

**Metropolitan Transportation Commission  
Programming and Allocations Committee**

November 14, 2007

Item Number 3b

**Resolution No. 3842**

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- Subject:** Agreement for the exchange of Transportation Authority of Marin (TAM) Measure 'A' funds with Congestion Mitigation and Air Quality Improvement (CMAQ) program funds for the U.S. 101 High Occupancy Vehicle (HOV) Lane Gap Closure Project in Marin County
- Background:** MTC's exchange fund was created by a Santa Clara County Traffic Authority repayment of \$19.3 million in STP funds in October 1997 advanced by MTC to complete the Route 17/ Route 85 interchange project. Since \$18.5 million of the repayment was in local cash, it gave MTC the flexibility to apply these funds to projects in the adopted STP program that encountered problems with meeting federal funding requirements. This exchange did not increase the total amount of funds available to the region, but rather just changed the type of funding for a portion of the STP program, allowing MTC greater funding flexibility for selected projects. Since the creation of the program, the Commission has programmed approximately \$22.1 million in Exchange funds including interest.
- The Transportation Authority of Marin (TAM) has recently requested the assistance of MTC to reduce debt financing costs by providing CMAQ program funds available now in exchange for Measure A funds available in future years. A similar exchange was initiated with the Sonoma County Transportation Authority (SCTA) in 2006.
- Summary:** This agreement directs up to a total of \$12.5 million in federal CMAQ funding that is part of the Third Cycle CMAQ Bonus, in exchange for local unrestricted measure sales tax funds to be repaid to MTC over a multi-year timeframe as outlined in the resolution. TAM receives a benefit of accessing funds now without having to bond against sales tax funds, and MTC benefits by augmenting its exchange program to assist project sponsors and programs that may not meet eligibility requirements associated with federal funds. MTC also receives interest of 3 percent for any unpaid funds after an initial interest-free grace period. MTC staff will return to the Commission to identify specific projects to receive the exchange funding in accordance with the Third Cycle CMAQ Bonus.
- Issues:** None.
- Recommendation:** MTC staff recommends the Committee forward the TAM/MTC Measure A /CMAQ Exchange Agreement, MTC Resolution No. 3842, to the Commission for approval.
- Attachments:** MTC Resolution No. 3842

Date: November 28, 2007  
W.I.: 1512  
Referred by: PAC

ABSTRACT

Resolution No. 3842

This resolution establishes the conditions for the exchange of Transportation Authority of Marin (TAM) Measure A funds with regional Congestion Mitigation and Air Quality Improvement (CMAQ) program funds in Marin County. An agreement for the conditions of this exchange of funds between MTC and TAM is included.

The resolution includes the following attachments:

Attachment A – Funding Exchange Agreement

Attachment B – TAM Measure A Repayment Schedule

Further discussion of this action is contained in the Programming and Allocation summary sheet dated November 14, 2007.

Date: November 28, 2007  
W.I.: 1512  
Referred by: PAC

RE: Agreement to Exchange Transportation Authority of Marin Measure A Funds for Congestion Mitigation and Air Quality Improvement Program Funds

Metropolitan Transportation Commission  
Resolution No. 3842

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code § 66500 et seq.; and

WHEREAS, MTC is the designated Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area region; and

WHEREAS, the Transportation Authority of Marin (TAM) is the county transportation planning agency responsible for administering Marin County's Measure A funds for the County of Marin; and

WHEREAS, TAM is the sponsoring agency, and the California Department of Transportation (Caltrans) is the implementing agency for the U.S. 101 High Occupancy Vehicle (HOV) Lane Gap Closure Project in Marin County, hereinafter referred to as the "Project"; and

WHEREAS, TAM has requested the assistance of MTC to avoid certain debt financing costs by providing Congestion Mitigation and Air Quality Improvement (CMAQ) program funds available now in exchange for Measure A funds available in future years; and

WHEREAS, the Authority has agreed to repay MTC for the CMAQ funds requested pursuant to the terms set forth in an agreement between MTC and TAM; and

