

## Memorandum

To: CHAIR AND COMMISSIONERS

CTC Meeting: December 13-14, 2006

Reference No.: 2.8f.  
Action Item

From: CINDY McKIM  
Chief Financial Officer

Prepared by: Terry Abbott  
Division Chief  
Local Assistance

Subject: **REQUEST FOR WAIVER ASSEMBLY BILL (AB) 1012 "USE IT OR LOSE IT"**  
**PROVISIONS FOR REGIONAL AGENCY APPORTIONED FEDERAL FUNDS**  
**WAIVER-06-47**

### **RECOMMENDATION:**

The Department of Transportation (Department) recommends the California Transportation Commission (Commission) approve Waiver-06-47, extending the period of availability for CMAQ and RSTP funds subject to reprogramming under the provisions of Assembly Bill (AB) 1012 (Chapter 783 of the Statutes of 1999). The City of South Lake Tahoe, the City of Bakersfield, and the Riverside County Transportation Commission (RCTC) are requesting a six-month time extension (to May 2007) of their FFY 2004 CMAQ and/or RSTP balances.

### **ISSUE:**

The annual notice to regional agencies under Assembly Bill (AB) 1012 "Use It or Lose It" provisions for Federal Fiscal Year (FFY) 2004 (October 1, 2003 - September 30, 2004) funds was released on November 7, 2005. The deadline for obligating balances subject to reprogramming was November 1, 2006. At this time, three regional agencies have indicated that they wish to have their CMAQ and/or RSTP balances (totaling \$7,660,177) made available for an additional six months. Commission approval is required in order for the balance amounts to remain available to the agencies.

### **BACKGROUND:**

As of September 30, 2006, the balance subject to reprogramming under the provisions of AB 1012 for FFY 2004 is \$8,135,942. Of that amount, \$3,876,860 is for CMAQ and \$4,259,082 is for RSTP. The CMAQ and RSTP funds subject to reprogramming are also identified in the close-out report for FFY 2004 under agenda item 3.10.

The City of South Lake Tahoe has submitted a six-month extension request for \$868,998 for their CMAQ fund balance, the City of Bakersfield has submitted six-month extension requests for \$2,449,179 for their CMAQ funds, and the Riverside County Transportation Commission (RCTC) has submitted six month extension requests for \$4,291,000 towards their RSTP funds.

AB 1012 was enacted October 10, 1999, with a goal of improving the delivery of transportation projects. A section of the legislation states that regional agency CMAQ federal funds and RSTP federal funds that are not obligated within the first three years of federal eligibility are subject to reprogramming by the Commission in the fourth year.

In past years, the Commission has granted extensions requests submitted by regional agencies for the purpose of extending the availability of funds for remaining balances in CMAQ and RSTP that would otherwise be subject to reprogramming.

