

**DEPARTMENT OF TRANSPORTATION**

DISTRICT 7

100 S. MAIN STREET, SUITE 100

LOS ANGELES, CA 90012

PHONE (213) 897-0362

FAX (213) 897-0360

TTY 711

www.dot.ca.gov

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October 29, 2019

Elizabeth Adams, Director, Region 9 Air and Radiation Division  
75 Hawthorne Street (mail code TIP-2)  
San Francisco, CA 94105

Subject: Caltrans and Metro's Response to EPA Region IX's Preliminary Information for the I-710 ZE/NZE Truck Deployment Program Written Commitment October 23, 2018

Dear Ms. Adams,

Caltrans and Metro received the information provided by EPA in its October 23, 2018 "Preliminary Information for the I-710 Zero Emission/Near Zero Emission (ZE/NZE) Truck Deployment Program Written Commitment" ("2018 Staff Draft") letter (Attachment A). In the 2018 Staff Draft, EPA states that the purpose of the document is to provide:

*"preliminary thoughts on the major components of a written commitment to the I-710 ZE/NZE Truck Deployment Program (hereafter, "Caltrans ZE/NZE Truck Program") to support the conclusion that the I-710 Project is not a project of air quality concern. Caltrans would have to provide sufficient evidence demonstrating that the Caltrans ZE/NZE Truck Program sufficiently reduces the number of diesel vehicles. This technical demonstration would need to show that the number of vehicles participating in the program would be sufficient to result in the project not significantly increasing the number of diesel vehicles (and therefore not needing a hot-spot analysis)."*

EPA requested that Caltrans and Metro provide a written commitment as defined in 40 CFR §93.101.

After giving the matter careful consideration and researching the applicable law, Caltrans and Metro do not believe a written commitment under 40 CFR part 93 is required or appropriate here because (1) regulations governing written commitments are not applicable to the I-710 Clean Truck Program and (2) the I-710 Clean Truck Program depends on a multi-agency commitment and is not limited to Caltrans and Metro. Both of these matters of concern are discussed in detail below.

### **1. Requirement for a Written Commitment**

Regulations governing transportation project conformity provide in relevant part that:

*Prior to determining that a transportation project is in conformity, the MPO, other recipient of funds designated under title 23 U.S.C. or the Federal Transit Laws, FHWA, or FTA must obtain from the project sponsor and/or operator written commitments to implement in the construction of the project and operation of the resulting facility or service any project-level mitigation or control measures which are identified as conditions for NEPA process completion with respect to local CO, PM10, or PM2.5 impacts. Before a conformity determination is made, written commitments must also be*

*obtained for project-level mitigation or control measures which are conditions for making conformity determinations for a transportation plan or TIP and are included in the project design concept and scope which is used in the regional emissions analysis required by §93.118 (“Motor vehicle emissions budget”) and §93.119 (“Interim emissions in areas without motor vehicle emissions budgets”) or used in the project-level hot-spot analysis required by §93.116. (40 CFR §93.125)*

As the regulations clearly provide, two triggering criteria must be satisfied before a written commitment is required.

First, a written commitment is required only for “project-level mitigation or control measures,” and not for core project elements or components. As a core element of the broader project, the I-710 Clean Truck Program is not a “mitigation or control measure.”

Mitigation is defined in 40 CFR §93.160 *Mitigation of air quality impacts.*

*(a) Any measures that are intended to mitigate air quality impacts must be identified and the process for implementation and enforcement of such measures must be described, including an implementation schedule containing explicit timelines for implementation.*

*(b) Prior to determining that a Federal action is in conformity, the Federal agency making the conformity determination must obtain written commitments from the appropriate persons or agencies to implement any mitigation measures which are identified as conditions for making conformity determinations.*

The I-710 Clean Truck Program is not intended to mitigate air quality impacts. Rather, it has been designed—in conjunction with the other elements that comprise the entire I-710 project—to improve air quality in general. Similarly, since the I-710 Clean Truck Program is not a mitigation measure, as stated in 40 CFR §93.160(b), there is no need to identify it as a condition for making a conformity determination.

Nor is the I-710 Clean Truck Program a control measure. As defined in §93.101 *Definitions:*

*Transportation control measure (TCM) is any measure that is specifically identified and committed to in the applicable implementation plan, including a substitute or additional TCM that is incorporated into the applicable SIP [State Implementation Plan] through the process established in CAA section 176(c)(8), that is either one of the types listed in CAA section 108, or any other measure for the purpose of reducing emissions or concentrations of air pollutants from transportation sources by reducing vehicle use or changing traffic flow or congestion conditions. Notwithstanding the first sentence of this definition, vehicle technology-based, fuel-based, and maintenance-based measures which control the emissions from vehicles under fixed traffic conditions are not TCMs for the purposes of this subpart.*

The I-710 Clean Truck Program is not “specifically identified and committed to in the” SIP and, therefore, is not a control measure.

Second, even if a “mitigation or control measure” were present, a written commitment is only required when such “mitigation or control measures” are either (1) conditions for NEPA process completion or (2) are conditions for making conformity determinations for a transportation plan or Transportation Improvement Program (TIP). In this case, neither scenario is directly applicable. Although the I-710 Clean Truck Program is encompassed by the CEQA/NEPA process, it is included as a project element of the I-710 Corridor Project

description and not a condition for completion of the applicable CEQA/NEPA processes. And, the I-710 Clean Truck Program, in and of itself, is not a separate condition of a transportation plan or TIP. As a result, the I-710 Clean Truck Program does not fit squarely into either of these two categories. But, in any event, it is the I-710 Clean Truck Program's status as a project component and not a "mitigation or control measure" that plainly takes the program outside the written commitment requirements of 40 CFR §93.125.

