Monterey County

Item No.13

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

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a. Receive a status report on the Board Referral 2020.12 “Consider funding options to increase the Pavement Condition Index of County roads to at least a ‘Fair’ standard over the next ten years”; and
b. Provide appropriate direction to staff.

RECOMMENDATION:
It is recommended that the Board of Supervisors:

a. Receive a status report on the Board Referral 2020.12 “Consider funding options to increase the Pavement Condition Index of County roads to at least a ‘Fair’ standard over the next ten years”; and
b. Provide appropriate direction to staff.

SUMMARY:

BOARD REFERRAL
The County Administrative Office (CAO) and the Public Works, Facilities, and Parks Department (PWFP) received Board Referral 2020.12 on March 3, 2020, to consider funding options to increase the Pavement Condition Index of County roads to at least a “Fair” standard over the next ten years. The Board Referral is included as Attachment A. Upon receiving the Board Referral, staff began researching options and consulted with the County’s municipal advisor, KNN Public Finance (KNN), to identify funding/financing strategies within the context of the Road Fund existing revenue sources. Staff reviewed financing tools that the Board has mentioned in the past, starting with iBank, then the Total Road Improvement Program (TRIP), and lines of credit. KNN performed extensive research and analysis of potential financing options and security structures to leverage existing Road Fund revenues. Based on this collective research and evaluation, the primary financing options available are: 1) revenue bonds, non-General Fund backed; and 2) certificates of participation (COPs), General Fund backed.

Based on this research and estimated Road Fund legally available revenues to support debt service, the approximate range of bond financing proceeds was estimated between $87.0 million to $257.0 million.

At the September 13, 2021 Capital Improvement Committee (CIC) meeting, staff and KNN presented their findings and options to the CIC. The road financing evaluation concluded that the clearest path forward is a borrowing approach that leverages the Measure X sales tax revenues, either directly as a revenue bond structure or indirectly as a General Fund COP structure. KNN advised that borrowing under either of these approaches could be executed in as soon as approximately four (4) months. The CIC provided direction to staff to review and come back with implementation strategies. This was to have a more comprehensive understanding of the internal County impacts of employing an augmented funding mechanism for the Road Fund, for the goal of commensurate increased delivery of road treatment projects. Please see Attachment B for the CIC report and its attachments, which include the financial analysis memo prepared by KNN.

IMPLEMENTATION PLAN

The Implementation Plan is the means to deliver projects to County constituents, using Road Fund existing revenue sources and financing proceeds. The following three (3) options were explored and are discussed below:

1. Increased County staffing levels;
2. Increased use of contracted support (consultants and contractors); and
3. Design-Build.

<u>Option #1: Increased In-house Forces (County staffing)</u>

Under this option, the existing County staff level would be increased to accommodate the increased workload to design and construct the much greater number of projects resulting from bond funding proceeds. Currently, many in-house Engineering staff perform the design phase of a project, consisting of field investigations, measurements/surveys, identification/remedy of issues, coordination with Maintenance staff on maintenance-issues and coordination with partner agencies. Staff then prepares the bid documents (drawing plans, construction specifications, and estimate) for public-bid. After bids are opened and reviewed for responsiveness and responsibility, the lowest responsive/responsible bidder is recommended to the Board for the construction contract. When the project enters the construction phase, many of these same design staff serve as construction management/inspectors on the project. These construction management duties include construction management, photo and field documentation, inspection, review of testing, quality control/quality assurance reviews, public outreach during construction, invoice review/approval, etc. There have been occasions to use the on-call construction management firms to support staff efforts. In addition, County staff perform the administrative tasks, such as preparations for the Board for a project’s various phases and actions, invoice review/approval, etc. Using this Option #1 would increase the quantity of staff to replicate and perform these increased number of projects made available by the increased funding. Please note that they and the support staff would be funded by the bond proceeds/Road Fund.

<u>Option 2: Increased use of contracted support (design and construction management consultants)</u>

Under this option, use of consultants would be expanded to accommodate the increased workload to design and construct the much greater number of projects resulting from bond funding proceeds. The design phase that is described previously would be performed mostly by consultants. During the construction phase, construction management firms would perform the construction management functions as described previously. County staff would then perform administrative tasks, as well as oversee the consultants/contractors. Please note that they and the support staff would be funded by the bond proceeds/Road Fund.

