG emissions after mitigation measures are complete. SACOG will consider any mitigated project for inclusion in the next MTP/SCS.

3.3. These implementation procedures shall only apply to projects that are not currently planned or programmed for construction in the MTP/SCS. Projects already included in the MTP/SCS for project development are eligible to receive Initiative funds. These implementation procedures do not apply to projects that are exempt from GHG reduction targets – i.e., projects that do not expand transportation capacity. These implementation procedures only apply to eligibility for funding of construction phases of projects.

4. **Statements Regarding MOU.** All Parties will issue a public statement in support of this MOU and the MOU's intent to implement the provisions of the Initiative.

5. **Transportation Funding Strategy Partnership.** The Initiative includes an Expenditure Plan, which identifies projects and programs that will maintain and improve the quality of life in Sacramento County, and are intended to accomplish several goals. One of these goals is to improve the ability of all local jurisdictions and agencies to leverage regional, state, and federal transportation funding with the goal of providing a competitive local match for the projects and programs listed in the Expenditure Plan. In support of this goal, STA, in partnership with SACOG, will develop and implement a Transportation Funding Strategy to advance projects in the Expenditure Plan that support the goals and objectives of the MTP/SCS and help local agencies identify and attract additional state, federal, and regional funding opportunities.
6. **California Mobility Center.** The Parties acknowledge that the City of Sacramento has stated its intention to commit \$100M in future Initiative funds, pursuant to applicable terms and processes set forth in the Initiative, to support the California Mobility Center.
7. **Miscellaneous.** This MOU shall be effective upon adoption by the Parties and may only be amended in writing by mutual consent of the Parties. This MOU shall have no further force and effect if the voters do not approve the Initiative at the November 2022 general election. To the extent any provision contained herein is deemed to be unlawful or unenforceable, the offending provision shall be severed and the remainder of the MOU shall remain in full force and effect. This MOU is intended to clarify and implement the Initiative; nothing herein is intended to modify the express terms of the Initiative. Nothing herein is intended to authorize or in any way allow the construction of projects in a manner that violates federal, state, or local laws and regulations. This MOU may be executed in duplicate counterparts. The signatories below are authorized by their respective Parties to execute this MOU.

[CONTINUED ON FOLLOWING PAGE]

8. **CBS Confirmation.** CBS acknowledges and agrees that the provisions of this MOU are fully consistent with the language in the Initiative and CBS's intentions as the proponent of the Initiative. CBS also acknowledges its commitment to reference this MOU in its ballot argument in support of the Initiative.

CONFIRMED BY CITIZENS FOR A BETTER SACRAMENTO

By: _____

The above signatory is an authorized representative of CBS and has full authority to execute on behalf of CBS.

IN WITNESS WHEREOF, the Parties hereto have caused this MOU to be duly executed as of the date the Parties have executed below.

SACRAMENTO TRANSPORTATION AUTHORITY By: _____ Kevin Bewsey Executive Director	SACRAMENTO AREA COUNCIL OF GOVERNMENTS By: _____ James Corless Executive Director
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