Caltrans, as the Lead Agency, defines and makes the final determination regarding the project purpose and need, the project scope and of course, analyzes the alternatives. The I-710 Corridor has been the subject of numerous studies beginning with the I-710 Major Corridor Study that was initiated in 2001 through the Draft EIR/EIS that was circulated in 2012 and the RDEIR/SDEIS that was recirculated in 2017. The public and the environmental community have been very active throughout this process and have helped shape the purpose and need for the project as well as the development and refinement of the alternatives during each phase of analysis. From the outset, the alternatives have been multimodal in nature and have included an integrated mix of capital, infrastructure-related improvements and operational components, which would be implemented in parallel. The I-710 Clean Truck Program was purposely scoped and designed to respond to the I-710 purpose and need, specifically to improve air quality and public health within the I-710 Corridor. For this reason, the I-710 Clean Truck Program is the most critical of all the operational elements that comprise the build alternatives evaluated in detail in the I-710 EIR/EIS.

As you are aware, Alternative 5C was selected as the preferred alternative and it includes the I-710 Clean Truck Program element. In the eyes of the public, it is essential to the integrity of the environmental decision-making process that this program element remains an operational component of the Preferred Alternative—as originally designed—as opposed to being re-characterized as mitigation.

As clearly defined in the 2017 RDEIR/SDEIS, which was publicly circulated in July 2017, the I-710 Clean Truck program is not a mitigation measure but is instead an operational program element of the I-710 Project.

As stated in the RDEIR/SDEIS, Page 2-21: PROGRAMMATIC ELEMENTS:

*Programmatic elements are included in both build alternatives that help the corridor achieve improvements in congestion, air quality and overall community health. These include the I-710 Corridor Project Zero Emission/Near Zero Emission Truck Technology Deployment Program, the I-710 Corridor Community Health Benefit Program, and the I-710 Corridor Project ITS/TSM/Congestion Relief Program.*

These programmatic elements would not be implemented by Caltrans as the Lead Agency under CEQA/NEPA and as the owner/operator of the I-710 freeway but would be implemented by Metro or other public agencies with jurisdictional responsibility for a particular element. Rather than constituting a "project-level mitigation or control measure" the I-710 Clean Truck Program is one of several operational program elements of Alternative 5C that will be implemented in accordance with the description in the EIR/EIS.

In short, the I-710 Clean Truck Program is an integral, operational program element of Alternative 5C, not a secondary or external measure developed to offset or mitigate project emissions. Indeed, a core purpose of the project is to reduce emissions along the I-710 Corridor. Because the I-710 Clean Truck Program is a program element and does NOT constitute a "project-level mitigation or control measure[]" to reduce a required amount of

emissions, the written commitment provisions of 40 CFR §93.125 are inapplicable and Caltrans and Metro believe that a separate TCM/SIP-type written commitment is inappropriate in this case.

## **2. The I-710 Clean Truck Program is a Multi-Agency Undertaking**

There is a further, practical problem with seeking a written commitment in this case, and one that could undermine the I-710 Clean Truck Program. The RDEIR/SDEIS makes it clear that the program will need multiple funding and implementing partners and requires a collaborative approach. Caltrans, Metro, and the funding partners have already taken steps to put an institutional framework in place for implementation of the I-710 Clean Truck Program.

A major step taken by Caltrans, Metro and the funding partners is the attached multi-agency Memorandum of Understanding (MOU) titled: *“Creating the I-710 Corridor Air Quality Steering Committee to Implement the I-710 Clean Truck Emissions Program”* (Attachment B). By signing the MOU, the signatories to the MOU agree to implement the I-710 Clean Truck Emissions Program in the I-710 Corridor to improve air quality for communities along the corridor, clarify the Parties’ interests, commitments, roles and responsibilities with regards to the implementation of the I-710 Clean Truck Emissions Program, and to form the I-710 Corridor Air Quality Steering Committee (the Steering Committee) which consists of the Parties to the agreement and industry engine/truck providers and users which will allow for a more comprehensive approach and faster implementation of the improvements/incentives, goals, plans and the I-710 Clean Truck Program as well as the Parties’ overall air quality/environmental improvement needs of the corridor.

The Steering Committee will lead the I-710 Clean Truck Program to achieve the objectives described in the I-710 EIR/EIS, including specifics associated with securing and programming the required funds and the implementation of the program. In addition, the signatories to the MOU have reached out to the Ports of Los Angeles and Long Beach to join in this effort to supplement and enhance their Clean Air Action Plan to achieve greater results. The signatories to the MOU have also reached out to the California Air Resources Board (CARB) and South Coast Air Quality Management District (SCAQMD) to join the Steering Committee and assist in successful implementation of the I-710 Clean Truck Program. The Steering Committee will work in partnership with other agencies that contribute technical expertise and/or funds to support the program.

The programmatic elements of the project, including the I-710 Clean Truck Program, will be scaled consistent with a staged construction approach. As described in the I-710 RDEIR/SDEIS, the first annual funding contribution for the I-710 Clean Truck Program would be provided within twelve months after programming/allocation of construction funding for I-710 mainline capacity improvements and phased implementation of the program would occur upon start of construction.