<u>Option 3: Design-Build</u>

This is an appealing project delivery model for public agencies. The framework of the process is consolidated together, rather than the traditional stepwise procedure of traditional design-bid-build. Under standard procedures, a design consultant (engineer or architect) prepares the bid documents (drawing plans, construction specifications, and usually acquires the permits) for public bid by construction contractors. Upon the bid process, the lowest responsive and responsible bidder is recommended to the governing board for award of the construction contract. This normally spans the course of at least six (6) months to years depending on the project. Under the design-build model, the entire series of processes are combined, which compresses the overall project schedule. It allows engineering consultants and construction contractors to partner as teams, for bidding on the public agency's project. The public agency uses a concept drawing and general scopes for public bid, and the award to the consultant/contractor team is based on the best value for the agency. This reduces the timeline from concept to construction phase, savings months of time in procurement alone, and theoretically reduces the overall costs for the project. However, based on review by staff and the Office of the County Counsel (County Counsel), the design-build method of project delivery is not available for road/street construction. It is intended for water-related (potable, sewer) and building projects per Public Contract Code §22161.

ANALYSIS

Please note that in Options #1 and #2, other department staff contribute to the project delivery and administrative process. These range from County Counsel, Finance, to the CAO staff, etc. Increases in project delivery would also involve increases to needed support services. A more thorough evaluation of services and the degree that can be contracted would be performed when the bonding scenario is further developed. For order of magnitude estimates of increased staffing in PWFP, County Counsel, Finance, CAO, Auditor-Controller's Office, and the others funded by these bond proceeds, please refer to Attachment C.

At the November 18, 2021 Budget Committee (BC) meeting, staff presented the financing options and the implementation plan. Questions and comments were raised from the Budget Committee including a comment that the staffing level should be sized to optimize use of the current Road Fund revenue sources and deplete the current balance. Staff recommends that the Road Fund not be depleted, but instead follow the County's General Financial Policies recommending major funds create reserves for operational contingencies equal to one percent (1%) of estimated annual revenue and a strategic reserve equal to ten percent (10%) of estimated annual revenue. This would result in maintaining at least a minimum of approximately $3 million in unprogrammed Road Fund balance to account for unanticipated events such as winter storm damage response and repair, fire response, other emergencies, etc. Because the current Road Fund balance is greater than this "contingency reserve" level, staff intends to submit requests in the upcoming proposed FY 2022-23 budget for a methodic, modest increase to existing Road Fund staffing. This will be consistent with the measured approach noted above, but with a focus on increasing delivery of road and traffic projects and services using the existing Road Fund balance. Moreover, this modest staff increase using the current Road Fund revenues will be used to position the County in a place to pursue and act on grant opportunities, such as those included in the federal Infrastructure Investment and Jobs Act (IIJA, AKA: "Bipartisan Infrastructure Law". Another question from the BC focused on the long-term plans after the bond proceeds have been expended. If the BOS approves one of the approaches noted above, then future Measure X revenues and Maintenance of Effort (the portion of Transient Occupancy Tax provided to

Road Fund) would be programmed and used for the bond debt service, and thus no longer available for future road projects and services. That would leave the Gas Tax (Highway User Tax Account [HUTA] and SB1) revenues as the only ongoing funding sources for future road repair and maintenance services (and possibly other Federal/State infrastructure allocations and/or grants which are not guaranteed). Compared to the current funding approach, accelerated funding provided by issuance of bonds will reduce the estimated total deferred maintenance cost of the County's road system. For example, the 2019 Pavement Management Assessment estimated a reduction of about $75 million in deferred maintenance costs at the end of a ten (10)-year period with additional funding of approximately $300 million over that timeframe.

Should the Board of Supervisors initiate financing, and it is decided to proceed with a lesser bonding amount, the staffing would commensurately be reduced to an appropriate-sized quantity.

Depending on the amount of time to "ramp-up" project delivery, the bonds could be issued as multiple offerings over time to best match funding requirements with the delivery levels. Since the design-build approach cannot be pursued, staff recommends a combination of Option #1 and Option #2. This would provide a measured approach for increasing staff levels while relying on consultant/contractor support as much as practicable to be able to make timely progress on delivery of an increased number of road improvement projects. For a $257 million bond, it is estimated that approximately ten (10) full time employee (FTEs) would be required (with some support services like Human Resources still needing to be determined), and additional consulting contracts would be needed. Please note that the primary and support staff would be funded by the bond proceeds/Road Fund.

