



AGENDA AND NOTICE OF THE REGULAR MEETING OF THE
SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS GOVERNING BOARD

JUNE 15, 2017 - 6:00 P.M.

**Upper San Gabriel Valley Municipal Water District Office
602 E. Huntington Drive, Suite B, Monrovia, California 91016**

SGVCOG Officers

President
Cynthia Sternquist

1st Vice President
Margaret Clark

2nd Vice President
Vacant

3rd Vice President
Vacant

Members

Alhambra
Arcadia
Azusa
Baldwin Park
Bradbury
Claremont
Covina
Diamond Bar
Duarte
El Monte
Glendora
Industry
Irwindale
La Cañada Flintridge
La Puente
La Verne
Monrovia
Montebello
Monterey Park
Pasadena
Pomona
Rosemead
San Dimas
San Gabriel
San Marino
Sierra Madre
South El Monte
South Pasadena
Temple City
Walnut
West Covina

*First District, LA County
Unincorporated Communities*

*Fourth District, LA County
Unincorporated Communities*

*Fifth District, LA County
Unincorporated Communities*

SGV Water Districts

Thank you for participating in tonight's meeting. The Governing Board encourages public participation and invites you to share your views on agenda items.

MEETINGS: *Regular Meetings of the Governing Board are held on the third Thursday of each month at 6:00 PM at the Upper San Gabriel Valley Municipal Water District Office (602 E. Huntington Drive, Suite B, Monrovia, California 91016).* The Governing Board agenda packet is available at the San Gabriel Valley Council of Government's (SGVCOG) Office, 1000 South Fremont Avenue, Suite 10210, Alhambra, CA, and on the website, www.sgvco.org. Copies are available via email upon request (sgv@sgvco.org). Documents distributed to a majority of the Board after the posting will be available for review in the SGVCOG office and on the SGVCOG website. Your attendance at this public meeting may result in the recording of your voice.

CITIZEN PARTICIPATION: Your participation is welcomed and invited at all Governing Board meetings. Time is reserved at each regular meeting for those who wish to address the Board. SGVCOG requests that persons addressing the meeting refrain from making personal, slanderous, profane or disruptive remarks.

TO ADDRESS THE GOVERNING BOARD: At a regular meeting, the public may comment on any matter within the jurisdiction of the Board during the public comment period and may also comment on any agenda item at the time it is discussed. At a special meeting, the public may only comment on items that are on the agenda. Members of the public wishing to speak are asked to complete a comment card or simply rise to be recognized when the Chair asks for public comments to speak. We ask that members of the public state their name for the record and keep their remarks brief. There is a three minute limit on all public comments. Proxies are not permitted and individuals may not cede their comment time to other members of the public. **The Governing Board may not discuss or vote on items not on the agenda.**

AGENDA ITEMS: The Agenda contains the regular order of business of the Governing Board. Items on the Agenda have generally been reviewed and investigated by the staff in advance of the meeting so that the Governing Board can be fully informed about a matter before making its decision.

CONSENT CALENDAR: Items listed on the Consent Calendar are considered to be routine and will be acted upon by one motion. There will be no separate discussion on these items unless a Board member or citizen so requests. In this event, the item will be removed from the Consent Calendar and considered after the Consent Calendar. If you would like an item on the Consent Calendar discussed, simply tell Staff or a member of the Governing Board.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the SGVCOG office at (626) 457-1800. Notification 48 hours prior to the meeting will enable the SGVCOG to make reasonable arrangement to ensure accessibility to this meeting.



PRELIMINARY BUSINESS

5 MINUTES

1. Call to Order
2. Pledge of Allegiance
3. Roll Call
4. Public Comment (*If necessary, the President may place reasonable time limits on all comments*)
5. Changes to Agenda Order: Identify emergency items arising after agenda posting and requiring action prior to next regular meeting

CONSENT CALENDAR

5 MINUTES

(It is anticipated that the SGVCOG Governing Board may take action on the following matters)

6. Governing Board Meeting Minutes – Page 1
Recommended Action: Adopt Governing Board minutes.
7. Monthly Cash Disbursements/Balances/Transfers – Page 9
Recommended Action: Approve Monthly Cash Disbursements/Balances/Transfers.
8. ACE Board of Directors Minutes – Page 11
Recommended Action: Receive and file.
9. ACE Monthly Report
Recommended Action: Receive and file.
10. Committee Attendance – Page 15
Recommended Action: Receive and file.
11. Treasurer’s Report – Page 33
Recommended Action: Receive and file.
12. Metro San Gabriel Valley Service Sector – Page 57
Recommended Action: Appoint representatives to serve on the Metro San Gabriel Valley Service Sector.
13. AB 1180 (Holden) – Page 59
Recommended Action: Adopt Resolution 17-18 supporting AB 1180 (Holden), as revised.
14. AB 1274 (O’Donnell) – Page 85
Recommended Action: Adopt Resolution 17-21 supporting AB 1274 (O’Donnell)
15. SB 268 (Mendoza) – Page 99
Recommended Action: Adopt Resolution 17-22 opposing SB 268 (Mendoza).
16. Request for Letter of No Prejudice (LONP) for Subregional Planning Funds – Page 111
Recommended Action: Pending Metro Board adoption of the Measure M Guidelines, direct the Executive Director to submit a request to Metro for a LONP to allow expenditures related subregional planning and programming activities to be eligible for reimbursement.

ACTION ITEMS

20 MINUTES

(It is anticipated that the SGVCOG Governing Board may take action on the following matters)

17. FY 2016-17 Budget Amendment #3 – Page 115
Recommended Actions: Adopt Resolution 17-16 approving Amendment #3 to the FY 2016-17 budget.
18. FY 2017-18 ACE Budget – Page 123
Recommended Actions: Adopt Resolution 17-17 approving the FY 2017-18 ACE budget.
19. Agreement with the County of Los Angeles to Provide Outreach Support for the Commercial Property Assessed Clean Energy (PACE) Program – Page 165
Recommended Action: Authorize Executive Director to execute an agreement with the County of Los Angeles to provide outreach support for the Commercial PACE Program.

20. Waters of the United States (WOTUS) Rulemaking Submission – Page 171
Recommended Action: Authorize Executive Director to submit a comment letter to the US Environmental Protection Agency (EPA) regarding WOTUS Rulemaking.
21. AB 1408 (Calderon) – Page 189
Recommended Action: Adopt Resolution 17-19 supporting AB 1408 (Calderon).
22. AB 1132 (Garcia) – Page 213
Recommended Action: Adopt Resolution 17-20 supporting AB 1132 (Garcia).

PRESIDENT’S REPORT **60 MINUTES**

(It is anticipated that the SGVCOG Governing Board may take action on the following matters)

23. Oral Report
Recommended Action: For information.
24. Governing Board Attendance
Recommended Action: For information.

EXECUTIVE DIRECTOR’S REPORT **5 MINUTES**

(It is anticipated that the SGVCOG Governing Board may take action on the following matters)

25. Oral Report
Recommended Action: For information.
26. Ad Hoc ACE/ Large Capital Project Report
Recommended Action: For information.
 - 26.1 Ad Hoc Committee Final Recommendation – Page 221
 - 26.2 Executive Committee alternative recommendation – Page 235
27. Los Angeles County Clean Energy (LACCE) Program
Recommended Action: For information.

GENERAL COUNSEL’S REPORT

COMMITTEE REPORTS **15 MINUTES**

Transportation Committee
Homelessness Committee
Energy, Environment and Natural Resources Committee
Water Committee
Ad Hoc Legislative Committee

PROJECT REPORTS **10 MINUTES**

The ACE Project
San Gabriel Valley Energy Wise Partnership

LIAISON REPORTS **10 MINUTES**

Gold Line Foothill Extension Construction Authority
San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy
Southern California Association of Governments
League of California Cities
San Gabriel Valley Economic Partnership
South Coast Air Quality Management District

BOARD MEMBER ITEMS

ANNOUNCEMENTS

ADJOURN



SGVCOG Governing Board Unapproved Minutes

Date: May 18, 2017, 2017

Time: 6:00 PM

Location: USGVMWD (602 E. Huntington Drive, Monrovia)

PRELIMINARY BUSINESS

1. Call to Order
President Cynthia Sternquist called the meeting to order at 6:04 p.m.

2. Pledge of Allegiance
R. Barbosa led the pledge.

3. Roll Call
A quorum was in attendance.

Governing Board Members Present

Alhambra	Barbara Messina
Azusa	Angel Carillo
Arcadia	Sho Toy
Baldwin Park	C. Baca
Claremont	Joe Lyons/ S. Pedroza
Covina	Peggy Delach
Diamond Bar	Nancy Lyons
Duarte	John Fasana
Glendora	Judy Nelson
La Verne	Tim Hepburn
La Canada Flintridge	Terry Walker
Montebello	Jack Hadjinian
Monrovia	Becky Shevlin
Monterey Park	Teresa Real Sebastian
Pasadena	Terry Tornek
Pomona	Tim Sandoval
Rosemead	Margaret Clark
San Dimas	Denis Bertone
Sierra Madre	John Capoccia
South El Monte	Joseph Gonzales
South Pasadena	Diana Mahmud
Temple City	Cynthia Sternquist
Walnut	Bob Pacheco
West Covina	James Toma
LA County District 1	Rachel Barbosa
LA County District 5	Debra Mendelsohn
San Gabriel Water Districts	Anthony Fellow

Absent

Bradbury
El Monte
Industry
Irwindale
La Puente
San Marino
San Gabriel
LA County District 4

SGVCOG Staff

Phil Hawkey, Executive Director
Marisa Creter, Assistant Executive Director
Dick Jones, General Counsel
Christian Cruz, Staff
Stefanie Hernandez, Staff
Eric Wolf, Staff

4. Public Comment
No public comment.

5. Changes to Agenda Order
Item 24 was pulled

PRESENTATIONS

- 6. Overview of Alameda Corridor-East (ACE) History and Insurance Coverage
 M. Christoffels presented on this item

CONSENT CALENDAR

- 7. Governing Board Meeting Minutes
Recommended Action: Adopt Governing Board minutes.
- 8. Monthly Cash Disbursements/Balances/Transfers
Recommended Action: Approve Monthly Cash Disbursements/Balances/Transfers.
- 9. ACE Board of Directors Minutes
Recommended Action: Receive and file.
- 10. ACE Monthly Report
Recommended Action: Receive and file.
- 11. Committee Attendance
Recommended Action: Receive and file.
- 12. SGVCOG Committee Appointments
Recommended Action: Appoint members to standing SGVCOG Policy Committees and Technical Advisory Committees
- 13. Foothill Gold Line Construction Authority
Recommended Action: Appoint Sam Pedroza (Claremont) and Tim Sandoval (Pomona) to serve as the SGVCOG’s delegate and alternate, respectively, on the Foothill Gold Line Construction Authority Board of Directors.
- 14. League of California Cities – Page 31
Recommended Action: Appoint Sam Pedroza (Claremont) to serve as the SGVCOG’s representative on the League of California Cities – LA Division Executive Committee.
- 15. San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC)
Recommended Action: Appoint Margaret Clark (Rosemead) to serve as the SGVCOG (Rivers Seat) representative on the RMC Board of Directors.

There was a motion to approve consent calendar items 7-15 (M/S: D. Bertone/C. Baca).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT:	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

ACTION ITEMS

- 16. FY 2016-17 3rd Quarter Financial Report
There was a motion to receive and file FY 2016-17 3rd Quarter Financial Plan (M/S: B. Shevlin/J. Lyons).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South
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	Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT:	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel, LA County District 4

17. FY 2017-18 Budget

There was a motion to Adopt Resolution 17-13 approving the FY 2017-18 budget. (M/S: B. Shevlin/J. Hadjinian).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

18. Measure H Comment Letter

There was a motion to authorize the President to send a comment letter regarding draft Measure H expenditure plan to the County of Los Angeles. (M/S: B. Shevlin/J. Fasana).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, San Gabriel Water Districts
NOES:	
ABSTAIN:	LA County District 1, LA County District 5
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

19. SGVCOG Officer Elections

General Council conducted the election and reviewed the procedures.