### **Reduction in Truck Diesel Emissions**

EPA has also commented on reducing diesel emissions. The air quality analysis presented in the I-710 RDEIR/SDEIS demonstrates reduction in diesel emissions in the I-710 Corridor attributable to the I-710 Clean Truck Program. Additional, related information, requested by EPA and provided by Caltrans on September 4, 2018, clearly shows the anticipated reduction in diesel truck volumes that would occur on the I-710 freeway due to the I-710 Clean Truck Program, and as a result, this project qualifies as Not a Project of Air Quality Concern. The I-710 Clean Truck program includes replacement of 4,000 diesel trucks with an equal number of

zero- and near zero-emission trucks. The corresponding diesel truck reduction greatly exceeds the predicted increase in truck volumes that are attracted to I-710 from other routes as a consequence of implementing the preferred build alternative (Alternative 5C). The rationale for this conservative approach was two-fold: (1) to provide zero- and near-zero-emissions trucks to respond to the I-710 Purpose and Need to improve air quality and public health within the I-710 Corridor and (2) to plan for more than sufficient numbers of zero- and near zero-emissions trucks to address any uncertainties in underlying study assumptions or to account for potential changes in future conditions. The result is a program that will have significant and important air quality benefits as an operational program element of the I-710 project.

Following completion of the EIR/EIS, all elements that comprise the Preferred Alternative will undergo further definition and development. For the freeway improvements, the project will enter into final design where project details such as the identification and sequencing of the initial construction stages will be defined, bridge structure types will be evaluated and selected, and utility relocation plans will be finalized. Similarly, the operational details of the I-710 Clean Truck Program will be further defined as funding packages are developed and brought forward, as administrative and enforcement responsibilities among the Steering Committee agencies are detailed, and as evolving zero emission truck technologies achieve commercial market penetration. In order to be successful, the I-710 Clean Truck Program will need to be an on-going, living program that is adaptable and responsive to future opportunities and to future changes in technological, institutional, and regulatory conditions.

As with all other elements of the Preferred Alternative including the freeway improvements, any material changes to the I-710 Clean Truck Program from what is described in the I-710 EIR/EIS, due to future uncertainty, that would potentially have a significant increase in diesel truck volumes relative to the No Build Alternative, would be subject to re-evaluation and/or supplemental documentation. Therefore, the EIR/EIS is a written commitment that the I-710 Clean Truck Program is an integral part of the project.

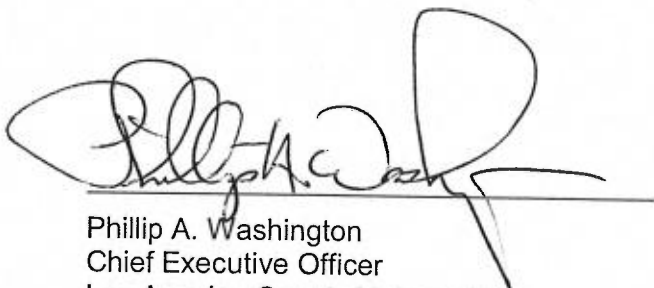
Given the above factors, the multi-agency and cooperative nature of implementing the I-710 Clean Truck Program does not lend itself to the type of written commitment envisioned by the regulations and enforceable under Clean Air Act section 113. Actually, creating such a commitment would likely hamper the program by eliminating funding and implementation flexibility inherent in the design of the I-710 Clean Truck Program and necessary to its successful implementation. As a result, requiring a written commitment here—which we do not believe is required by applicable regulations in any event—could have the contrary effect of increasing emissions by undermining the implementation of the program.

### Conclusions and Next Steps

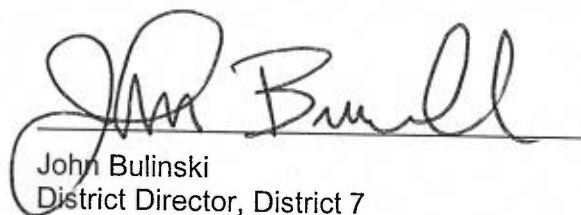
As described in the RDEIR/SDEIS, a major purpose of the I-710 Corridor Project is to “Improve Air Quality & Public Health.” And as an operational program element of the I-710 Corridor Project, the I-710 Clean Truck Program helps further that purpose. While Caltrans and Metro appreciate EPA’s draft letter of October 23, 2018, we believe that a separate written commitment is not required by 40 CFR §93.125, nor applicable to the I-710 project given the nature of the program. As evidenced by the attached draft MOU, we are committed to working with the Steering Committee and funding partners to further develop and implement the I-710 Clean Truck Program.

We request EPA’s support in moving forward with the “Not a Project of Air Quality Concern” approach for the Project in order to demonstrate conformity so that we may begin investing in mobility, safety, and air quality programs in the I-710 Corridor.

Caltrans and Metro look forward to working with EPA and other agencies in developing the I-710 Clean Truck Program element of the I-710 Project in a manner that achieves the project's objectives, including those related to improving air quality and public health within the I-710 Corridor and South Coast Air Basin.



Phillip A. Washington  
Chief Executive Officer  
Los Angeles County Metropolitan  
Transportation Authority



John Bulinski  
District Director, District 7  
California State Department of  
Transportation

Attachment A - Preliminary Information for the I-710 Zero Emission/Near Zero Emission (ZE/NZE) Truck Deployment Program Written Commitment  
Attachment B - Memorandum of Understanding Creating the I-710 Corridor Air Quality Steering Committee to Implement the I-710 Clean Truck Emissions Program

c: Nancy Pfeffer, Gateway Cities COG (MOU w/ wet signature)  
Kome Ajise, SCAG  
Vincent Mamano, FHWA  
Wayne Natri, SCAQMD

**Attachment A - Preliminary Information for the I-710 Zero Emission/Near Zero Emission (ZE/NZE) Truck Deployment Program Written Commitment**

## **Preliminary Information for the I-710 Zero Emission/Near Zero Emission (ZE/NZE) Truck Deployment Program Written Commitment**

**Purpose:** This paper provides preliminary thoughts on the major components of a written commitment to the I-710 ZE/NZE Truck Deployment Program (hereafter, “Caltrans ZE/NZE Truck Program”) to support the conclusion that the I-710 Project is not a project of air quality concern.