<u>OTHER AGENCY INVOLVEMENT</u>:
PWFP staff continues to coordinate with the County Administrative Office Budget & Analysis Division. The report was presented to the Capital Improvement Committee on September 13, 2021, with follow-up on November 8, 2021, and the Budget Committee on November 18, 2021.
<u>FINANCING</u>:
Road Fund revenue varies depending on sales and gas tax revenues. The Road Fund is projected to receive $33.4 million in FY 2021-22:

- <u>Highway Users Tax Account (HUTA)</u>. Annual allocation based on maintained mileage, vehicle registration, population, amongst other factors. FY 2021-22 revenue allocation is estimated at $11.43 million. There currently is no sunset date for these funds.
- <u>SB 1 (the Road Maintenance and Rehabilitation Account, or RMRA)</u>. Annual allocation based similar to HUTA. FY 2021-22 revenue allocation is estimated at $8.83 million. There currently is no sunset date for these funds.
- <u>Measure X</u>. Annual allocation based on 50% population/50% lane miles. FY 2021-22 revenue allocation is estimated at $7.65 million. The Measure X sales tax sunsets in FY 2047.
- <u>Transient Occupancy Tax (TOT)</u>. HUTA, SB 1, and Measure X all require a Maintenance of Effort (MOE) obligation, which the County meets using discretionary TOT. Board policy changed in FY 2020-21 from allocating 25% of TOT for road maintenance to the Measure X MOE minimum requirement, which is currently $5.49 million. The minimum MOE requirement for Measure X is the amount of local resources spent for the fiscal year calculated as the annual average of its expenditures from its general fund during the 2009-10, 2010-11,

and 2011-12 fiscal years, but not less than what was expended in 2016-17 (when Measure X passed), as reported to the Controller pursuant to Streets and Highways Code section 2151. This baseline amount is then indexed annually to the Engineering News Record construction index. Both HUTA and SB 1 only require the average general fund expenditures for FY 2009 -10, FY2010-11, and FY2011-12, and are not indexed annually. The difference between HUTA/SB 1 and Measure X MOE may be considered for pledging against bonds.

Note that the HUTA, SB 1/RMRA, and related MOE funds, are not legally available to pay debt service on bonds.

Based on the KNN analysis, revenue bonds and certificates of participation (COPs) are two viable financing vehicles to advance Road Fund capital projects. Revenue bonds could leverage the Measure X sales tax revenues allocated to the County. This approach relies solely on the availability of Measure X revenues to secure and repay the bonds and does not commit the County's General Fund or other sources of funds. Under this structure, the bonds would be an obligation of the Road Fund and would be secured solely by the Measure X annual direct allocation to the County. Because TAMC may also issue bonds secured by the Measure X sales tax for regional purposes, the County's pledge of Measure X would have to be subordinate in payment priority to sales tax revenue bonds issued by the TAMC. Revenue bonds would require the legal covenants of a debt service coverage target or a debt service reserve fund.

Rather than directly pledging the Measure X tax as a repayment source on the bonds, the County could indirectly use Measure X revenues (Road Fund) to offset debt service on a General Fund COP issuance. The County has traditionally used this form of borrowing to finance other capital improvement projects such as Schilling Place and the East/West Wing. Because the bonds would utilize the security of the County's General Fund, this approach would not require the legal covenants of a debt service coverage target or a debt service reserve fund. By eliminating these structure requirements, the County could significantly increase upfront bond proceeds; however, the General Fund ultimately would be obligated to make debt service payments even if Measure X sales tax revenue collections were insufficient to backfill fully. However, a General Fund COP security requires the pledge of a County asset(s). Thus, the County would need to identify an unencumbered asset(s) with an insured asset value approximately equivalent to the par amount of the bonds. If it was deemed that TOT revenues allocated to the Road Fund were legally available to pay debt service on bonds, then a similar approach could be taken with the issuance of County General Fund COPs and the use of the Road Fund TOT allocation to offset debt service. However, only the portion of TOT that exceeds the HUTA/SB 1 requirement could be considered

Additionally, there are potential grant opportunities and other funding avenues possible through the federal infrastructure bill, the "Bipartisan Infrastructure Law." Some details have been released about the programs, and many appear competitive based. Because proposed details on the application processes have not been released to the public as of this report, staff will continue to research and explore these potential opportunities when they are released. Technology and construction methods are also evolving, so staff will look into more efficient methods that achieve the desired performance at a reduced cost to constituents.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

A key objective has been to find funding sources for much needed maintenance to the County's transportation infrastructure. Financing helps to fulfill this objective. Combining these funds with federal and/or state grants will extend funding even further. The recommended action supports the following Board of Supervisors' Strategic Initiative below:

___ Economic Development
___ Administration
___ Health & Human Services
_X_ Infrastructure
_X_ Public Safety

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Attachments:
Attachment A - Board Referral 2020.12
Attachment B - Capital Improvement Committee Report from September 13, 2021 (including KNN Financial Advisors Memorandum)
Attachment C - Staffing for Implementation Options