There was a motion to Elect Cynthia Sternquist as President. (M/S: J. Lyons/B. Messina).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

- **1st Vice President**

T. Sandoval withdrew his name from consideration. The remaining candidates were Margaret Clark and Jack Hadjinian.

There was an election for the first Vice-President and the results are as follows:

- **Jack Hadjinian (6 Votes)**
- **Margaret Clark (21 Votes)**

There was a motion to Elect Margaret Clark as 1st Vice President (M/S: D. Bertone/ T. Real Sebastian).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

- **2nd Vice President**

C. Baca withdrew her name from consideration. The remaining candidates were Joe Lyons and Becky Shevlin.

There was an election for the first 2nd Vice-President and the results are as follows:

- **Joe Lyons (14 Votes)**
- **Becky Shevlin (13 Votes)**

There was a motion to elect J. Lyons as 2nd Vice President (M/S: T. Real Sebastian/B. Messina).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

- **3rd Vice President**

There was an election for the first 3rd Vice-President and the results are as follows:

- **Cruz Baca (7 Votes)**
- **Becky Shevlin (11 Votes)**
- **Tim Hepburn (9 Votes)**

No candidate received the majority of votes. A runoff was held between Tim Hepburn and Becky Shevline and the results are as follows:

- **Becky Shevlin (17 Votes)**
- **Tim Hepburn (10 Votes)**

**There was a motion to elect Becky Shevlin as 3rd Vice President (M/S: J. Lyons/ D. Mahmud).
 [Motion Passed]**

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

20. Southern California Association of Governments (SCAG)

There was a motion to recommend to take the following actions: 1) For FY 2017-18, allocate the 7 SGVCOG appointments to SCAG Policy Committees as follows: Transportation Committee (3), Community, Economic and Human Development (CEHD) (2), and Energy & Environment (2). 2) Appoint the following representatives to serve on SCAG Policy Committees:

- **Transportation Committee: Jack Hadjinian (Montebello), Teresa Real Sebastian (Monterey Park), and Cynthia Sternquist (Temple City)**
- **CEHD Committee: Joe Lyons (Claremont) and Becky Shevlin (Monrovia)**
- **Energy and Environment: Judy Nelson (Glendora) and Diana Mahmud (South Pasadena) . (M/S: J. Fasana/ B. Messina)**

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Monterey Park, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

21. Memorandum of Understanding (MOU) with the Los Angeles County Metropolitan Transportation Authority (Metro)

P. Hawkey reported on this item.

There was a motion to authorize Executive Director to execute MOU with Metro to provide funding for Metro Board of Director support services. . (M/S: D. Mahmud/ J. Lyons).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monrovia, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
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NOES:	
ABSTAIN:	Monterey Park
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

- 22. Metro Service Sector Appointment
This item was carried over.
- 23. San Gabriel Mountains National Monument Status
 D. Bertone reported on this item.

T. Real Sebastian provided revisions to remove the names of the Presidents from the resolution as revised.

There was a motion to adopt Resolution 17-14 supporting the San Gabriel Mountains maintaining its National Monument designation as it is currently configured and direct the Executive Director to submit comments to the Secretary of the Interior (M/S: B. Shevlin / N. Lyons).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monterey Park, Monrovia, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District 5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

- 24. AB 1669 (Friedman)
 Item pulled.
- 25. AB 968 (Rubio)
 There was a request revise the resolution by including the following language:

Whereas, the SGVCOG supports the conservation of all water from whatever source, including recycled water, but recognizes the importance of providing incentives for development of recycled water supplies, and supports the eventual inclusion of recycled water in calculations of water consumption.

Whereas, the SGVCOG believes the establishment of urban water conservation legislation is best accomplished through traditional legislative procedures with adequate notice and opportunity for input into it's development.

There was a motion to adopt Resolution 17-15 to support AB 968 (Rubio) (M/S: J. Lyons/J. Fasana).

[Motion Passed]

AYES:	Alhambra, Arcadia, Azusa, Baldwin Park, Claremont, Covina, Diamond Bar, Duarte, Glendora, La Verne, La Canada Flintridge, Montebello, Monterey Park, Monrovia, Pasadena, Pomona, Rosemead, San Dimas, Sierra Madre, South El Monte, South Pasadena, Temple City, Walnut, West Covina, LA County District 1, LA County District
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	5, San Gabriel Water Districts
NOES:	
ABSTAIN:	
ABSENT	Bradbury, El Monte, Industry, Irwindale, La Puente, San Marino, San Gabriel LA County District 4

PRESIDENT'S REPORT

26. Oral Report
C. Sternquist discussed the issue of homelessness.

EXECUTIVE DIRECTOR'S REPORT

27. Oral Report
P. Hawkey reported on LACCE and 47/57/109 and the criminal issues in the region.

GENERAL COUNSEL'S REPORT

No report given

COMMITTEE REPORTS

Transportation Committee

J. Fasana reported on this item.

Homelessness Committee

J. Lyons reported on this item.

Energy, Environment and Natural Resources Committee

D. Bertone reported on this item.

Water Committee

D. Mahmud reported on this item.

ACE / Large Capital Projects Ad Hoc Committee

No report given.

Ad Hoc Legislative Committee

M. Clark reported on this item.

PROJECT REPORTS

The ACE Project

M. Christoffels reported on this item.

San Gabriel Valley Energy Wise Partnership

M. Creter reported on this item.

LIAISON REPORTS

Gold Line Foothill Extension Construction Authority

No report given.

San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy

D. Bertone reported on this item.

Southern California Association of Government

No report given.

San Gabriel Valley Economic Partnership

No report given.

South Coast Air Quality Management District

M. Cacciotti reported on this item.

BOARD MEMBER ITEMS

ANNOUNCEMENTS

T. Real Sebastian asked for better reflection on attendance of delegates and alternates and request bylaws be discussed in reference to the delegates attendance from cities who do not regularly attend or alternatively agendaize this item for discussion at the Governing Board as an item.

D. Mahmud requested attendance be posted on the website.

C. Sternquist announced the color run in Temple City and provided comments in remembrance of former SGVCOG President David Spence

ADJOURN

President Cynthia Sternquist adjourned at 8:37 p.m. in remembrance of former SGVCOG President David Spence.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
Selected Asset Account Balances
As of May 31, 2017

Account Name	Balance 4/30/2017	Increase	Decrease	Net Change	Balance 5/31/17
CBB - Checking	\$ 561,507	\$ 21,634	\$ 128,905	\$ (107,271)	\$ 454,236
CBB- 242-034-325 CD	\$ 55,549			\$ -	\$ 55,549
CBB - 2766 Savings	\$ 1,587			\$ -	\$ 1,587
CBB -242-034-953 CD	\$ 54,782			\$ -	\$ 54,782
Petty Cash	\$ 400			\$ -	\$ 400
LAIF	\$ 229,834	\$ -		\$ -	\$ 229,834
LAIF Maket Value	\$ 86			\$ -	\$ 86
Member Receivable	\$ -			\$ -	\$ -
Grants/Contracts Receivable	\$ 77,403	\$ 35,122	\$ 21,005	\$ 14,117	\$ 91,521
Sponsorships Receivable	\$ 25			\$ -	\$ 25
Rental Deposits Receivable	\$ 215			\$ -	\$ 215
Receivables - Other	\$ -	\$ -		\$ -	\$ -
	<u>\$ 981,387</u>	<u>\$ 56,757</u>	<u>\$ 149,910</u>	<u>\$ (93,153)</u>	<u>\$ 888,234</u>

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

Disbursements Report

May 2017

Transaction Date	Number/Reference	Vendor Name	Description	Amount
5/3/2017	9413	Vantagepoint Transfer Agents	ICMA-457 Payment (PE 4/28/17)	87.16
5/3/2017	9414	Eric Wolf	Travel Reimbursement - Sacramento (4/19/17)	130.96
5/3/2017	9415	PLIC-SBD GRAND ISLAND	Dues for May'17	372.81
5/3/2017	9416	Alameda Corridor East Constr	Reimbursement: CALPERS, SGV Reception, Admin Serv	8,489.40
5/3/2017	EFT	Paychex	Payroll Period Ending 5/3/17-Katie Ward	915.38
5/9/2017	9417	Artin Baghkhani	Mileage Reimbursement for Apr'17	190.14
5/9/2017	9418	Claremont Chamber of Commerc	Claremont Village Venture, SGVEWP Event Booth	215.00
5/9/2017	9419	Fehr & Peers	Grant Writing Services (10/29/16-11/25/16)	6,746.25
5/9/2017	9420	Jones & Mayer	Retainer Legal Services for Apr'17	2,083.33
5/9/2017	9421	Mary Lou Echternach	Board Support for Apr'17	8,840.83
5/9/2017	9422	Philip A. Hawkey	Reimbursement for Expenses for Feb'17 and Mar'17	211.07
5/9/2017	9423	Kaiser Permanente Health Pla	Dues for Jun'17	73.96
5/9/2017	9424	Peter Duyshart	Mileage Reimbursement for Apr'17	67.26
5/9/2017	EFT	Citi Card	Citi Card Payment	5,824.63
5/12/2017	EFT	Paychex	Payroll Period Ending 5/12/17	24,096.75
5/12/2017	EFT	Paychex	Payroll Processing Fee May'17	50.00
5/16/2017	9425	Image IV Systems	Copy Machine Rental for May'17	748.99
5/16/2017	9426	Alameda Corridor East Constr	Reimbursement for CALPERS and Admin. Serv	6,301.22
5/16/2017	9427	Christian Cruz	Mileage Reimbursement for Apr'17	75.96
5/16/2017	9428	Kelsey Zurcher	Mileage Reimbursement for Apr'17	91.91
5/16/2017	9429	Vantagepoint Transfer Agents	ICMA-457 Payment (PE 5/12/17)	86.26
5/22/2017	EFT	Spectrum Business	Internet Provider	125.00
5/23/2017	9430	Alameda Corridor East Constr	Reimbursement for Admin Serv and Mar'17 DC Expenses	20,700.86
5/23/2017	9431	Alta Planning and Design	Granting Writing Serv-Urban Greening Grant-Apr'17	4,490.00
5/23/2017	9432	Day One	Granting Writing Serv-Urban Greening Grant-Apr'17	10,000.00
5/24/2017	9433	Elite-TRC-Alhambra Community	Rent - Jun'17	3,950.86
5/26/2017	EFT	Paychex	Payroll Period Ending 5/26/17	20,832.21
5/30/2017	9434	Alameda Corridor East Constr	Reimbursement for CALPERS	2,261.07
5/30/2017	9435	Athena Parking (Alhambra)	Monthly Parking for Jun'17	490.00
5/30/2017	9436	Elite-TRC-Alhambra Community	Payment for two (2) keys for front door	25.33
5/30/2017	9437	Vantagepoint Transfer Agents	ICMA-457 Payment (PE 5/26/17)	123.56
5/30/2017	9438	PLIC-SBD GRAND ISLAND	Dues for Jun'17	206.71
Total May 2017 Disbursements				\$ 128,904.87



Alameda Corridor-East Construction Authority

4900 Rivergrade Rd. Ste. A120 Irwindale, CA 91706 (626) 962-9292 fax (626) 962-3552 www.theaceproject.org

ACE Construction Authority Board of Directors Meeting April 24, 2017 Minutes

Chairperson Costanzo called the meeting of the Board of Directors of the Alameda Corridor-East Construction Authority to order at 11:03pm at the San Gabriel City Hall Council Chambers.

1. Pledge of Alliance – Member Hadjinian led the pledge of allegiance.
2. Roll Call: Chairperson Costanzo asked Mr. Christoffels to call the roll.

In attendance was:

Juli Costanzo, San Gabriel, Chair
Victoria Martinez, El Monte, Vice Chair
Jack Hadjinian, Montebello
Barbara Messina, SGVCOG
Tim Sandoval, Pomona

Staff:

Mark Christoffels, CEO
Gregory Murphy, Burke, Williams & Sorensen, legal counsel
Deanna Stanley
Amy Hanson
Charles Tsang
Genichi Kanow
Paul Hubler
Phil Balmeo
Rachel Korkos
Ricky Choi
Victoria Butler

Guests:

Charlie Nakamoto, Jacobs
Cynthia Marian, Oliver Sandifer & Murphy
Ken Fredrikson, Berg & Associates
Hank Fung, LA County
Joshua Nelson, City of Industry
Ju Kim, Jacobs
Michael Cano, Metro
Phil Hawkey, SGVCOG
Talin Espinosa, Twinning

3. Public Comments – Judy Mooridian addressed the Board with an update on the relocation efforts of her business, AM Disposal to the City of Montebello. She indicated once the plans are approved it by the City it will take an additional eight

weeks to prepare the property for a move. She indicated she was expecting a delay and requests the Board consider an extension. She reminded the board that she is expected to be off the property on June 1 and if not penalties of \$2500 per day will be imposed by ACE. The Chairperson thanked her for her update.

Michael Cano, Deputy Executive Officer, Goods Movement Countywide Planning & Development of Metro presented staff and the board with a plaque for Metro's appreciation of ACE's help in preparing a joint Fast Lane grant application.

4. Approval of March 27, 2017 Board meeting minutes – A motion was made by member Hadjinian and seconded by member Martinez to approve the March 27, 2017 regular Board meeting minutes.