Caltrans would have to provide sufficient evidence demonstrating that the Caltrans ZE/NZE Truck Program sufficiently reduces the number of diesel vehicles. This technical demonstration would need to show that the number of vehicles participating in the program would be sufficient to result in the project not significantly increasing the number of diesel vehicles (and therefore not needing a hot-spot analysis).<sup>1</sup>

A “written commitment” is defined and enforceable under the transportation conformity regulation and the Clean Air Act, as explained further below. Project sponsors (i.e., Caltrans) and any other agency covered by the commitment must comply with such a commitment once made.

### Written commitments are defined in 40 CFR 93.101 (bullets added):

“Written commitment for the purposes of this subpart means a written commitment that includes:

- a description of the action to be taken;
- a schedule for the completion of the action;
- a demonstration that funding necessary to implement the action has been authorized by the appropriating or authorizing body; and
- an acknowledgment that the commitment is an enforceable obligation under the applicable implementation plan [SIP].”

Each of these four elements of a written commitment is described below.

**Description:** The description should include, but not necessarily be limited to, the following:

- An overview of the Caltrans ZE/NZE Truck Program, including the number of vehicles to be replaced in what years, the ZE/NZE technologies that will be used, how replaced vehicles will be scrapped, and the infrastructure that will be funded;
  - This overview should clearly illustrate how the Caltrans ZE/NZE Truck Program is in addition to other similar programs that occurring or planned for the area by other entities;
- The agency that will be implementing the program;
- The agency that will be funding the program, (may be different than agency identified above);
- How trucks will be identified and selected, specifically:

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<sup>1</sup> EPA will follow up on the information provided by Caltrans in an email from Andrew Yoon on October 3, 2018.



- How Caltrans will ensure that the trucks with the most activity on the I-710 corridor are targeted for this program;
- Estimates of the number of miles those vehicles travel along the I-710 corridor; and
- Other data and assumptions relied upon to develop the ZE/NZE VMT estimates;
- The period of time over which the program will occur;
- How the program will be verified and/or enforced, including
  - How the number of I-710 ZE/NZE truck trips and VMT that are funded via the Caltrans ZE/NZE Truck Program will be tracked/recorded, and over what period of time; and
  - How Caltrans will ensure that trucks under this program remain in service on I-710, and for what period of time;
- The total amount of funding for the program, and how the funding will be used. For example, the description should include the amount to be dedicated to each of the following aspects of the program:
  - The number and type of support facilities such as charging and/or refueling stations;
  - The number and type of vehicles that will be purchased;
  - Scrappage of replaced vehicles and/or verification that they have been scrapped;
  - Continuous or periodic verification that the ZE/NZE trucks funded by the Caltrans ZE/NZE Truck Program are traveling on I-710 to the extent projected by Caltrans, by number of trips and/or VMT.

**Schedule:** The schedule is related to the program description. The schedule should indicate the extent to which the program is implemented when the project is open/completed and in the project's analysis year. The schedule should include, but not necessarily be limited to, information such as:

- The year and month that the program begins;
- The number of years the program will be in effect;
- By month and year, the number of support facilities that will open and the number of vehicles that will be replaced;
- The point at which the program is considered fully implemented (i.e., action, date);
- The schedule of program verification, to ensure that the ZE/NZE trucks are traveling on I-710 to the extent projected by Caltrans by number of trips and/or VMT, and over what period of time;
- The point at which the program ends (i.e., action, date).

**Demonstration of Funding:** The demonstration of funding should include, but not necessarily be limited to:

- The level of funding necessary for the program in each year the program is in effect;
- Funding agencies and their legal authority to fund the Caltrans ZE/NZE Truck Program;
- The sources of the funding, including a discussion of how the funding will be documented and assurance that the money will be used for this purpose over the time that the program operates.

**Enforceable:** The acknowledgement that the commitment is an enforceable obligation:

- The written commitment should include a statement that acknowledges the commitment is enforceable under the conformity regulation, per 40 CFR 93.101, 93.115(c)(2), and 93.125.
- Note that a written commitment can be enforced by EPA under section 113 of the Clean Air Act, which authorizes EPA to enforce the provisions of rules promulgated under the Act, and by citizens under section 304 of the Clean Air Act.<sup>2</sup>

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<sup>2</sup> See 58 FR 62199, “EPA can enforce mitigation commitments directly against project sponsors under section 113 of the Clean Air Act, which authorizes EPA to enforce the provisions of rules promulgated under the Act.”

**Attachment B - Memorandum of Understanding Creating the I-710 Corridor Air Quality Steering Committee to Implement the I-710 Clean Truck Emissions Program**

**Memorandum of Understanding  
Creating the I-710 Corridor Air Quality Steering Committee to  
Implement the I-710 Clean Truck Emissions Program**

This Memorandum of Understanding Creating the I-710 Corridor Air Quality Steering Committee to Implement the I-710 Clean Truck Emissions Program (“MOU”) is entered into between the Los Angeles County Metropolitan Transportation Authority (“Metro”), the California Department of Transportation (“Caltrans”), the Southern California Association of Governments (“SCAG”), and the Gateway Cities Council of Governments (“Gateway Cities COG”), (collectively the “Parties”). In order to implement the program contemplated herein, the Parties have voluntarily arrived at the following mutual understandings and agreements.