WHEREAS, the agreement is substantially in the form set forth in Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length; now, therefore, be it

RESOLVED, that MTC approves the advancement and exchange of CMAQ funds with TAM Measure A funds for the purposes, and within the maximum amount established, and subject to the conditions, set forth in Attachment A; and, be it further

RESOLVED, that Attachment B sets forth the agreed-upon funding amounts for the exchange, and that the Executive Director may amend Attachment B within the limits set forth in Attachment A; and, be it further

RESOLVED, that the repaid Measure A funds shall be placed into an exchange account for the programming of projects at the discretion of the Commission; and, be it further

RESOLVED, that MTC's Executive Director is authorized to execute Attachment A, and to make non-substantive changes or minor amendments as deemed appropriate; and, be it further

RESOLVED, that upon execution of Attachment A by the signatory agencies, MTC staff shall implement the exchange of the CMAQ funds with Measure A funds.

METROPOLITAN TRANSPORTATION COMMISSION

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Bill Dodd, Chair

This resolution was entered into by the Metropolitan Transportation Commission at a regular meeting of the Commission held in Oakland, California, on November 28, 2007.

Date: November 28, 2007  
W.I.: 1512  
Referred by: PAC

MTC Resolution No. 3842  
Attachment A  
Page 1 of 3

**Agreement for Exchange of Transportation Authority of Marin (TAM) Measure A funds with Congestion Mitigation and Air Quality Improvement (CMAQ) program funds for the U.S. 101 High Occupancy Vehicle (HOV) Lane Gap Closure Project in Marin County**

This AGREEMENT is entered into on the 28th day of November 2007, by and between the TRANSPORTATION AUTHORITY OF MARIN, a public entity of the State of California, hereinafter referred to as "AUTHORITY", and the METROPOLITAN TRANSPORTATION COMMISSION, hereinafter referred to as "MTC".

Recitals

- (1) AUTHORITY is the sponsoring agency and the California Department of Transportation (Caltrans) is the implementing agency for U.S. 101 High Occupancy Vehicle (HOV) Lane Gap Closure Project in Marin County hereinafter referred to as "PROJECT".
- (2) PROJECT is an approved Highway 101 improvement project identified in the Measure A Expenditure Plan for Marin County that was approved by voters on November 2, 2004.
- (3) PROJECT has received federal authorization to proceed.
- (4) AUTHORITY has requested the assistance of MTC to avoid certain debt financing costs by providing \$12.5 million in Congestion Mitigation and Air Quality Improvement (CMAQ) program funds hereinafter referred to as "CMAQ FUNDS" available now in exchange for Measure A funds hereinafter referred to as "MEASURE FUNDS" available in future years.
- (5) MTC is eligible to program and disburse apportioned CMAQ FUNDS.
- (6) AUTHORITY and MTC desire to proceed with the funding exchange immediately, as nothing in this agreement adversely affects the obligation of CMAQ FUNDS to other programmed projects in the MTC region in federal fiscal year 2007-08.
- (7) AUTHORITY and MTC mutually desire to specify herein the terms and conditions under which MTC is to provide CMAQ FUNDS to AUTHORITY, in exchange for AUTHORITY's assignment of unrestricted MEASURE FUNDS to be repaid to MTC.

Now, therefore, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

Section I

MTC AGREES:

- (1) To perform the necessary funding transactions within its authority to implement the exchange of funds.
- (2) Upon execution of this agreement, to provide up to a maximum total of \$12.5 million of MTC apportioned CMAQ FUNDS including Obligation Authority (OA) to AUTHORITY for construction of PROJECT.