Attachments

**AB 1012 Extension Requests  
Waiver 06-47**

<b>Regional Agency</b>	<b>Extension Amount</b>	<b>Number of Months Requested</b>
<b>Local Agency</b>	<b>Fund Type</b>	<b>Extended Deadline</b>
<b>Reason for Project Delay:</b>		<b>CT Recommendation</b>
<b>TAHOE REGIONAL PLANNING AGENCY</b>		
	\$869,998	6 months
<b>CITY OF SOUTH LAKE TAHOE (City)</b>	CMAQ	05/01/07
In the city of South Lake Tahoe, South Y Intersection Improvements-Phase 2, PWC 2000-02		Support
<p>The project has been delayed as a result of many factors. First, there has been a request for a design alternative. The City had originally planned the project to provide for an upgrade at the intersection of Highway 50 and 89 (known as the South Y). The upgrade would have required a realignment of the intersection to allow for two left lanes (through lanes) and the intersection traffic signals would have been replaced (from four phases to eight phases). The new design alternative proposed is for the construction of a roundabout. Because of the new design alternative, the Tahoe Regional Planning Agency (TRPA) required the City of South Lake Tahoe (City) to have a conceptual report approved by the Department of Transportation (Department) for the roundabout prior to submitting an amendment to the Federal Transportation Improvement Program (FTIP) for the new scope and schedule of the project. This amendment is also required before the City can request the CMAQ funds be obligated. Next, there is a lack of understanding on TRPA's part regarding the management of the funds and on the City due to a lack of experience with the federal aid process. This is as a result of the recent retirement of the City's Engineer and the new Director being fairly new; therefore, required items were not completed in a timely manner. Finally, the City notified the Department that it has hired a consultant to complete the conceptual report to move the process forward. The City is anticipating approval from the TRPA in December/January. Once this is done, the Department can approve the conceptual report, the FTIP amendment will be submitted, and the City can request the obligation of the CMAQ funds. At this time, this is the only CMAQ project programmed for the Tahoe Region. The South Y project will move forward, either redesigned as the new design alternative of the roundabout or sent out for a re-bid as the original signalization project, prior to the expiration of the six-month extension of May 1, 2007.</p>		
<b>KERN COUNCIL OF GOVERNMENTS (Kern COG)</b>		
<b>CITY OF BAKERSFIELD</b>		
In the city of Bakersfield; construction of a new signal on 26 <sup>th</sup> and F Street (CML 5109-104)	\$141,648 CMAQ	6 months 05/01/07 Support
In the city of Bakersfield; construction of a new signal on Auburn St & La Costa Street (CML 5109-100)	\$141,648 CMAQ	6 months 05/01/07 Support
In the city of Bakersfield; construction of a new signal and signal interconnect on Ashe Road- Harris Road to Panama Lane (CML 5109-101)	\$220,971 CMAQ	6 months 05/01/07 Support
In the city; construction of a new signal and signal interconnect on White Lane and Lilly Drive (CML 5109-103)	\$141,648 CMAQ	6 months 05/01/07 Support
In the city; improve existing traffic signal delay on Oak Street at State Route 178	\$17,706 CMAQ	6 months 05/01/07 Support
<p>The signalization / signal synchronization projects are ready for construction and ready to move forward. These projects were delayed due to the Disadvantage Business Enterprise requirement changes, FHWA audits and recent PM 2.5 (Air Quality Conformity) reviews needed for projects in the San Joaquin Valley. Therefore, the City of Bakersfield was unable to submit their request for an E-76 for several CMAQ projects in time to meet the end of the federal fiscal year obligation deadline. Kern COG is in the process of programming this project in the 2006 FTIP; it is anticipated that the approval for the provisions of the federal amendment to the 2006 FTIP will be received in mid-January. The City will submit the request for the E-76 for this project if approval of the extension is granted. In addition, the extension will honor the effort made to this point by member agency staff and the Department of Transportation's Office of Local Assistance staff in District 6 and Headquarters who've worked tirelessly to move Kern COG projects forward. For Federal Fiscal Years 2004-05 and 2005-06, Kern COG member agency staff delivered several millions in both RSTP and CMAQ. Since SAFETEA-LU and the 2004 FTIP, Kern COG programming targets for RSTP and CMAQ have been about \$8 million per year. Bottom line, the Kern COG region, as a whole, but in particular, the City of Bakersfield, and the County of Kern, have successfully delivered a full program of projects for 2004-05 and 2005-06. They initiated several million dollars of RSTP and CMAQ projects for the last two years under very tight time schedules.</p>		