Recitals

WHEREAS, the I-710 Freeway is a major transportation corridor (I-710 Corridor) accommodating both daily commutes and significant freight movement to and from the Ports of Los Angeles and Long Beach.

WHEREAS, Caltrans and Metro have partnered with the Gateway Cities COG, the Ports of Los Angeles and Long Beach, the Cities along the I-710 Corridor, and community groups and worked with the California Air Resources Board (CARB), SCAG and the South Coast Air Quality Management District (SCAQMD) to identify features for the I-710 Corridor Project that improve mobility, support commerce, and address air quality and public health concerns in the corridor.

WHEREAS, Caltrans and Metro have prepared a draft Environmental Impact Statement and Environmental Impact Report (“EIS/EIR”) for the I-710 Corridor Project. On March 1, 2018, the Metro Board of Directors identified Alternative 5C as the Locally Preferred Alternative (“LPA”) for the I-710 Corridor Project. Caltrans has endorsed Metro’s recommendation to advance Alternative 5C as the Preferred Alternative through the I-710 EIS/EIR. Alternative 5C includes the I-710 Zero Emission/Near Zero Emission Truck Technology Deployment Program (also known as the I-710 Clean Truck Emissions Program or “Program” herein) as a focused I-710 incentive program for heavy-duty trucks that meet or exceed CARB’s 0.02 g/bhp-hr NOx standard (i.e., Zero Emission (“ZE”)/Near Zero Emission (“NZE”) trucks).

WHEREAS, within the greater project area, several agencies have published commitments to development of ZE/NZE trucks and understand that deployment will take a collaborative approach. The Parties will form a Steering Committee (and invite other agencies to join the Steering Committee) to implement the I-710 Clean Truck Emissions Program (which qualifies for and contributes to each agency’s plans and goals as identified and summarized below and more comprehensively described in Appendix A) in the I-710 Corridor to improve air quality for communities along the corridor.

- a. SCAQMD: 2016 Air Quality Management Plan (“AQMP”) seeks to leverage strong federal, state, and local partnerships to secure incentive funding and supporting infrastructure for early deployment of zero and near-zero technologies, inclusive of the mobile source sector, specifically heavy-duty trucks.

- b. SCAG: [2012-2035 Regional Transportation Plan/Sustainable Communities Strategy](#) and 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy include a commitment to reduce emissions from transportation sources to comply with SB 375 by pledging to a broad deployment of zero and near zero emission transportation technologies especially in the goods movement system.
- c. Port of Long Beach: The [2017 San Pedro Bay Ports Clean Air Action Plan \("CAAP"\) Update](#) set the Port of LB on the path to zero emission goods movement, with a goal of transitioning terminal equipment to zero emissions by 2030 and on-road trucks by 2035.
- d. Port of Los Angeles: The [Zero Emission Technologies](#) effort, including the San Pedro Bay Ports CAAP, Zero Emissions Roadmap commits to finding new ways to reduce emissions from ships, trains, trucks, harbor craft, and cargo handling equipment with the goal of eliminating all pollution from port-related operations. The Port Zero-Emissions White Paper outlines a specific plan of action including expanded development and testing of zero emission technologies, identification of new strategic funding opportunities, and new planning for long-term infrastructure development.
- e. California Air Resources Board: The [CARB Mobile Source Strategy: Further Deployment of Cleaner Technologies: On-Road Heavy-Duty Vehicles](#) control measure in the 2016 AQMP and CARB's related State Implementation Plan ("SIP") submittal to USEPA commits to expanding and enhancing existing incentive funding and innovative funding programs for heavy-duty vehicles to increase the emphasis on and support for purchase of near-zero and zero emission equipment. Furthermore, full implementation of this CARB measure would require funding approximately 15,000 to 20,000 trucks per year over a seven year period, depending upon the availability of vehicles and engines certified to the ZE and/or NZE standards.
- f. USEPA: The [National ZEV Investment Plan](#) commits to \$1.2 billion (outside California) and \$800 million (within California) for a total of \$2 billion in funding over 10 years for zero emission vehicle ("ZEV") infrastructure, education, and access. The funding supports the increased adoption of ZEV technology by installing ZEV fueling infrastructure (for both electric- and hydrogen-powered cars), funding brand-neutral consumer awareness campaigns that will help grow the ZEV vehicle market, and investing in projects such as car-sharing programs that will increase access to ZEVs for all consumers in California, including those in lower-income and disadvantaged communities.

The [Clean Diesel Program](#) provides support for projects that protect human health and improve air quality by reducing harmful emissions from diesel engines. This program includes grants and rebates funded under the Diesel Emissions Reduction Act ("DERA"). The program solicited proposals nationwide for projects that achieve significant reductions in diesel emissions in terms of tons of pollution produced and exposure, particularly from fleets operating in areas designated by the Administrator as poor air quality areas. Eligible diesel vehicles, engines and equipment include school buses, class 5 – class 8 heavy-duty highway vehicles, locomotive engines, marine engines, nonroad engines, and equipment or vehicles used in construction, handling of

cargo (including at ports or airports), agriculture, mining or energy production (including stationary generators and pumps).