M/S/C/Hadjinian/Martinez/Unanimous

5. Chairman Remarks – Chairperson Costanzo thanked the Board for agreeing to change the meeting date in order to allow April 24 observance of the Armenian Genocide.
6. Board Member Comments – Member Hadjinian expressed his appreciation for the Board Recognizing the Armenian Genocide. He reminded the Board how important recognition of the atrocity committed against the Armenian people that included his father, a witness to the execution of his own father and uncle.
7. **Chief Executive Officer's Report** – Mr. Christoffels reported that staff is continuing to monitor the status of the Fast Lane Grant application and remains hopeful the Administration will soon release its Infrastructure Plan. Mr. Christoffels also reported that staff met with Union Representative Ron Miller regarding Potential Project Labor agreements. Mr. Miller has indicated he would examine the feasibility of project labor agreements with the remaining ACE projects.
8. Construction Progress Reports – Charles Tsang reviews progress photos of the Fairway Drive grade separation project. Victoria Butler reviews project progress photos of the Fullerton Road grade separation project. Genichi Kanow reviews project progress photos of the Puente Avenue grade separation project. Phil Balmeo reviewed project progress photos of the San Gabriel Trench project.
9. Approval of Project Baseline Agreement for the Durfee Avenue Grade Separation Project and Resolution Authorizing Chief Executive Officer to Execute Agreements – Mr. Christoffels reminded the Board that when allocations are made to projects, if the project under runs the allocation, ACE has always tried to request reallocation to another project. He explained ACE requested the California Transportation Commission to reallocate \$ 921,000 savings from Baldwin, \$1.7 million in un-programmed TCIF and \$2.706 million in Prop 1 B HRCSA funds to the

Durfee Avenue project. He indicated Board approval of a baseline agreement was required to complete the process.

A motion was made to approve a project baseline agreement concerning the use of Proposition 1 B funds program guidelines, and a resolution authorizing the Chief Executive Officer to execute the baseline agreement, and any amendments, and funding agreements on behalf of ACE.

M/S/C/Hadjinian /Sandoval/Unanimous

10. Approval of Declaration of Surplus Property at the Nogales Street Grade Separation Project – Mr. Christoffels reviewed three parcels acquired for the Nogales Street grade separation project. He indicated the remaining parcels are not needed and must be deemed surplus by the Board. He indicated in accordance with Caltrans guidelines the properties will be made available to public entities first then if no interest is shown, made available to the general public.

Member Martinez requested, in the absence of a representative from Los Angeles County, that member Solis be made aware of this item. A motion was made to declare LA County parcels numbers 87-60-003-902, 8760-003-903, and 8760-003-904 as surplus.

M/S/C/Sandoval/Martinez/Unanimous

11. Closed Session – Legal Counsel announced that the Board would adjourn to closed session in accordance with Government Code Section 54956. The Board returned to open session and legal counsel reported that regarding Case No. BC593599 ACE V Mooradian there was no reportable action; regarding Case No. BC 527311 ACE V Majestic Realty the Board unanimously approved terms conditions of a settlement, that once finalized will be available to the public and with regard to Government Code Section 54956.8 real property negotiations, there was no discussion.
12. Adjournment – The meeting adjourned at 12:29PM.

X



Deanna Stanley
Clerk of the Board

**Governing Board
FY 2016-17**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Alhambra	✓							✓	✓	✓	D	
Arcadia	✓		✓	✓	✓			✓		✓	D	
Azusa	✓			✓						✓	D	
Baldwin Park			✓	✓			✓			✓	D	
Bradbury												
Claremont	✓		✓	✓	✓		✓	✓	✓	✓	D/A	
Covina	✓		✓	✓	✓		✓	✓	✓	✓	D	
Diamond Bar	✓		✓	✓			✓	✓		✓	D	
Duarte	✓		✓	✓	✓		✓	✓	✓	✓	D	
El Monte			✓	✓	✓		✓	✓	✓			
Glendora	✓		✓	✓	✓		✓	✓	✓	✓	D	
Industry												
Irwindale												
La Canada Flintridge			✓	✓			✓		✓		D	
La Puente									✓			
La Verne	✓			✓	✓		✓		✓	✓	D	
Monrovia	✓		✓	✓	✓		✓	✓	✓	✓	D	
Montebello			✓					✓		✓	D	
Monterey Park	✓				✓					✓	D	
Pasadena	✓			✓	✓		✓		✓	✓	D	
Pomona							✓	✓	✓	✓	D	
Rosemead	✓		✓	✓	✓		✓	✓	✓	✓	D	
San Dimas	✓		✓	✓	✓		✓	✓		✓	D	
San Gabriel	✓		✓		✓		✓		✓	✓		
San Marino	✓		✓		✓							
Sierra Madre	✓		✓	✓	✓		✓	✓	✓	✓	D	
South El Monte	✓		✓		✓		✓	✓			D	
South Pasadena	✓		✓	✓	✓		✓	✓	✓	✓	D	
Temple City	✓		✓	✓			✓	✓	✓	✓	D	
Walnut											A	
West Covina	✓		✓	✓	✓		✓	✓	✓	✓	D	
LA County District 1			✓	✓	✓		✓	✓	✓	✓	D	
LA County District 4	✓			✓	✓				✓	✓		
LA County District 5	✓				✓		✓	✓		✓	D	
SGV Water Agencies				✓	✓		✓	✓	✓	✓	D	

Major Action Items and Presentations

July

- SCE Rolling Blackouts
- Conflict of Interest Code
- WRDA (S 2848 and HR 5303)
- AJR 44

**Governing Board
FY 2016-17**

WOTUS Challenge Amicus Brief
Metro Measure M

September

LA Impact
SCE Coordination with Cities
Modification of ACE Phase II Project
LA County Parks Measure
4th Quarter Financial Report
FY 16-17 Budget Amendment #1

October

LACCE Letter of Support/Comment
SG National Monuments Draft EA
Puente Hills Regional Park LOS
Financial Policies

November

Adopt SGVCOG Stormwater Policy
Measure M Next Steps
Closed Session: Executive Director position

January

LA County Drought Resiliency Appointment
Los Angeles County Homeless Advisory Council
Homeless Committee Policy and Workplan
Approval of San Gabriel Valley Energy Wise MA Position
Authorization to Participate in LACCE JPA Negotiations
Formation of Ad Hoc Legislative Committee
Stormwater Legislative Priorities

February

Amendment to ACE's FY 206-17 Budget
Comment Letter on Statewide Housing Assesment
LOS for Appointmnet to SWRCB
Measure H Revenue Planning Process Group
2nd Quarter Financial Report
FY 2016-17 Budget Amendment #2
Appointments to Ad Hoc Legislative Committee
Approval of ACE/Large Capital Projects Committee Report
Support for Measure H

March

FY 2015-16 Financial Audit Report
Strategic Plan Update
Adopt Measue M Guiding Principles
LOS for AB 589

April

Measure H Guiding Principles
Measure M Draft Guidelines
SB 231 (Hertzberg)

May

FY 2016-17 3rd Quarter Financial Report

Governing Board
FY 2016-17

FY 2017-18 Budget
Measure H Comment Letter
SGVCOG Officer Elections
Southern California Association of Governments (SCAG)
MOU with LA Metro
Metro Service Sector Appointment
San Gabriel Mountains National Monument
AB 1669 (Friedman)
AB 968 (Rubio)

**Transportation Committee Attendance
FY 2015-16**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Alhambra									✓	✓	✓	
Claremont			✓	✓			✓	✓	✓	✓	✓	
Diamond Bar			✓	✓	✓		✓	✓		✓	✓	
Duarte			✓	✓	✓		✓	✓	✓	✓	✓	
El Monte			✓	✓			✓	✓				
Glendora			✓	✓	✓		✓	✓	✓		✓	
La Canada Flintridge			✓				✓		✓		✓	
LA County District 1					✓		✓	✓	✓		✓	
LA County District 5			✓	✓	✓		✓	✓			✓	
Monterey Park				✓	✓							
Rosemead			✓								✓	
San Gabriel					✓					✓	✓	
South El Monte			✓		✓		✓	✓			✓	
South Pasadena			✓	✓	✓		✓	✓	✓	✓	✓	
Temple City			✓							✓	✓	
Walnut					✓		✓	✓	✓	✓	✓	

Agenda Topics

September

- Highway 39 Completion
- Regional Quiet Zone Development Efforts
- Election of Chair and Vice-Chair

October

- SG Mountains National Monument Access Planning Efforts
- Pilot Study of Subsidized Ridesharing at Transit Stations
- BFBD Pilot
- SCAG Sustainability Planning Grants

November

- Bike SGV
- Measure M next steps

January

- CV Link
- Metro ExpressLanes
- L RTP Update

February

- Measure M Policy Guidelines
- SCAG Sustainability Planning Grants
- Metro Goods Movement Update

March

- Measure M Guiding Principles
- LA County Vision Zero
- East Side Transit Corridor Phase II

April

- Metro Bike Share

**Transportation Committee Attendance
FY 2015-16**

626 Golden Streets Recap

Reminder: If a member agency misses more than three consecutive committee meetings, the agency must request reappointment by the Governing Board.

**EENR Committee Attendance
2016-2017**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Claremont				✓				✓			✓	
Duarte	✓		✓	✓	✓		✓	✓	✓	✓	✓	
Glendora	✓		✓	✓	✓				✓	✓		
Rosemead	✓			✓			✓	✓		✓	✓	
San Dimas	✓			✓	✓		✓	✓	✓	✓	✓	
Sierra Madre			✓	✓	✓		✓		✓		✓	
South Pasadena	✓		✓	✓	✓		✓	✓	✓		✓	
West Covina							✓	✓	✓	✓	✓	

Agenda Topics

July

LA County Marks Measure

September

SG Mountains National Monument Draft Environmental Assessment

Community Choice Aggregation

October

Mandatory Organics

AB 45

Puente Hillss Regional Park

Leg Recap

November

Emerald Necklace

Climate Resolve

January

Regional Organics

Mosquito and Vector Control

February

San Gabriel Canyons Improvement Project

Clean Water through oysters

March

Measure A

Aliso Canyon Facility Update

April

Easy Program Evaluation

SCE Charge Ready Program

April

San Gabriel Mountains National Monument

AB 1132 (Garcia)

AB 1274 (O'Donnell)

**Homelessness Committee Attendance
FY 2016-2017**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Baldwin Park	✓	✓	✓		✓		✓	✓		✓	✓	
Claremont	✓		✓	✓			✓		✓	✓	✓	
Covina	✓	✓	✓				✓		✓		✓	
Monrovia	✓	✓	✓	✓			✓	✓		✓		
Pasadena		✓	✓		✓		✓		✓			
Pomona	✓	✓					✓	✓	✓	✓	✓	
Rosemead	✓		✓	✓			✓		✓			
San Gabriel	✓	✓			✓		✓					
South El Monte		✓	✓									
West Covina	✓	✓	✓	✓			✓		✓	✓	✓	
LA County Dist 1	✓	✓	✓	✓			✓	✓		✓	✓	
Water Districts	✓		✓				✓		✓		✓	
TVMWD	✓		✓									

Agenda Topics

July

- Urban Harvester
- LA County Homeless Initiative

August

- SGV Homeless Fundraiser
- Lions Gate Transitional Living Centers

September

- Claremont Homeless Advocacy Program
- Vets Advocacy West LA

October

- Azusa PD Homeless Task Force
- LA County Sheriffs COPS unit
- Claremont Human Services

November

- Homeless Committee Work Plan
- Tour of Mar Vista Apartments

January

- Homeless Committee Work Plan
- LA County 1/4 Cent Measure
- LA Regional Homelessness Advisory Council

February

- El Monte Veterans Affordable Housing
- Pomona Homeless Plan

March

- Measure H Guiding Principles
- Pomona Homeless Plan regional implementation
- Real Change Movement
- Hathaway-Sycamores Youth CES

April

- Measure H Comment Letter
- Union Station CES

**Homelessness Committee Attendance
FY 2016-2017**

May

Measure H Comment Letter

**Water Policy Committee
2016-2017 Attendance**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Claremont	✓			✓	✓	✓	✓	✓			✓	
Diamond Bar		✓	✓		✓			✓		✓	✓	
Glendora	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Monrovia	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Rosemead	✓	✓	✓	✓		✓	✓	✓		✓	✓	
Sierra Madre	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
South Pasadena	✓	✓	✓	✓	✓	✓	✓	✓	✓		✓	

Agenda Topics

July (Joint Meeting with Water TAC)

- Elections
- Legislative Update
- RWQCB Update
- Stormwater Subcommittee Update
- Litigation Update

August (Joint Meeting with Water TAC)

- SB 1298
- Legislative Update
- RWQCB Update
- Stormwater Subcommittee Update

September (Joint Meeting with Water TAC)

- Legislative Update
- Litigation Update
- RWQCB Update
- Stormwater Subcommittee Update

October (Joint Meeting with Water TAC)

- Presentation: CA Water Fix
- Legislative Update
- Litigation Update
- RWQCB Update
- Stormwater Policy