Section II

AUTHORITY AGREES:

- (1) To indemnify and hold harmless MTC, its Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of AUTHORITY, its officers, employees or agents, or subcontractors or any of them in connection with its performance of PROJECT under this Agreement.
- (2) To reimburse MTC for CMAQ FUNDS provided to AUTHORITY by paying unrestricted MEASURE FUNDS to MTC as outlined in the payment schedule of Attachment B. Payments are to be paid to MTC biannually over a seven-year period starting in 2009 with the first payment due by June 30, 2009 and the final payment due by December 31, 2015. Biannual payments are due by June 30 and December 31 of each year.
- (3) To pay interest at the simple annual rate of three (3) percent on the unpaid balance remaining after December 31, 2010 as listed in the payment schedule of Attachment B.
- (4) To pay interest at the simple annual rate of ten (10) percent for any unpaid balance, including interest, greater than the amounts listed on the repayment schedule outlined in Attachment B including any balance remaining after December 31, 2015.
- (5) To provide required non-federal funds as a match to the CMAQ FUNDS provided by MTC.
- (6) To meet all federal, state and regional project funding delivery requirements associated with the CMAQ FUNDS.

Section III

IT IS MUTUALLY AGREED:

- (1) This Agreement shall terminate upon the satisfaction of AUTHORITY's obligation to reimburse MTC with MEASURE FUNDS including interest, as outlined in Section II of this Agreement.
- (2) Nothing in this Agreement shall preclude AUTHORITY from making principal payments in advance of the schedule or in excess of the amounts outlined in Attachment B, thus reducing the balance remaining and the amount of interest owed.
- (3) CMAQ FUNDS provided and programmed to PROJECT under this agreement and subsequently de-obligated from PROJECT shall be made available to AUTHORITY for eligible activities within the Marin U.S. 101 corridor in the year of de-obligation.
- (4) MTC reserves the right to withhold from AUTHORITY future regional discretionary funds and AUTHORITY agrees to accept such withholding if AUTHORITY fails to meet its obligation to reimburse MTC with unrestricted MEASURE FUNDS including interest, as specified in Section II of this Agreement.
- (5) This Agreement shall bind and benefit the parties hereto and their heirs, successors, and permitted assigns.

TRANSPORTATION AUTHORITY OF  
MARIN

METROPOLITAN TRANSPORTATION  
COMMISSION

By: \_\_\_\_\_  
Dianne Steinhauser, Executive Director

By: \_\_\_\_\_  
Steve Heminger, Executive Director

Approved as to form and procedure:

Approved as to form and procedure:

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Attorney

**Agreement for Exchange of Transportation Authority of Marin (TAM) Measure Funds with  
 Congestion Mitigation and Air Quality Improvement (CMAQ) Program funds  
 for the U.S. 101 High Occupancy Vehicle (HOV) Lane Gap Closure Project  
 TAM Funding Exchange Payment Schedule**

**Attachment B  
 November 28, 2007**

	Exchange Funding Year														TOTAL
	Year 1		Year 2		Year 3		Year 4		Year 5		Year 6		Year 7		
	2009		2010		2011		2012		2013		2014		2015		
	Payment Due Date:	6/30/09	12/31/09	6/30/10	12/31/10	6/30/11	12/31/11	6/30/12	12/31/12	6/30/13	12/31/13	6/30/14	12/31/14	6/30/15	
<b>Exchange Funds Provided by TAM</b>															
TAM Measure A - Principal	892,857	892,857	892,857	892,857	834,234	846,747	859,448	872,340	885,425	898,707	912,187	925,870	939,758	953,854	12,500,000
TAM Measure A - Interest	No Payment	No Payment	No Payment	No Payment	133,929	121,415	108,714	95,822	82,737	69,456	55,975	42,292	28,404	14,308	753,052
<b>Total:</b>	892,857	892,857	892,857	892,857	968,162	968,162	968,162	968,162	968,162	968,162	968,162	968,162	968,162	968,162	13,253,052
<b>Cummulative Total:</b>	892,857	1,785,714	2,678,571	3,571,429	4,539,591	5,507,753	6,475,915	7,444,078	8,412,240	9,380,402	10,348,565	11,316,727	12,284,889	13,253,052	13,253,052