The Cleaner Trucks Initiative (“CTI”) is a future planned rulemaking to update standards for nitrogen oxide (“NOx”) emissions from highway heavy-duty trucks and engines. USEPA expects that heavy-duty trucks will be responsible for one-third of NOx emissions from transportation in 2025. Updating these standards will result in NOx reductions from mobile sources and could be one important way that allows areas across the U.S. to meet National Ambient Air Quality Standards for ozone and particulate matter.

WHEREAS, the Parties to this MOU wish to implement the I-710 Clean Truck Emissions Program (which qualifies for and contributes to each agency’s plans and goals discussed above) in the I-710 Corridor to improve air quality for communities along the corridor. The purpose of this MOU is to clarify the Parties’ interests, commitments, roles and responsibilities in the implementation of the I-710 Clean Truck Emissions Program.

THEREFORE, in furtherance of this MOU and incorporating by reference the above Recitals, the Parties agree as follows:

#### 1.0 I-710 Clean Truck Emissions Program

The I-710 Phased-In Zero Emission Truck Technology Development Program (also known as the I-710 Clean Truck Emissions Program) is a component of Alternative 5C, also known as the Preferred Alternative (“PA”), for the I-710 Corridor Improvement Project. The Clean Truck Emissions Program would seek funding to assist individual owner-operators and privately owned truck fleets to subsidize the purchase of heavy duty zero or near zero emission trucks for use within the I-710 Corridor as well as seed money for electric charging stations and hydrogen refueling stations within the I-710 Corridor. The recharging/refueling stations would be constructed near locations served by heavy-duty vehicles such as intermodal terminals at the ports, rail yards, warehouses, and distribution centers. The Clean Truck Emissions Program is consistent with goals and strategies of the SCAQMD 2016 AQMP and the 2016 AQMP Funding Plan, as well as other similar clean technology incentive programs administered by the SCAQMD. The Clean Truck Emissions Program is also consistent with the plans, goals and strategies of the other Parties to this MOU as described above.

#### 2.0 I-710 Corridor Air Quality Steering Committee

The Clean Truck Emissions Program addresses one element of the overall air quality/environmental improvement needs of the corridor. It will take a collaborative effort of all the Parties and Steering Committee members to be able to bring the Parties’ plans and goals to fruition. Therefore, the Parties agree to form the I-710 Corridor Air Quality Steering Committee (“Committee”), that will consist of the Parties to this MOU and subsequent invited agencies, funding partners and industry engine/truck providers and users. The formation of the Committee will allow for a more comprehensive approach and faster implementation of the improvements/incentives, goals, plans and the Clean Truck Emissions Program. The Parties to this MOU agree to have a representative actively serve on the Committee.

### 3.0 Responsibilities of the Committee

The Committee will:

- a. Further develop implementation details, including eligibility requirements, institutional arrangements, management, and administration for the Clean Truck Emissions Program.
- b. Explore and identify funding opportunities, financial impact, and other implementation factors along with the development of a phasing plan for the achievement of the funding target developed by Caltrans and Metro for the Clean Truck Emissions Program, and the more comprehensive goals, based on existing and new potential funding, including local, state, federal and private resources. This includes collaborating with the Port of Long Beach, the Port of Los Angeles and the South Coast Air Quality Management District in identifying funding and project/program opportunities to implement.
- c. Develop a strategy that outlines progressive transition to ZEVs in the corridor starting with the latest feasible and sustainable technologies.
- d. Identify and evaluate other potential strategies to address the air quality concerns in the corridor.
- e. Obtain or assist with obtaining funding to implement the Clean Truck Emissions Program and more comprehensive programs.
- f. Issue quarterly reports on the development and progress toward the established and agreed upon goals. The progress reports will be presented to the governing bodies of the participating agencies and those of other agencies, as necessary.

### 4.0 TERM

- 4.1. The term of this MOU will begin on the Effective Date and shall continue until Program is fully implemented or until terminated by the Parties.

### 5.0 AMENDMENT

- 5.1. Amendment of any provision of this MOU shall be effective only if in writing and signed by authorized representatives of the Parties.

### 6.0 MISCELLANEOUS

- 6.1. **Effective Date.** The date the last signatory executes the MOU.
- 6.2. **Assignment.** The Parties shall not assign rights or responsibilities under this MOU without written permission from the remaining Parties.
- 6.3. **Governing Law; Venue.** This MOU, and any claims relating to or arising out of this MOU, whether arising in contract, tort, or otherwise, shall be governed and construed in accordance with the laws of the State of California, without giving effect to conflicts of laws and principles. Any action or proceeding between the

Parties relating to this MOU shall take place in the State of California in the County of Los Angeles.