November (Joint Meeting with Water TAC)

- Presentation: SB 485
- Presentation: SG Basin Groundwater
- RWQCB Update
- Legislative Update

December (Joint Meeting with Water TAC)

- Establish Stormwater Outreach Team
- Establish Stormwater Legislative Priorities
- RWQCB Update
- Election 2016 updates
- MSGB Resource Development Fee update

January (Joint Meeting with Water TAC)

- Rio Hondo/San Gabriel River EWMP Presentation
- Establish Stormwater Legislative Priorities

**Water Policy Committee
2016-2017 Attendance**

Urban Greening Grants
Stormwater Outreach Updates
Litigation Update

February (Joint Meeting with Water TAC)

Letter of Support: Irma Munoz to SWQCB
Revisions to 303(d) listing
Stormwater Outreach: Sacramento trip
Legislative Update
Water Supply Update: Chapman presentation

March (Joint Meeting with Water TAC)

support for SB 589, SB 541, AB 1180
Stormwater Outreach: Sacramento, D.C.
303(d) listing
Regulatory Update
water supply update

April (Joint Meeting with Water TAC)

support for SB 633
opposition to SB 231
WOTUS rule rewrite
303(d) listing
County Water Resiliency

May (Joint Meeting with Water TAC)

support of AB 968 (Rubio)
EPA WOTUS submission topics
AB 1180 (Holden) gut and amend
303(d) listing
County Water Resiliency

**City Managers' Steering Committee Attendance
FY 2016-17**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Arcadia	✓		✓	✓	✓	✓	✓		✓	✓	✓	
Baldwin Park	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
Claremont	✓			✓	✓		✓	✓	✓		✓	
Diamond Bar				✓		✓	✓	✓	✓			
Duarte	✓		✓	✓	✓				✓	✓		
Glendora	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
La Canada Flintridge	✓			✓	✓				✓	✓	✓	
La Verne	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
Monrovia										✓	✓	
Monterey Park	✓		✓	✓								
Pomona						✓	✓	✓		✓	✓	
South Pasadena	✓		✓	✓			✓		✓	✓		
Temple City	✓			✓			✓	✓	✓	✓		
West Covina				✓	✓	✓			✓		✓	

Agenda Topics

July

- SCE Rolling Blackouts
- Metro Measure M
- County Parks Measure

September

- SCE Coordination with Cities
- Metrolink Coordination with Cities
- 4th Quarter Financial Report
- SB 1298
- FY 2016-17 Budget Amendment

October

- LA Impact
- SGVCOG Financial Policies

November

- LAHSA Homeless Count
- Quarterly Financial Report
- Budget Amendment #1
- Stormwater Policy

December

- Metro Bike Share
- Performance Benchmark Study
- ACE Ad Hoc Committee Update
- Regional Quiet Zone update

January

- ACE Ad Hoc Committee Draft Report
- SGVCOG Office Lease

February

- Measure H

**City Managers' Steering Committee Attendance
FY 2016-17**

Budget Amendment #2
ACE Ad Hoc Committee Report
LACCE

March

SCE Coordination with Cities
LACDPW Coordination
SGVCOG Strategic Plan Update
ACE Ad Hoc Committee Next Steps
Transportation Planner/Program Manager

April

AB 346
San Diego Water Authority Correspondence
Draft FY 2017-18 Budget
Measure H Guiding Principals
Caltrans Audit

May

Measure H Comment Letter
ACE Ad Hoc Committee Report
LACCE
Measure M
AB 109

**Planning TAC Attendance
FY 2016-17**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Alhambra		✓		✓		✓	✓	✓	✓			
Arcadia		✓		✓		✓	✓	✓	✓	✓	✓	
Azusa												
Baldwin Park			✓				✓	✓	✓	✓	✓	
Claremont		✓	✓	✓					✓	✓		
Covina		✓	✓				✓	✓			✓	
Diamond Bar		✓	✓			✓	✓		✓	✓	✓	
Duarte		✓	✓			✓		✓	✓		✓	
El Monte		✓						✓	✓			
Glendora		✓	✓	✓		✓	✓	✓	✓		✓	
Irwindale												
LaVerne									✓	✓	✓	
Monrovia		✓		✓		✓	✓					
Monterey Park		✓	✓	✓		✓	✓		✓	✓		
Pasadena												
Pomona		✓								✓		
Rosemead			✓	✓		✓		✓		✓	✓	
San Dimas		✓	✓	✓		✓	✓	✓	✓	✓	✓	
San Gabriel		✓	✓	✓			✓	✓		✓		
Sierra Madre		✓	✓					✓		✓	✓	
South Pasadena			✓				✓		✓	✓	✓	
Temple City		✓					✓		✓	✓	✓	
Walnut												
West Covina		✓	✓			✓		✓	✓	✓		

Agenda Topics

August

- Elections
- Legislative Update
- Wireless Siting

September

- SCAG Sustainability Grant presentation
- Duarte Town Center presentation
- Joint PW/Planners PIWG

October

- Joint PW/Planners PIWG
- SGVCOG Housing
- Future Visioning

December

- Housing
- Marijuana
- GHG Impact by Transit Mode

January

- Housing
- Future Trends

**Planning TAC Attendance
FY 2016-17**

Measure M

February

Model Drone Ordinance

Housing

Measure M

March

Affordable Housing Presentation

Drone follow up

Measure M

Future Trends

April

Measure M

SB 649: wireless telecommunications

Future Visioning

May

TOD Planning Grant/TIF Pilot Program

Housing Legislation

Measure H

Measure M

**Public Works TAC Attendance
FY 2016-17**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Alhambra												
Arcadia			✓	✓			✓	✓	✓		✓	
Azusa			✓	✓	✓		✓	✓	✓	✓	✓	
Claremont				✓				✓	✓		✓	
Diamond Bar			✓	✓	✓		✓	✓	✓	✓	✓	
Duarte												
El Monte			✓						✓	✓		
Irwindale			✓	✓	✓		✓	✓		✓	✓	
Monrovia					✓		✓	✓	✓	✓		
Pasadena			✓	✓	✓		✓	✓		✓	✓	
Pomona			✓	✓	✓		✓	✓	✓	✓	✓	
San Dimas			✓	✓	✓		✓	✓	✓	✓	✓	
West Covina				✓	✓		✓	✓	✓	✓	✓	
LA County			✓	✓	✓		✓	✓	✓	✓	✓	

Agenda Topics

September:

- ITS FIRST presentation
- PW TAC bank account
- ACE Ad Hoc committee update
- Joint PW/Planning PIWG concept

October

- METRO Complete Streets
- CCE
- SGVCOG Stormwater Policy
- Joint PW/Planning PIWG concept

November

- Aliso Canyon Gas Wells update
- METRO Complete Streets
- Stormwater Policy

January

- Envision Sustainability planning tool
- Urban Greening grant program
- Fastlane grant
- ACE Ad Hoc committee update

February

- Metro LRTP
- CA Conservation Corps
- Measure M
- ACE Ad Hoc committee update

March

- Vision Zero
- Measure M
- Urban Greening grant program
- LACCE

April

**Public Works TAC Attendance
FY 2016-17**

Measure M

SB 649: Wireless Telecommunications

Future Visioning

May

ITS and Traffic Synchronization

Metro Bike Share

TOD Planning Grant: Round 5

TOD TIF Pilot Program

**Water TAC Attendance
FY 2016-17**

	2016						2017					
	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun
Alhambra	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Arcadia	✓	✓	✓	✓				✓	✓	✓	✓	
Covina											✓	
Monrovia		✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
Sierra Madre	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	
LA County DPW	✓	✓	✓	✓		✓	✓	✓	✓	✓	✓	
Upper San Gabriel Valley Municipal Water District	✓		✓	✓	✓	✓	✓	✓	✓	✓	✓	
<i>Ex-Officio</i>												
Foothill MWD												
LA County Sanitation Districts		✓	✓	✓	✓	✓	✓	✓	✓		✓	
Main San Gabriel Basin Watermaster	✓	✓	✓		✓	✓	✓	✓	✓	✓	✓	

Agenda Topics

July (Joint Meeting with Water TAC)

- Elections
- Legislative Update
- RWQCB Update
- Stormwater Subcommittee Update
- Litigation Update

August (Joint Meeting with Water TAC)

- SB 1298
- Legislative Update
- RWQCB Update
- Stormwater Subcommittee Update

September (Joint Meeting with Water TAC)

- Legislative Update
- Litigation Update
- RWQCB Update
- Stormwater Subcommittee Update

October (Joint Meeting with Water TAC)

Presentation: CA Water Fix

- Legislative Update
- Litigation Update
- RWQCB Update
- Stormwater Policy

November (Joint Meeting with Water TAC)

Presentation: SB 485

- Presentation: SG Basin Groundwater
- RWQCB Update
- Legislative Update

December (Joint Meeting with Water TAC)

- Establish Stormwater Outreach Team
- Establish Stormwater Legislative Priorities

**Water TAC Attendance
FY 2016-17**

RWQCB Update
Election 2016 updates
MSGB Resource Development Fee update

January (Joint Meeting with Water TAC)

Rio Hondo/San Gabriel River EWMP Presentation
Establish Stormwater Legislative Priorities
Urban Greening Grants
Stormwater Outreach Updates
Litigation Update

February (Joint Meeting with Water TAC)

Letter of Support: Irma Munoz to SWQCB
Revisions to 303(d) listing
Stormwater Outreach: Sacramento trip
Legislative Update
Water Supply Update: Chapman presentation

March (Joint Meeting with Water TAC)

support for SB 589, SB 541, AB 1180
Stormwater Outreach: Sacramento, D.C.
303(d) listing
Regulatory Update
water supply update

April (Joint Meeting with Water TAC)

support for SB 633
opposition to SB 231
WOTUS rule rewrite
303(d) listing
County Water Resiliency

May (Joint Meeting with Water TAC)

support of AB 968 (Rubio)
EPA WOTUS submission topics
AB 1180 (Holden) gut and amend
303(d) listing
County Water Resiliency



San Gabriel Valley Council of Governments and Alameda Corridor – East Construction Authority

UNEQUIVOCAL
EXCELLENCE



HIGH ETHICAL
STANDARDS,
RESPECT AND
TRUST



CHANGE,
INNOVATION
AND
CREATIVITY



HIGH
PERFORMANCE
AND
TEAMWORK



LIFE
ENRICHMENT

Report to Executive Committee

June 5, 2017

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I. Executive Summary

Background and Objective

Vicenti, Lloyd & Stutzman LLP (VLS) was retained by the San Gabriel Valley Council of Governments to perform consulting services related to the San Gabriel Valley Council of Governments (COG) and the Alameda Corridor-East Construction Authority (ACE). Throughout the consulting engagement, VLS maintained regular contact with Phil Hawkey, Marisa Creter, and Carlos Monroy.

Professional Standards

VLS performed this engagement in accordance with the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Consulting Services contained in Rule 201 of the AICPA Code of Professional Conduct. In consulting engagements, the nature and scope of work is determined solely by the agreement between the practitioner (VLS) and the client. The analysis and report does not constitute an audit, compilation, or review, in accordance with Standards of the AICPA, the objective of which would be the expression of an opinion on any specified elements, accounts, or items. Accordingly, VLS does not express such an opinion.

Scope of Engagement

General

VLS created or obtained various electronic files in order to prepare this report to the Executive Committee; the electronic files are available if requested.

Some of the dollar values included in this report have been rounded; there may be minor rounding errors, when comparing the values included in this report to the underlying detail.

Results of Procedures Performed

This section summarizes our findings from the analyses and procedures performed. The applicable sections of the report include a more detailed discussion of each area, specific observations, and recommendations, if applicable.

Review of ACE Investments and Cash Balances

The March 31, 2017 Fixed Income Investments Portfolio report was verified with the Citizen's Trust statement for the period of March 1, 2017 through March 31, 2017 and the LAIF statements as of March 2017. The amounts reported as current book value and market value on the March 31, 2017 Fixed Income Investments Portfolio report were reconciled. The allocation of investments within the pool by the type of investment is consistent with the current Investment Policy.

Reconciled bank statements were reviewed and verified to the period trail balance for the quarter ended March 31, 2017.

Review of the accuracy of information provided by ACE

Exhibit V ACE Expenditures vs. Reimbursements and Exhibit VII Treasury/ Banking Investments reports as of March 31, 2017 were verified against the period trial balance as of March 31, 2017. Amounts reported on both exhibits are accurate and provide key balances that can be used for oversight and decision-making purposes.

Review of COG Third Quarter 2017 Reports

All balances on the Comparative Summary Balance Sheet as of December 31, 2016 were verified against the period trial balance as of March 31, 2017. The Grants Receivable Aging Detail report as of March 2017 was also verified to the trial balance without exception. The allocation of investments within the pool by the type of investment is consistent with the current Investment Policy.