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<b>KERN COUNCIL OF GOVERNMENTS</b>	\$1,428,320	6 months
<b>CITY OF BAKERSFIELD</b>	CMAQ	05/01/07
<p>In the city of Bakersfield, construct new Liquefied Natural Gas (LNG)/ Compressed Natural Gas (CNG) fueling station</p> <p>The fueling station project did not complete design in time for the request for authorization for construction in 2005-06. Environmental clearance and final decisions for rights-of-way (site location) took more time than expected. The project design is very close to completion and will be ready to request an authorization to proceed for construction by early next year. Kern COG is in the process of programming this project in the 2006 FTIP; it is anticipated that the approval for the provisions of the federal amendment to the 2006 FTIP will be received in mid-January. The extension will honor the effort made to this point by member agency staff and the Department of Transportation's Office of Local Assistance staff in District 6 and Headquarters who've worked tirelessly to move Kern COG projects forward. For Federal Fiscal Years 2004-05 and 2005-06, Kern COG member agency staff delivered several millions in both RSTP and CMAQ. Since SAFETEA-LU and the 2004 FTIP, Kern COG programming targets for RSTP and CMAQ have been about \$8 million per year. Bottom line, the Kern COG region, as a whole, but in particular, the City of Bakersfield, and the County of Kern, have successfully delivered a full program of projects for 2004-05 and 2005-06. They initiated several million dollars of RSTP and CMAQ projects for the last two years under very tight time schedules.</p>		
<b>KERN COUNCIL OF GOVERNMENTS</b>	\$354,120	6 months
<b>CITY OF BAKERSFIELD</b>	CMAQ	05/01/07
<p>In the city of Bakersfield, for "GET" transit-the purchase of five 25 foot CNG Para-transit vehicles</p> <p>Kern COG is in the process of programming this project in the 2006 FTIP; it is anticipated that the approval for the provisions of the federal amendment to the 2006 FTIP will be received in mid-January. The extension will honor the effort made to this point by member agency staff and the Department of Transportation's Office of Local Assistance staff in District 6 and Headquarters who've worked tirelessly to move Kern COG projects forward. For Federal Fiscal Years 2004-05 and 2005-06, Kern COG member agency staff delivered several millions in both RSTP and CMAQ. Since SAFETEA-LU and the 2004 FTIP, Kern COG programming targets for RSTP and CMAQ have been about \$8 million per year. Bottom line, the Kern COG region, as a whole, but in particular, the City of Bakersfield, and the County of Kern, have successfully delivered a full program of projects for 2004-05 and 2005-06. They initiated several million dollars of RSTP and CMAQ projects for the last two years under very tight time schedules.</p>		
<b>KERN COUNCIL OF GOVERNMENTS</b>	\$53,118	6 months
<b>CITY OF BAKERSFIELD</b>	CMAQ	05/01/07
<p>In the city of Bakersfield, for "GET" transit-Outreach Program</p> <p>Kern COG is in the process of programming this project in the 2006 FTIP; it is anticipated that the approval for the provisions of the federal amendment to the 2006 FTIP will be received in mid-January. The extension will honor the effort made to this point by member agency staff and the Department of Transportation's Office of Local Assistance staff in District 6 and Headquarters who've worked tirelessly to move Kern COG projects forward. For Federal Fiscal Years 2004-05 and 2005-06, Kern COG member agency staff delivered several millions in both RSTP and CMAQ. Since SAFETEA-LU and the 2004 FTIP, Kern COG programming targets for RSTP and CMAQ have been about \$8 million per year. Bottom line, the Kern COG region, as a whole, but in particular, the City of Bakersfield, and the County of Kern, have successfully delivered a full program of projects for 2004-05 and 2005-06. They initiated several million dollars of RSTP and CMAQ projects for the last two years under very tight time schedules.</p>		

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<b>CT Recommendation</b>		
<b>RIVERSIDE COUNTY TRANSPORTATION COMMISSION</b>		
<b>CITY OF MORENO VALLEY</b> In the city of Moreno Valley, road rehabilitation - Heacock Street & Fredrick Street (RIV031223)	\$1,375,000 RSTP	6 months 05/01/07 Support
<b>CITY OF RIVERSIDE</b> IC improvements - State Route 91 and Van Buren. (RIV0084)	\$1,681,000 RSTP	6 months 05/01/07 Support
<b>RIVERSIDE COUNTY</b> In the city of Riverside, road rehabilitation - Ramon Road from the Union Pacific Railroad Overhead to Varner Road (STPL 5956-143)	\$1,000,000 RSTP	6 months 05/01/07 Support
<b>CITY OF RIVERSIDE</b> In the city-of Riverside, road rehabilitation – Arlington Road (RIV031223)	\$235,000 RSTP	6 months 05/01/07 Support
<p>The local agencies of the City of Riverside, Riverside County, and the City of Moreno Valley have encountered various challenges that have delayed the obligation of RSTP funds timely for several projects. There are environmental problems, unforeseen cost increases with construction materials, as well as delays due to the necessity of FTIP amendments that are pending approval. The Riverside County Transportation Commission (RCTC) is anticipating that with an extension approval, it will allow for these project delays to be resolved and that the RCTC will be able to utilize the RSTP funding for obligation on these projects within the six-month extension time. Furthermore, the RCTC has identified additional projects that can use the RSTP funding to prevent the reprogramming of these funds. These projects are as follows: <b>City of Coachella</b> -Road widening, Dillon Road, RIV011209-\$2,117,000; <b>City of Moreno Valley</b> – Rehabilitation, Ironwood Avenue from Pigeon Pass Road to Graham Street, STPL 5441-041- \$1,111,000; <b>City of Perris</b> -Road rehabilitation, Murrieta Road from Ethanac Road to Case Road, STPL 5198-012-\$282,000; <b>Riverside County</b> - Road rehabilitation, Varner Road, RIV52001- \$357,000.</p>		