- 6.4. Notices. Any notice required or permitted hereunder shall be in writing and shall be given to each Party's Designated Representative at the address below, or at such other address as the Party may hereafter specify in writing. Such notice shall be deemed given: upon personal delivery to the appropriate address; or three (3) business days after the date of mailing if sent by certified or registered mail; or one (1) business day after the date of deposit with a commercial courier service offering next business day service with confirmation of delivery. Each Party may change the Designated Representative as needed and shall provide notice to the other Parties by email of the change.
- 6.5. Dispute Resolution. In the event of any dispute between the Parties arising out of or in connection with this MOU, the Parties shall attempt, promptly and in good faith, to resolve any such dispute. If the Parties are unable to resolve any such dispute within a reasonable time (not to exceed thirty (30) days), then either Party may submit such dispute to non-binding mediation in Los Angeles County, California. Each Party shall bear its own expenses in connection with the mediation and share equally the fees and expenses of the mediator. If the dispute cannot be resolved through mediation within a reasonable time, then the Parties shall be free to pursue any right or remedy available to them under applicable law. The requirements of this section shall not preclude a Party from pursuing equitable relief, if delay in seeking such relief may result in irreparable harm to such Party.
- 6.6. Force Majeure. Subject to the express provisions of Section 4 (Term) above, no Party will be deemed in default of this MOU to the extent that performance of its obligations or attempts to cure any breach are delayed or prevented by reason of any event beyond the reasonable control of such Party, which event was not caused by such Party's negligence and could not have been avoided by such Party's commercially reasonable efforts (including, but not limited to, any act of God, fire, earthquake, natural disaster, accident, pandemic, labor unrest, civil disobedience, acts of terrorism or act of government), and provided further that such Party gives other Parties written notice thereof promptly and, in any event, within five (5) business days of discovery thereof, and thereafter uses its best efforts to continue to so perform or cure. In the event of such a force majeure event, the time for performance or cure will be extended for a period equal to the duration of the force majeure event plus reasonable repair timeframes, but in no event more than thirty (30) days unless agreed upon by the Parties.
- 6.7. No Third Party Beneficiaries. This MOU is executed and entered into by the Parties solely for their benefit, and for no other party (including without limitation any individual employee, officer, director, contractor or agent of a Party).
- 6.8. Counterparts. This MOU may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.
- 6.9. Waiver; Modification. No amendment, modification, waiver or supplement shall be made with respect to this MOU or any provision of this MOU by course of



performance, or by the failure of a Party to object to a deviation from the terms of this MOU. Any waiver, modification or amendment of any provision of this MOU shall be effective only if in writing and signed by authorized representatives of the Parties.

- 6.10. Complete Understanding. This MOU and any attached exhibits, schedules and addenda, all of which are incorporated into this MOU by this reference, constitute the full and complete understanding and agreement of the Parties relating to the subject matter hereof and supersede all prior understandings and agreements relating to such subject matter. The provisions of this MOU shall prevail over any conflicting provisions in any purchase order, acceptance notice or other document generated by the Parties except as expressly provided in the preceding sentence.

7.0 EXECUTION

- 7.1. By their signatures below, each of the following represents that it has authority to execute this MOU and to bind the Party on whose behalf the execution is made.

IN WITNESS WHEREOF, this MOU has been executed by each of the Parties as of the date set forth next to such Party's authorized representative's signature.

[Signature Page to follow.]

Los Angeles County Metropolitan  
Transportation Authority

Phillip A. Washburn  
Printed Name of Individual

*[Signature]*  
Signature of Individual

CEO  
Title

One Gateway Plaza LA 90012  
Address

Washburn@metro.net  
Email

(213) 922-7555  
Telephone

California Department of Transportation,  
District 7

John Bulinski  
Printed Name of Individual

*[Signature]*  
Signature of Individual

DISTRICT DIRECTOR  
Title

100 S. MAIN ST LA, CA 90012  
Address

john.bulinski@dot.ca.gov  
Email

213-897-0540  
Telephone

Gateway Cities Council of Governments

NANCY PFEFFER  
Printed Name of Individual

*[Signature]*  
Signature of Individual

EXECUTIVE DIRECTOR  
Title

16401 PARAMOUNT Blvd  
Address PARAMOUNT, CA 90723

NANCY@gatewaycog.org  
Email

562-663-6850  
Telephone

Southern California Association of  
Governments

Kome Ajise  
Printed Name of Individual

*[Signature]*  
Signature of Individual

Kome Ajise  
Title

900 Wilshire Blvd Suite 1700  
Address Los Angeles, CA 90017

ajise@scag.ca.gov  
Email

213-236-1835  
Telephone

## Appendix A

### Examples of Agencies Plans and Goals to Implement Clean Truck Emissions Technology

a. SCAQMD: 2016 Air Quality Management Plan (AQMP)

Page 5 Executive Summary: *Identify and secure significant funding for incentives to implement early deployment and commercialization of zero and near-zero technologies. The 2016 AQMP control strategy strongly relies on a transition to zero and near-zero emission technologies in the mobile source sector, including automobiles, transit buses, medium- and heavy-duty trucks, and off-road applications. The plan focuses on existing commercialized technologies and energy sources including their supporting infrastructure, along with newer technologies that are nearing commercialization based on recent demonstration programs and limited test markets. Prioritizing and expanding funding in Environmental Justice (EJ) areas will be sought.*

Page 4-3: *The 2016 AQMP relies strongly upon partnerships at federal, state, and local levels, seeking to expand existing collaborations and establish new coalitions. These strategies include aggressive new regulations and development of incentive funding and supporting infrastructure for early deployment of advanced control technologies... The SCAQMD will continue to support technology demonstration projects for both mobile and stationary sources and will work to create new or expanded funding opportunities for earlier deployment of cleaner technologies, thus contributing to a smooth transition to zero and near-zero emission technologies in the mobile and stationary source sectors.*

b. SCAG: 2016-2040 Regional Transportation Plan/Sustainable Communities Strategy

Page 107: *The 2016 RTP/SCS focuses on a two-pronged approach for achieving an efficient freight system that reduces environmental impacts. For the near term, the regional strategy supports the deployment of commercially available low-emission trucks and locomotives while centering on continued investments into improved system efficiencies. For example, the region envisions increased market penetration of technologies already in use, such as heavy-duty hybrid trucks and natural gas trucks. Applying ITS solutions to improve operational efficiency is also recommended. In the longer term, the strategy focuses on advancing technologies – taking critical steps now toward the phased implementation of a zero- and near zero-emission freight system. SCAG is cognizant of the need to incorporate evolving technologies with plans for new infrastructure. These include technologies to fuel vehicles, as well as to charge batteries and provide power. The plan to develop and deploy advanced technologies includes phased implementation, during which technology needs are defined, prototypes are tested and developed, and efforts are scaled up. The phases are summarized as follows:*