Reconciled bank statements were reviewed and verified to the period trail balance for the quarter ended March 31, 2017.

Review of written procedures for processing of COG transactions

Staff worked diligently on finalizing written procedures and polices for submission to the Board for approval. Review of the written documents is anticipated to occur in 2017 for inclusion in the June 30, 2017 quarterly report.

Update on Caltrans Audit

On March 23, 2017 the Department of Transportation External Audits – Local Governments Audits & Investigations issued the results of their Pre-award Audit to determine if the financial management system is adequate. The results of their audit determined that COG's financial management system was adequate to accumulate, segregate, and allocate reasonable and allowable project labor costs.

Conclusion

The procedures performed, as discussed herein, disclosed no instances that would cause concern that the quarterly reports prepared by ACE and COG are inaccurate or inadequate to meet the governance needs of the Executive Committee and the Board of Directors, specifically the sections of the Joint Powers Agreement effective March 12, 2007 included herein.

- Section 4. Purpose and Powers of the Council. The Council shall have, and may exercise the powers to:
 - Subsection b(4) utilize member resources or presently existing single purpose public and public/private groups to carry out its programs and projects;
 - Subsection b(8) serve as a mechanism for obtaining state, federal and regional grants to assist in financing the expenditures of the Council;
 - Subsection b(9) make and enter into contracts, including contracts for the services of engineers, consultants, planners, attorneys and single purpose public/private groups;
 - Subsection b(11) apply for, receive and administer a grant or grants under any federal, state, or regional programs;
 - Subsection b(12) receive gifts, contributions and donations of property, funds, services and other forms of financial assistance from persons, firms, corporations and any governmental entity;
- Section 6. Use of Public Funds and Property. The Council shall be empowered to utilize for its purposes, public and/or private funds, property and other resources received from the Members and/or from other sources.
- Section 17. Control and Investment of Council Funds. The Governing Board shall adopt a policy for the control and investment of its funds and shall require strict compliance with such policy. The policy shall comply, in all respects, with all provisions of applicable law.

II. Background and Scope of Engagement

A. Engagement Background and Objectives

Vicenti, Lloyd & Stutzman LLP (VLS) was retained by the San Gabriel Valley Council of Governments. Throughout the engagement, VLS maintained regular contact with Phil Hawkey, Marisa Creter and Carlos Monroy.

B. Professional Standards

VLS performed this engagement in accordance with the American Institute of Certified Public Accountants (AICPA) Statements on Standards for Consulting Services contained in Rule 201 of the AICPA Code of Professional Conduct. In consulting engagements, the nature and scope of work is determined solely by the agreement between the practitioner (VLS) and the client. The analysis and report does not constitute an audit, compilation, or review, in accordance with Standards of the AICPA, the objective of which would be the expression of an opinion on any specified elements, accounts, or items. Accordingly, VLS does not express such an opinion.

C. Scope of Engagement

The engagement letter dated February 9, 2016 listed possible consulting procedures to be performed on a monthly basis based on initial discussions prior to entering into our agreement.

Telephone correspondence between Phil Hawkey, Marisa Creter and Renee Graves of VLS occurred on May 8, 2017 to clarify the scope of the engagement for the quarter ending March 31, 2017. The following areas were agreed to regarding Third Quarter 2017 Reports prepared as of March 31, 2017.

ACE

1. Investments and Cash Balances
2. Information reported to COG from ACE is correct and accurate

COG

1. Review the Third Quarter 2017 Report as of March 31, 2017
2. Review of written procedures for processing of COG transactions
3. Update on Caltrans audit

D. General Disclosures

VLS created or obtained various electronic files in order to prepare this report to the Executive Committee; the electronic files are available if requested.

Some of the dollar values included in this report have been rounded; there may be minor rounding errors, when comparing the values included in this report to the underlying detail.

E. Background Information

San Gabriel Valley Council of Governments (COG)

The San Gabriel Valley Council of Governments (SGVCOG) is a joint powers authority made up of representatives from 31 cities, 3 Los Angeles County Supervisorial Districts, and the 3 Municipal Water Districts located in the San Gabriel Valley. The SGVCOG serves as a regional voice for its member agencies and works to improve the quality of life for the more than 2 million residents living in the San Gabriel Valley. The SGVCOG works on issues of importance to its member agencies, including transportation, housing, economic development, the environment, and water, and seeks to address these regionally.

The SGVCOG is the largest and most diverse sub-regional council of governments in Los Angeles County. It encompasses more than 374 square miles and has more than 2 million residents.

While each of the communities has a unique character and history, they have also many shared issues and have developed a unified voice to maximize resources, achieve sustainable solutions, and advocate for regional and member interests to improve the quality of life in the San Gabriel Valley.

Alameda Corridor-East Construction Authority (ACE)

The Alameda Corridor-East (ACE) Construction Authority is a single purpose construction authority established by the San Gabriel Valley Council of Governments in 1998 to implement a construction program intended to mitigate the adverse impacts at rail-roadway crossings in the San Gabriel Valley of increasing rail traffic along the nationally significant ACE Trade Corridor. Train counts through the Valley are projected to nearly double by the year 2035 as increasing numbers of freight trains carry freight to and from the nation's busiest container ports in the San Pedro Bay.

The ACE Project is a comprehensive program of constructing grade separations, where the road goes over or under the railroad, and safety and mobility upgrades at 53 crossings in the San Gabriel Valley. Construction has been completed on 8 roadway grade separations. Eight grade separations are under construction with four grade separations and pedestrian crossing safety program at four crossings starting in two years. Jump Start safety improvements have been completed at 40 at-grade crossings.

F. Acronyms Used

ACE - Alameda Corridor-East Construction Authority

CM – Construction Management

COG – San Gabriel Valley Council of Governments

LAIF – Local Agency Investment Fund

PERS – Public Employee’s Retirement System

ROW – Right of Way

III. Review of identified areas for ACE

A. Review of investments and cash balances

The March 31, 2017 Fixed Income Investments Portfolio report was verified with the Citizen's Trust statement for the period of March 1, 2017 through March 31, 2017 and the LAIF statements as of March 31, 2017. The amounts reported as current book value on the March 31, 2017 Fixed Income Investments Portfolio report were reconciled. The allocation of investments within the pool by the type of investment is consistent with the current Investment Policy.

Due to the daily volatility of investments, the balance is reported on a cost basis during the fiscal year and adjusted to fair value as of the fiscal year end. Therefore, any unrealized gain or loss is not reflected on the quarterly reports. The applicable balances for the quarter ending March 31, 2017 are:

- Trial balance amount of \$31,080,255
- Exhibit VII Treasury/ Banking Investments Report amount of \$31,041,310
- Citizens Trust Wealth Management statement fair value amount of \$30,507,844

B. Review of the accuracy of information provided by ACE

Exhibit V ACE Expenditures vs. Reimbursements and Exhibit VII Treasury/ Banking Investments reports as of March 31, 2017 were obtained and verified against the preliminary trial balance as of March 31, 2017.

Exhibit V ACE Expenditures vs. Reimbursements Report

Amounts shown under the reimbursement status for the categories of 1) *Current/ 30 days or less* of \$10.764m; 2) *Aged Receivable* of \$1.319m 3) *To be billed* of \$15.289m; and 4) *MTA retention* of \$8.09m were verified against the accounts listed on the trial balance. The *Current/ 30 days or less* and *MTA retention* balances are each in a separate general ledger account. The *To be billed* amount is in approximately 25 accounts for each individual project by various phases (CM, ROW, Design, Construction, Construction Management and Betterment). These amounts were verified against the accounts listed on the trial balance without any differences.

The amounts on Exhibit V did not reconcile to Exhibit VII due to a non-project based accounts receivable of \$1,139,490. Based on a conversation with Carlos Munroy on March 31, 2017, non-reoccurring balances may be grouped differently from time-to-time on Exhibit VII; it is important to note that for each quarterly report, total assets, total liabilities and the fund balance are accurate and tie to the trial balance without exception.

Exhibit VII Treasury/ Banking Investments Report

Each of the accounts listed on Exhibit VII were verified against the trial balance without exception. Consistent with the previous quarterly report, Exhibit VII presents *other receivables, prepaids and deferred costs* at the gross aggregate amount of \$4.4m from approximately 15 separate accounts, the most significant accounts being Surplus Property of \$3.5m

The PERS net pension liability of \$0.947m and the PERS hypothetical termination liability of \$5.245m were derived from the June 30, 2015 CalPERS Actuarial Valuation Report. These liabilities are not reflected on the trial balance, but are post-closing entries recorded to prepare audited financial statements that comply with Government Accounting Standards. The PERS net pension liability reported on the June 30, 2016 audited financial statements was \$0.834m.

IV. Review of identified areas for COG**A. Review of Third Quarter 2017 Reports**Comparative Summary Balance Sheet

As of March 31, 2017, the Comparative Summary Balance Sheet revised report was verified to the trial balance. Individual balances on the trial balance were verified to reconciled bank statements and to the LAIF statement at March 31, 2017. All amounts reported were verified to the trial balance without exception. The allocation of investments within the pool by the type of investment is consistent with the current Investment Policy.

Grants Receivable Aging Detail

The Grants Receivable Aging Detail report was reconciled to the trial balance without exception. The report provides amounts received subsequent to March 31, 2017. Additional analysis on the report shows that 57.76% or \$52,243.97 of the Grants Receivable balance of \$90,451.28 has been collected. Remaining receivables are 100% 0-90 days. The risk of uncollectability of the remaining Grant Receivable balance appears to be low.

CitiCard Credit Card Charges

The CitiCard Credit Card Charges report provides a breakdown of the types of purchases made by credit card. 29% of total purchases of \$13,860 for the period of January 2017 to March 2017 are for meetings and travel; \$3,248 of the \$4,005 categorized as meeting and travel is for the purchase of food for various meetings. Details of credit card charges were reviewed. There were no items noted that required additional inquiry or

follow-up; purchases by credit card appear to be reasonable and an efficient method of procurement.

A breakdown of cumulative credit card purchases through March 31, 2017 is shown herein.

	Quarter 1	Quarter 2	Quarter 3	Year-to-date Total	
Meetings/Travel	\$ 2,516	\$ 3,950	\$ 4,005	\$ 10,471	20.24%
Equip & Soft Acq	2,078	1,486	1,983	5,547	10.72%
GRL Assembly Event	1,556	6,878	1,500	9,934	19.20%
Energy Wise - SCE	2,415	5,480	1,495	9,390	18.15%
CEESP 3 - SCE	2,334			2,334	4.51%
Office Supplies	457	792	1,079	2,328	4.50%
Energy Wise - Gas Co	1,610	632	997	3,239	6.26%
Promo/Rental			915	915	1.77%
Utilities	797	1,136	783	2,716	5.25%
Webpage/Software Services	829	505	435	1,769	3.42%
Postage	207	132	268	607	1.17%
Printing/Publications	1,014		256	1,270	2.45%
Adm Fees			104	104	0.20%
Subscriptions	21	40	40	101	0.20%
Prepaid expenses		1,019		1,019	1.97%
	<u>\$ 15,834</u>	<u>\$ 22,050</u>	<u>\$ 13,860</u>	<u>\$ 51,744</u>	

Budget to Actual Comparison Report

Actual balances through March 31, 2017 were reconciled to the trial balance without exception. As of March 31, 2017, actual revenues are at 76% of the revised budget while expenses are at 72% of the budget. Member dues, the most significant revenue stream is at 74% of the 2016-17 budget. Expenses by line item appear reasonable and at minimal risk for actual expenses to exceed budget by the fiscal year end, with the exception of the following items; 1) the Internship Program is currently at 99% of budget (actual of \$59,821; budget of \$60,500); 2) General Assembly has exceeded the budget (actual of \$11,815; budget of \$10,500); and 3) Transportation Technical Support (ACE) is currently at 82% of budget (actual of \$24,550; budget of \$30,000). Two categories are currently at 100% of the budget – Financial Audit Services at \$20,000 and Management Services at \$65,000.

Resolution No. 17-16 to approve FY 2016-17 Budget Amendment #3 will be presented to the Executive Committee on June 5, 2017. Resolution No. 17-16 addresses the variances noted above.

A comparison of the adopted budget, revised budget and actual is presented herein.

	Adopted Budget 2016-17	Revised Budget 2016-17	Year-to-Date Actual 2016-17
General Operating Revenue	\$ 758,909	\$ 759,460	\$ 568,429
Hero Revenue		12,000	10531
Miscellaneous Revenue		13,146	1717
	<u>758,909</u>	<u>784,606</u>	<u>580,677</u>
Grants & Special Projects	325,263	353,259	283,204
Total Revenue	<u>1,084,172</u>	<u>1,137,865</u>	<u>863,881</u>
Total Expenses	1,070,674	1,151,877	821,502
General Assembly		10,500	11,815
Transportation Consultant			
Total Expenses	<u>1,070,674</u>	<u>1,162,377</u>	<u>833,317</u>
Estimated Net Income	<u>\$ 13,498</u>	<u>\$ (24,512)</u>	<u>\$ 30,564</u>

B. Review of COG's written procedures for processing transactions

COG and ACE staff worked diligently to write procedures and policies regarding the processing of COG transactions. The written procedures have been submitted to the Board for approval. VLS was requested to review the written policies to 1) ensure procedures are performed as written and 2) provide feedback on the adequacy of the procedures. Review of the written documents is anticipated to occur in 2017 for inclusion in the June 30, 2017 quarterly report.

C. Review of Caltrans Audit

Caltrans conducted a pre-award audit on September 7, 2011 and issued a corrective action plan letter on December 9, 2011. The original pre-award audit scheduled for February 3, 2016 was cancelled until a financial management system that complied with Title 2 Code of Federal Regulations (CFR) Part 200, capable of accumulating and segregating reasonable, allowable and allocable project costs, was in place and processing transactions for three months or more.

On March 23, 2017 the Department of Transportation External Audits – Local Governments Audits & Investigations issued the results of their Pre-award Audit to determine if the financial management system is adequate. The results of their audit, determined that COG's financial management system was adequate to accumulate, segregate, and allocate reasonable and allowable project labor costs. The audit also determined that the COG addressed the corrective action findings identified in the audit report dated September 7, 2011.

The audit included a review of the COG's billing procedures, procurement procedures, project management, internal controls and accounting policies to ensure compliance with applicable Caltrans agreement provisions and federal and state regulations. Tests of individual accounts to the general ledger and supporting documentation, which allowed Caltrans to assess allowability, allocability and reasonableness of costs, were part of their audit procedures.

The March 23, 2017 report documents that COG has contracted with ACE to perform their financial management activities and has adopted ACE's processes and procedures to perform procurement and grant management. Although an agreement exists between COG and ACE for these services, COG is ultimately responsible to ensure continued compliance with Caltrans provisions.

V. List of Exhibits

- ACE – Exhibit V – Expenditures vs. Reimbursements as of March 31, 2017
- ACE – Exhibit VII – Treasury/ Banking Investments, Investments Portfolio and
Summary as of March 31, 2017
- COG –2017 3rd Quarter Reports as of March 31, 2017 – Comparative
Summary Balance Sheet, Grants Receivable Aging Detail, CitiCard
Charges and Budget Report

Exhibit V

ACE Expenditures vs. Reimbursements

As of March 31, 2017

Projects	Reimbursement Status (\$ 000)					
	ITD Expenditures	Received	Current/ 30 days or Less	Aged ** Receivable	To Be Billed	MTA Retention
At Grade Crossing	\$ 1,050	\$ 999	\$ -	\$ 0.25	\$ 50	\$ 1
Baldwin	70,365	70,336	-	27	-	2
Durfee	21,773	20,783	416	55	481	38
Fairway Drive	65,340	63,416	894	177	826	26
Fairway-Lemon Betterment	1,840	-	1,247	-	594	-
Fullerton	43,250	39,729	1,251	458	1,577	234
Montebello	4,048	3,535	-	0	508	4
Nogales (LA)	116,105	105,768	-	273	9,610	454
Puente Ave.	63,672	61,740	1,311	192	397	31
SG Trench	247,967	242,169	5,645	75	66	13
Temple	90,406	89,367	-	-	1,039	-
Turnbull Cyn.	316	287	-	-	21	8
Brea Canyon	73,459	73,459	-	-	-	-
Crossing Safety / IRRIS	34,343	34,343	-	-	-	-
EE/Reservoir	78,960	78,960	-	-	-	-
Hamilton	1,789	1,738	-	51	-	-
Nogales (AH)	49,797	49,797	-	-	-	-
Ramona	53,091	53,091	-	-	-	-
Sunset	93,794	93,784	-	9	-	-
Sub-total Projects	1,111,362	1,083,300	10,764	1,319	15,170	809
Project Administration	10,053	9,934	-	-	119	-
Total ACE	\$ 1,121,415	\$ 1,093,233	\$ 10,764	\$ 1,319	\$ 15,289	\$ 809

** Represents retention billed MTA and collection of \$573,672 in Prop C funds is expected soon. Measure R portion is pending final audit report.

Exhibit VII

Treasury / Banking Investments

As of March 31, 2017

	<u>03.31.2017</u>	<u>Change</u>	<u>12.31.2016</u>
<u>Cash on hand</u>			
Operating Account	\$ 2,976,651	\$ 174,771	\$ 2,801,880
Money Market Account	8,297,981	(3,807,348)	12,105,329
Money Market (UPRR Contributions)	7,700,627	6,716	7,693,912
Total cash on hand	18,975,260	(3,625,861)	22,601,121
<u>Investments</u>			
LAIF	1,590,454	2,704	1,587,750
CBT - Portfolio	31,041,310	131,191	30,910,119
Total investments	32,631,764	133,895	32,497,869
<u>Current - 30 days or less</u>	12,083,258	2,907,443	9,175,815
<u>Aged Receivable</u>	1,319,214	-	1,319,214
<u>To Be Billed</u>	15,288,658	2,402,755	12,885,904
<u>MTA Retention</u>	809,498	147,717	661,782
Total Exhibit V	29,500,628	5,457,914	24,042,714
Other receivables, prepaids and deferred costs	4,472,165	(2,924,504)	7,396,669
Total Cash, Cash Equivalents & Receivables	85,579,817	(958,555)	86,538,372
<u>Liabilities</u>			
Payables & other Accruals	1,401,995	(625,086)	2,027,080
Unearned revenues	24,602,798 (a.)	(349,981)	24,952,780
MTA Working Capital Loan	45,000,000	-	45,000,000
Total liabilities	71,004,793	(975,067)	71,979,860
Fund balance			
Resources net of actual liabilities	14,575,024	16,512	14,558,512
Less estimated:			
CalPERS - Unfunded Liability	947,089 (b.)	-	947,089
CalPERS - Unfunded Termination Liability	5,245,348 (b.)	-	5,245,348
Resources net of estimated liabilities	\$ 8,382,587	\$ 16,512	\$ 8,366,075

a.) Represents surplus property appraised value, net proceeds from sale of ROW surplus properties, advanced UPRR funding, disallowed retention, and Betterment funds billed in advance to City of Industry for Fairway Drive and Fullerton projects.

b.) Updated based on CalPERS's annual valuation report as of June 30, 2015.

Fixed Income Investments Portfolio

March 31, 2016

Cusip	Name	Coupon	Yield to Maturity	Purchase Date	Maturity Date	Current Price	Par Value	Market Value	Current Book Value	
3136G1M55	Fannie Mae	0.80	0.823	12/10/2013	11/28/2017	99.910	250,000	249,775	248,494	
3135G0J46	Fannie Mae	1.25	1.366	2/26/2016	2/26/2019	99.659	200,000	199,318	199,924	
3136G1C98	Fannie Mae	1.42	1.534	5/11/2016	2/5/2020	99.588	150,000	149,382	151,348	
3136G3C78	Fannie Mae	1.55	2.206	7/28/2016	7/28/2021	96.907	200,000	193,814	200,000	
3136G3X23	Fannie Mae	1.50	2.016	7/28/2016	7/28/2021	97.558	300,000	292,674	300,000	
3136G3Y33	Fannie Mae	1.40	2.060	8/25/2016	8/25/2021	96.877	400,000	387,508	400,000	
3135G0N66	Fannie Mae	1.40	1.734	8/24/2016	8/24/2020	98.712	400,000	394,848	399,924	
3136G35G6	Fannie Mae	1.55	2.152	9/23/2016	9/23/2021	97.157	1,000,000	971,570	999,720	
3136G37G4	Fannie Mae	1.60	2.241	9/30/2016	9/30/2021	96.984	900,000	872,856	899,487	
3136G4EV1	Fannie Mae	1.63	2.236	10/28/2016	10/28/2021	97.124	250,000	242,810	249,898	
3136G4GF4	Fannie Mae	1.55	2.195	10/31/2016	10/28/2021	96.963	200,000	193,926	200,000	
3133EC5V7	Federal Farm Credit Bank	1.19	1.279	12/6/2013	12/4/2018	99.569	625,000	622,306	617,613	
3133EF291	Federal Farm Credit Bank	1.62	2.274	4/12/2016	4/12/2021	96.925	500,000	484,625	499,545	
313378QK0	Federal Home Loan Bank	1.88	1.667	4/23/2014	3/8/2019	100.970	250,000	252,425	250,594	
3130A6NA1	Federal Home Loan Bank	1.40	1.589	10/29/2015	10/29/2019	99.269	200,000	198,538	200,000	
313380FB8	Federal Home Loan Bank	1.38	1.461	11/5/2015	9/13/2019	99.677	365,000	363,821	363,785	
3130A8EN9	Federal Home Loan Bank	1.64	2.000	6/14/2016	6/14/2021	98.294	100,000	98,294	100,000	
3130A8NT6	Federal Home Loan Bank	1.48	1.919	7/28/2016	7/13/2021	97.933	200,000	195,866	200,000	
3130A8WW9	Federal Home Loan Bank	1.30	1.833	8/3/2016	5/1/2020	98.081	400,000	392,324	400,000	
3130A9GS4	Federal Home Loan Bank	1.70	2.207	10/12/2016	10/12/2021	97.610	600,000	585,660	600,000	
3130AA2S6	Federal Home Loan Bank	1.80	2.105	11/30/2016	11/26/2021	98.562	300,000	295,686	299,727	
3134G93Q8	Freddie Mac	1.68	2.380	8/25/2016	8/25/2021	96.717	400,000	386,868	400,000	
3134G95L7	Freddie Mac	1.60	2.293	8/25/2016	8/25/2021	96.740	700,000	677,180	700,000	
3134GAEE0	Freddie Mac	1.50	2.230	9/30/2016	3/30/2021	96.891	1,000,000	968,910	999,480	
3134GAHK3	Freddie Mac	1.60	1.988	9/30/2016	9/30/2021	98.161	800,288	785,288	799,480	
3137A6B27	Freddie Mac	4.33	2.430	9/7/2016	10/25/2020	107.444	155,458	167,301	171,733	
3137A8FP7	Freddie Mac	4.19	2.486	9/7/2016	12/25/2020	106.893	321,608	343,776	355,227	
3137ABFH9	Freddie Mac	3.99	2.668	9/7/2016	6/25/2021	105.961	486,000	525,587	547,013	
3134GARB2	Freddie Mac	1.60	2.255	10/27/2016	10/27/2021	96.917	300,000	290,751	300,000	
3134GAZR8	Freddie Mac	2.05	2.173	12/30/2016	12/30/2021	99.419	200,000	198,838	200,000	
3134GAS88	Freddie Mac	1.63	1.669	1/30/2017	1/28/2020	99.871	200,000	199,742	200,000	
880591EQ1	Tenn Valley Authority DTD	1.75	1.551	10/6/2014	10/15/2018	100.773	200,000	201,546	200,358	
880591EL2	Tenn Valley Authority DTD	3.88	2.087	9/19/2016	2/15/2021	107.496	500,000	537,480	550,185	
40.46% Government Securities (3.0 - 5.00 years)							13,063,066	12,921,003	13,203,533	
02006LM42	Ally Bank Medium	1.30	1.664	9/15/2016	6/16/2019	99.026	250,000	247,564	250,000	
02587DWK0	American Expr Centurion	2.20	2.100	7/1/2015	11/29/2019	100.418	171,377	172,093	171,377	
06740KHJ9	Barclays Bank/Delaware	1.60	1.654	7/18/2014	7/23/2018	99.793	100,000	99,793	100,000	
05580AFA7	BMW Bank North America	1.20	1.601	9/13/2016	8/26/2019	98.847	250,000	247,118	250,000	
05580ACZ5	BMW Bk North. America DTD	2.20	1.960	10/8/2015	9/30/2020	101.136	250,000	252,840	249,950	
05568P6C6	BMW Bk North. America Salt Lake	2.00	1.897	11/20/2013	11/15/2018	100.489	250,000	251,224	249,488	
140420D64	Capital One Bank	1.65	1.878	9/13/2016	8/31/2021	98.922	249,000	246,316	249,000	
140420F21	Capital One Bank	1.65	1.963	9/14/2016	9/14/2021	98.515	250,000	246,286	250,000	
140420B82	Capital One Bank	1.60	1.950	9/13/2016	8/17/2021	98.364	250,000	245,911	249,408	
140420YS3	Capital One Bank Medium	1.60	1.912	7/13/2016	5/4/2021	98.574	250,000	246,434	250,573	
140420QF0	Capital One Bank USA	2.15	2.032	7/7/2015	10/16/2019	100.481	163,993	164,781	163,993	
14042RAR2	Capital One NA Medium	2.20	1.968	10/8/2015	10/7/2020	101.100	200,000	202,200	199,230	
254672W20	Discover Bank DTD	1.85	1.900	12/14/2016	12/14/2020	99.806	200,000	199,613	200,000	
36830KEU5	GE Capital Retail Bank	1.50	1.467	11/15/2013	11/22/2017	100.129	250,000	250,323	250,000	
36157QTF4	GE Capital Retail Bank	2.00	1.896	11/19/2013	11/23/2018	100.496	250,000	251,240	248,725	
619165GX5	Morton Community Bank	1.60	1.818	12/16/2016	6/16/2020	99.264	200,000	198,527	200,000	
87164YML5	Synchrony Bank DTD	1.55	1.915	7/13/2016	6/29/2021	98.279	250,000	245,698	249,463	
949763AW6	Wells Fargo Bank	1.30	1.637	9/14/2016	9/8/2019	99.023	250,000	247,557	250,000	
949763AZ9	Wells Fargo Bank	1.65	1.964	9/14/2016	9/14/2021	98.509	250,000	246,273	250,000	
9497485W3	Wells Fargo Bank CD	1.75	1.941	7/13/2016	6/17/2021	99.107	250,000	247,767	252,373	
13.89% CDs (2.75 - 5.01 years)							4,534,370	4,509,558	4,533,577	
009158AS5	Air Products	1.20	1.210	11/14/2013	10/15/2017	99.961	1,205,000	1,204,530	1,197,402	
02665VWG5	American Honda Finance	1.70	2.365	9/15/2016	9/9/2021	96.890	1,400,000	1,356,460	1,392,034	
05631FAL7	BB&T	2.63	1.583	11/23/2013	8/15/2017	100.062	500,000	500,310	500,028	
05531FAU7	BB&T Corp	2.63	2.400	9/2/2015	6/29/2020	101.020	925,000	934,435	929,494	
14912L6U0	Caterpillar Financial Serv Corp	1.70	2.471	9/9/2016	8/9/2021	96.450	1,746,000	1,684,017	1,738,545	
40428HPJ5	HSBC USA INC	2.63	2.399	12/4/2013	9/24/2018	101.020	1,000,000	1,010,200	1,008,741	
437076BB7	Home Depot	2.25	2.010	11/7/2013	9/10/2018	101.102	1,000,000	1,011,020	1,006,549	
440452AE0	Hormel Foods Corp	4.13	2.432	1/31/2017	4/15/2021	106.728	500,000	533,640	536,270	
713448BN7	PepsiCo Inc	4.50	2.882	1/29/2015	1/15/2020	107.435	100,000	107,435	107,656	
882508AU8	Texas Instruments Inc	1.65	1.698	9/9/2015	8/3/2019	99.820	500,000	499,100	496,436	
911312AMB	United Parcel Service DTD	3.13	2.285	6/10/2016	1/15/2021	103.648	185,000	191,749	196,254	
27.92% Corporate Bonds (3.40 - 4.99 years)							99,690	9,061,000	9,032,896	9,109,409
31381NM83	Federal Nat'l Mtge Assn#FN465783	3.84	2.661	12/10/2015	9/1/2020	105.210	155,744	163,858	165,818	
31381P329	Fannie Mae Pool #467116	3.73	3.724	12/10/2013	1/1/2018	100.022	500,000	500,110	530,781	
31381QN69	Fannie Mae Pool #467613	3.74	3.425	11/21/2013	4/1/2018	101.266	680,214	688,825	740,794	
31381QSP7	Fannie Mae Pool #468054	3.59	3.234	11/21/2013	6/1/2018	101.450	453,616	460,375	491,181	
31381SDV1	Fannie Mae Pool #469116 DTD	2.94	2.704	11/21/2013	9/1/2018	101.052	627,804	634,408	663,020	
31407RTU8	Fannie Mae Pool #838563	5.00	3.914	4/29/2016	10/1/2020	104.375	108,554	113,303	115,270	
8.30% Gov't Mortgages (4.06 - 4.78 years)							101,384	2,525,931	2,560,879	2,706,865
758148GY0	Reed Calif Union School District	4.00	3.060	11/18/2013	8/1/2018	104.091	250,000	260,228	261,027	
010831BM6	Alameda County JPA	5.00	3.597	11/21/2013	12/1/2018	106.402	440,000	468,169	471,786	
2.25% Municipals (4.7 - 5.03 years)							105,565	690,000	728,396	732,813
31607A208	Fidelity Prime Mon Mar-Ins	1.00		10/7/2015		100.000	755,113	755,113	755,113	
2.31% Money Markets							755,113	755,113	755,113	755,113
TOTAL (Dollars)							\$ 30,629,479	\$ 30,507,844	\$ 31,041,310	