- *Phase 1: Project Scoping and Evaluation of Existing Work*
- *Phase 2: Evaluation, Development and Prototype Demonstrations*
- *Phase 3: Initial Deployment and Operational Demonstration*

- *Phase 4: Full-Scale Demonstrations and Commercial Deployment*

Page 43: *The 2016 RTP/SCS Goods Movement Appendix further details an updated environmental action plan for the goods movement system that builds on regional progress to date. This includes an Action Plan for Advancement of Zero-Emission Technology. As the four phases of the updated action plan are reviewed, the text also points to progress made related to specific action steps identified in 2012. The technology development and deployment plan is inclusive of all stages of technology development and deployment: beginning from an initial definition of key operational parameters, moving through prototype development, initial demonstration and evaluation, and eventually a staged roll-out. This start-to-finish framework is useful as there are many potential technologies available, each at different stages of readiness.*

*Significant regional actions will be needed in order to realize this vision of a zero- and near zero-emission freight transportation system that meets regional objectives for long-term sustainability and can also meet the performance objectives required by industry. SCAG may act together with key partner agencies such as the Port of Los Angeles, the Port of Long Beach, the SCAQMD and the region's county transportation commissions to update and implement this plan as needed. Since SCAG adopted the 2012 RTP/SCS, the region has attracted outside funding and committed its own funding to support research and development efforts. Several studies have been conducted to date that contribute to "project scoping" by providing a greater understanding of the regional truck market and how truck use defines key performance parameters such as range and power needs. To evaluate and develop prototypes, three large-scale research and development efforts are underway to develop and test zero-emission trucks and charging infrastructure. These projects require continuing collaboration between original equipment manufacturers and public sector agencies.*

c. Port of Long Beach

*The 2017 San Pedro Bay Ports Clean Air Action Plan Update set the Port of Long Beach on the path to zero-emission goods movement, with a goal of transitioning terminal equipment to zero emissions by 2030 and on-road trucks by 2035.*

d. Port of Los Angeles: Zero Emission Technologies

*Although significant emissions reductions have been achieved under the San Pedro Bay Ports Clean Air Action Plan (CAAP), the Ports of Los Angeles and Long Beach (the San Pedro Bay Ports) continue to place great emphasis on green development, including a particular focus on zero emission technologies. Fostering the development of zero emission technologies is not only a key component of the Ports' plans to achieve their voluntary air quality goals, but it will also help to greatly reduce regional greenhouse gas emissions. To that effect, the San Pedro Bay Ports prepared a Zero-Emissions Roadmap designed to guide their actions going forward.*

- e. California Air Resources Board (CARB): 2016 AQMP Appendix IV-B CARB Mobile Source Strategy: “Further Deployment of Cleaner Technologies: On-Road Heavy-Duty Vehicles”

Page IV-B-50: *Overview: The goal of this proposed measure is to identify concepts that will further reduce NOx emissions. These concepts will include additional incentive funding and developing technologies to accelerate the penetration of near-zero and zero equipment beyond the rate of natural turnover achieved through implementation of the other proposed measures identified for on-road heavy-duty vehicles. This measure is specifically for the South Coast.*

Page IV-B-51: *Expand and enhance existing incentive and other innovative funding programs for heavy-duty vehicles to increase the emphasis on and support for purchase of near-zero and zero equipment. Funding mechanisms would target technologies that meet either lower NOx standards or are hybrid/zero-emission technologies. If incentive funding is the primary mechanism to achieve the scope of further technology deployment described above, funding would be required for approximately 15,000 to 20,000 trucks per year over a seven year period, depending upon the availability of zero-emission vehicles and engines certified to [C]ARB’s optional low-NOx standards of 0.05 g/bhp-hr and 0.02 g/bhp-hr or other advanced hybrid/zero-emission technologies. The incentive funding required for this effort would go beyond the amount currently authorized for existing programs through 2023. Continued incentive funding post-2023 to further accelerate the deployment of trucks meeting or exceeding a 0.02 g/bhp-hr standard would provide additional reductions for 2031.*

*Determination of the needed resources will be based on assessment of the incremental cost of technologies, cost effectiveness, and the type of financing mechanism employed. Funding needs and mechanisms will be identified working in collaboration with the District and other State agencies over the next several months.*

- f. USEPA: National ZEV Investment Plan

Page 3: *As required by Appendix C to the 2.0-Liter Partial Consent Decree entered by the U.S. District Court for the Northern District of California on October 25, 2016, Volkswagen Group of America is investing \$1.2 billion over the next 10 years in zero emission vehicle (ZEV) infrastructure, education, and access outside California to support the increased adoption of ZEV technology in the United States, representing the largest commitment of its kind to date. Based on figures from the Council of Economic Advisors and U.S. Department of Transportation related to highway and transit investments, the \$1.2 billion being spent here is estimated to support up to 15,000 jobs throughout the United States over the 10 year course of the investment [Dept. of Transportation, Council of Economic Advisors]. The first cycle of a separate investment of \$800 million in California is the subject of the California ZEV Investment Plan, which was submitted to the California Air Resources Board on March 8.*