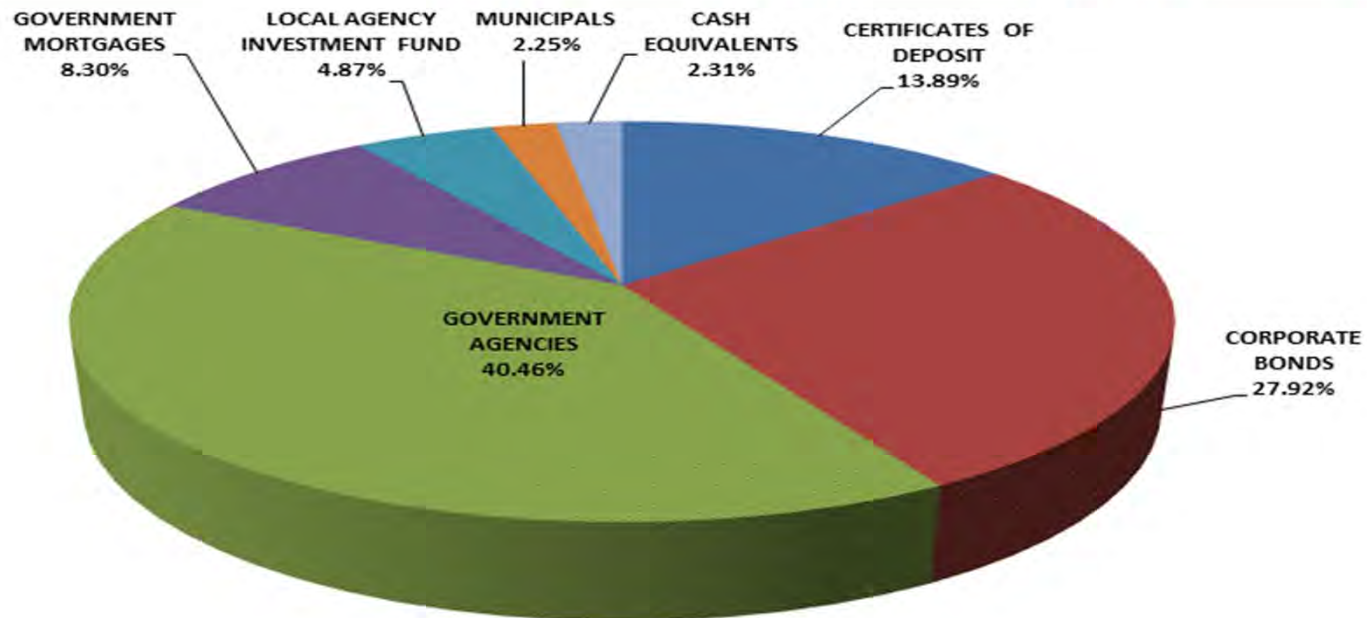
Fixed Income Investments at 03-31-2017 - Summary

Alameda Corridor - East Construction Authority
Office of ACE Construction Authority Finance Director/Treasurer



ASSET ALLOCATION

Assets (Dollars)	Current Par Value	Current Book Value	Market Value	Mkt/Book
CERTIFICATES OF DEPOSIT	4,534,370	4,533,577	4,509,558	99.47%
CORPORATE BONDS	9,061,000	9,109,409	9,032,896	99.16%
GOVERNMENT AGENCIES	13,063,066	13,203,533	12,921,003	97.86%
GOVERNMENT MORTGAGES	2,525,931	2,706,865	2,560,879	94.61%
LOCAL AGENCY INVESTMENT FUND	1,590,454	1,590,454	1,590,454	100.00%
MUNICIPALS	690,000	732,813	728,396	99.40%
CASH EQUIVALENTS	755,113	755,113	755,113	100.00%
Totals (Dollars)	32,219,933	32,631,764	32,098,299	98.37%



Fixed Income Composition by Book Value

Par Value: Or face value is the amount of money redeemed to the bondholder once the bonds matures
Book Value : Is the par value or face value plus any unamortized premiums or less any unamortized discounts.
Market Value: Is the current price at which the bond is trading
Mkt/Book: Measures the market value over the book value of a bond.

Comparative Summary Balance Sheet As of March 31, 2017

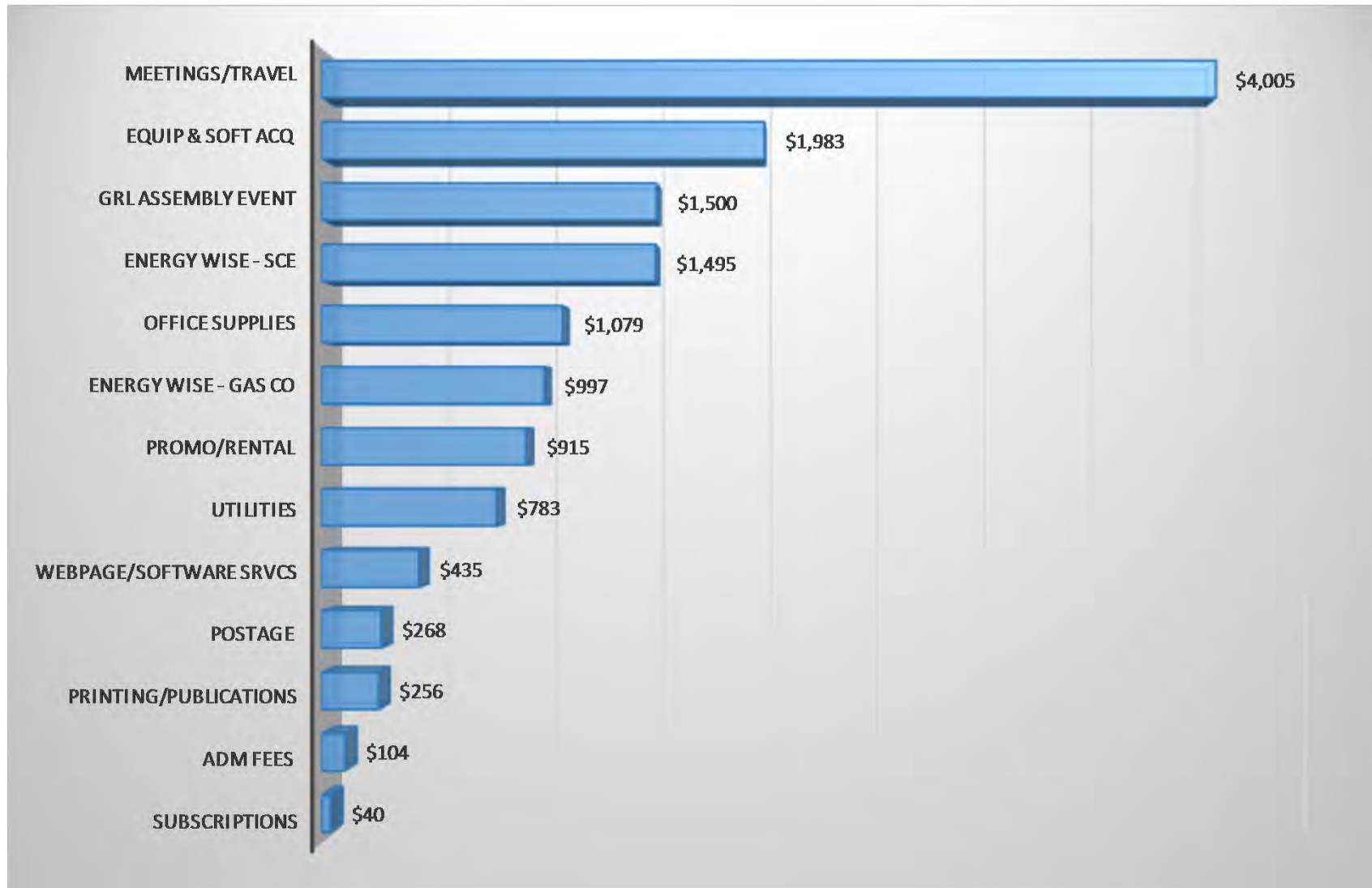
	03.31.2017	Change	12.31.2016
CBB - Checking	\$ 579,858	\$ (216,584)	\$ 796,442
CBB- 242-034-325 CD	55,549	14	55,535
CBB - 2766 Savings	1,587	0	1,587
CBB -242-034-953 CD	54,782	14	54,769
Petty Cash	400	-	400
LAIF	229,395	390	229,005
LAIF Maket Value	86	-	86
Cash and equivalents	<u>921,657</u>	<u>(216,166)</u>	<u>1,137,823</u>
Member Cities Receivable	-	(800)	800
Grants/Contracts Receivable	90,451	2,307	88,144
Receivables	<u>90,451</u>	<u>1,507</u>	<u>88,944</u>
Misc receivables, prepaids, and deferrals	61,176	19,834	41,342
Total assets	<u>1,073,284</u>	<u>(194,825)</u>	<u>1,268,109</u>
Accounts Payable	7,948	(18,913)	26,861
Unearned Revenues - Member Cities Dues	190,053	(181,880)	371,933
Pension Liability	-	(538)	538
Accruals, deferrals and other payables	49,627	19,270	30,357
Total liabilities	<u>247,628</u>	<u>(182,062)</u>	<u>429,689</u>
Net Position, beginning of period	795,093	11,396	783,697
Change in net position	30,564	(24,159)	54,723
Net Position, end of period	<u>\$ 825,657</u>	<u>(12,763)</u>	<u>\$ 838,420</u>

Grants Receivable Aging Detail As of March 31, 2017

Month	So. California Edison - Energy Wise	So. California Gas - Energy Wise	MTA	Totals	Notes
JAN-17		\$10,795.41		\$ 10,795.41	
FEB-17	15,698.97	10,209.66	7,588.76	\$ 33,497.39	Edison \$15,698.97 received 4/4/17 MTA \$7,588.76 received 4/3/17
MAR-17	21,367.48	17,202.24	7,588.76	\$ 46,158.48	Edison \$21,367.48 received 4/11/17 MTA \$7,588.76 received 4/10/17
	<u>\$ 37,066.45</u>	<u>\$38,207.31</u>	<u>\$15,177.52</u>	<u>\$ 90,451.28</u>	

CITICARD Charges: Period January 2017 – March 2017

\$13,860



SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

FY 2017 3rd Quarter Budget Report

As of March 31, 2017

	General Fund	Transportation	SGVEWP / Strategic Plan	CEESP Phase 3	Jan/17 - Mar/17 Actual	FY 2017 Budget	% of Budget
1 General Operating Income							
2 Member Dues	\$ 500,602	\$ 54,455	\$ -	\$ -	\$ 555,057	\$ 745,909	74%
3 Sponsorships	12,551	-	-	-	12,551	12,551	100%
4 Hero Revenue	10,531	-	-	-	10,531	12,000	88%
5 Miscellaneous Revenue	-	1,717	-	-	1,717	13,146	13%
6 Interest	821	-	-	-	821	1,000	82%
7 <i>Total General Operating Income</i>	524,505	56,172	-	-	580,677	784,606	74%
8 Grants & Special Project Income							
9 MTA Consultant	-	66,361	-	-	66,361	88,413	75%
10 Energy Wise (SGVEWP) - Gas	-	-	81,190	-	81,190	100,000	81%
11 Energy Wise (SGVEWP) - Edison	-	-	112,390	-	112,390	109,000	103%
12 SCE CEESP Phase 3 Grant	-	-	-	15,846	15,846	15,846	100%
13 Strategic Plan Grant - SGVEWP	-	-	7,417	-	7,417	40,000	19%
14 <i>Total Grants & Special Project Income</i>	-	66,361	200,996	15,846	283,204	353,259	80%
15 Total Income	524,505	122,533	200,996	15,846	863,881	1,137,865	76%
16 General Operating Expenses							
17 Ongoing Operational Contracts							
18 Legal Services	23,046	-	-	-	23,046	35,000	66%
19 Financial Audit Services	20,000	-	-	-	20,000	20,000	100%
20 Treasurer	6,075	-	-	-	6,075	13,500	45%
21 Financial/Accounting Services (ACE)	17,945	-	-	-	17,945	32,000	56%
22 Personnel							
23 Salaries & Deferred Compensation	142,519	37,205	73,684	6,710	260,118	364,167	71%
24 Internship Program	-	-	56,176	3,645	59,821	60,500	99%
25 Benefits	31,499	2,992	4,303	311	39,105	56,700	69%
26 PERS & Employer Taxes	24,667	1,723	2,504	154	29,048	34,122	85%
27 CalPERS - Retro Employer Payment	18,650	1,303	2,010	-	21,963	25,000	88%
28 Staff Training and Professional Development	-	-	-	-	-	5,000	N/A

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

FY 2017 3rd Quarter Budget Report

As of March 31, 2017

	General Fund	Transportation	SGVEWP / Strategic Plan	CEESP Phase 3	Jan/17 - Mar/17 Actual	FY 2017 Budget	% of Budget
29 <u>General & Administrative</u>							
30 Rent & Parking	27,428	-	27,084	1,021	55,533	72,627	76%
31 Utilities	1,803	-	1,780	68	3,651	8,025	46%
32 Postage	300	-	300	8	608	2,000	30%
33 Equipment & Software Acquisition	2,144	-	2,134	63	4,341	10,000	43%
34 Storage	1,061	-	1,046	41	2,148	2,671	80%
35 Office Supplies	1,352	-	1,340	45	2,737	5,000	55%
36 Miscellaneous maint/ops expense	295	-	302	1	598	5,000	12%
37 Meeting/Travel	7,511	-	7,463	233	15,207	40,000	38%
38 Dues & Subscriptions	512	-	522	3	1,038	3,500	30%
39 Administrative Fees	1,576	-	1,567	48	3,191	3,500	91%
40 Insurance	1,990	-	1,966	73	4,028	8,000	50%
41 General Assembly	11,815	-	-	-	11,815	10,500	113%
42 <u>Consultant Services</u>							
43 Management Services	65,000	-	-	-	65,000	65,000	100%
44 MTA Board Support	-	79,310	-	-	79,310	106,090	75%
45 Transportation Technical Support (ACE)	24,550	-	-	-	24,550	30,000	82%
46 Administrative Support (ACE)	19,456	-	-	-	19,456	25,000	78%
47 Media/Public Relations	2,000	-	-	-	2,000	2,000	100%
48 Information Technology	1,750	-	-	-	1,750	2,000	88%
49 Grant Writing Services	25,295	-	-	-	25,295	50,000	51%
50 <u>Direct Expenses</u>							
51 Board Stipends & Taxes	6,104	-	-	-	6,104	11,000	55%
52 Printing / Publication	7,598	-	-	-	7,598	12,000	63%
53 <u>Direct Grant Expenses</u>							
54 SGVEWP Edison & Gas Expenses	-	-	16,814	-	16,814	40,000	42%
55 SCE CEESP Phase 3 Expenses	-	-	-	3,422	3,422	2,475	138%
56 <i>Total Grant & Special Project Expenses</i>	-	-	16,814	3,422	20,237	42,475	48%
57 Total Expenditures	493,942	122,533	200,996	15,846	833,316	1,162,376	72%
58 Net income (Loss)	\$ 30,564	\$ -	\$ -	\$ -	\$ 30,564	\$ (24,512)	

DATE: June 15, 2017

TO: Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **SGVCOG APPOINTMENTS TO THE SAN GABRIEL VALLEY METRO SERVICE COUNCIL**

RECOMMENDATION

Appoint Tim Sandoval (Pomona) to serve as the SGVCOG representative on the Metro Service Council for the elected official position and appoint Alex Gonzalez (Industry) to serve as the representative to the Metro Service Council for the staff member position.

BACKGROUND

Metro has the following service sectors: Gateway Cities, San Fernando Valley, San Gabriel Valley, South Bay Cities, and Westside/Central. Each of these service sectors has an advisory council comprised of nine representatives. There are three primary goals of these service sector councils:

1. Greater Community Involvement: Regionalized outreach gives residents more opportunities for direct input into service issues in their communities.
2. Improved Service: Local service evaluation to better understand riders' needs and to recommend appropriate response. Public participation and input is invited and encouraged at each of the council's monthly meetings.
3. Regional Perspective: Advise on planning and implementation of service within their area; call and conduct public hearings; evaluate Metro bus programs related to their service area; review proposed service changes; make policy recommendations to the Metro Board; participate in quarterly meetings with the Metro Chief Executive Officer (CEO), Deputy CEO and other appropriate management staff.

The San Gabriel Valley council was formed in 2002, and is comprised of four elected officials and five non-elected officials, appointed by cities in the region, LA County Supervisors, and the Council themselves. The SGVCOG appoints three members to the service sector. Typically, one appointee is an elected official, one is member of the public, and one is staff member from a member agency. All appointees must be regular users of public transportation.

APPOINTMENT

In April, the SGVCOG released a call for nominations for the SGVCOG representative for the staff position. No nominations were received. In June, a second call for nominations was released with the addition of the elected official position.

REPORT

As of the deadline, Tim Sandoval (Pomona) was nominated for the elected position and Alex Gonzalez (Industry) was nominated for the staff position. As per SGVCOG policy, only nominations received prior to the deadline will be considered. Tim Sandoval will be appointed as the representative for the elected official position and Alex Gonzalez (Industry) will be appointed for the staff position.

Prepared by: Marisa Creter
Marisa Creter
Assistant Executive Director

Approved by: Phil Hawkey
Phil Hawkey
Executive Director

DATE: June 15, 2017

TO: Governing Board, San Gabriel Valley Council of Governments

FROM: Phil Hawkey, Executive Director

RE: **UPDATE ON AB 1180 (HOLDEN) GUT AND AMEND**

RECOMMENDED ACTION

Adopt Resolution 17-18 in support of AB 1180 (Holden) as amended

BACKGROUND

At the April 2017, Governing Board meeting, members adopted Resolution 17-07 supporting AB 1180 (Holden). As originally written, AB 1180 would increase the tire recycling fee by \$1.50 per tire with the money placed in the newly created Stormwater Permit Compliance Fund, to be used for stormwater cleanup. Among other metals and biological contaminants, one common pollutant to stormwater is zinc. The most used zinc compound is zinc oxide, which is an ingredient found in tires. When a vehicle is driven, the rubber tire tread slowly wears off and mixes with pavement debris and soil. Eventually tire wear particles are carried away from the road surface and washed into the storm drain system. AB 1180 was intended to address this pollutant by tying cleanup to the source.

AB 1180 was heard in the Natural Resources Committee, the Committee on Environmental Safety and Toxic Materials, and the Appropriations Committee, receiving a majority of Aye votes in each committee. Currently AB 1180 is on Suspense file in the Assembly Appropriations Committee. On May 16th Assembly Member Holden's staff contacted the SGVCOG to inform us that Assembly Leadership would not move the bill out of Appropriations over concerns about raising fees. In an effort to maintain the purpose of the bill—producer/source responsibility for cleanup of pollutants—Holden's staff suggested a gut and amendment of AB 1180.

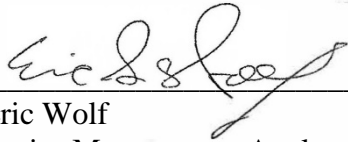
AB 1180 GUT AND AMEND

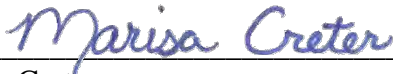
The Department of Toxic Substances Control regulates the handling and management of hazardous material. The Green Chemistry Program requires the Department to adopt regulations and establish a process to identify and prioritize chemicals of concern in consumer products, and their potential alternatives, in order to limit public exposure. The Department has adopted its 2015-2017 Priority Product Work Plan (PPWP) for the Green Chemistry Program, which describes categories from which the department will select products for which safer alternatives are to be evaluated. This bill directs the Department to revise its PPWP to include motor vehicle tires and adopt regulations for tires containing zinc oxide.

At its May 17th meeting, the Water Policy Committee discussed the revisions to AB 1180 and there was general support for the changes. The committee felt that the bill still addressed producer responsibility for cleanup of zinc in stormwater.

RECOMMENDATION

Staff recommends supporting AB 1180 (Holden) as amended.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENT

- Attachment A – AB 1180 (Holden)_Original
- Attachment B – AB 1180 (Holden)_Gut and Amend
- Attachment C – Resolution in Support of AB 1180 (Holden)_Gut and Amend

ASSEMBLY BILL**No. 1180****Introduced by Assembly Member Holden**

February 17, 2017

An act to amend Sections 42885 and 42889 of, and to add Section 42888.5 to, the Public Resources Code, relating to tires, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1180, as introduced, Holden. California tire fee: Stormwater Permit Compliance Fund.

The California Tire Recycling Act, until January 1, 2024, requires a person who purchases a new tire to pay a California tire fee of \$1.75 per tire, for deposit, except for 1 ½% retained by retailers and as provided below, in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery upon appropriation by the Legislature for prescribed purposes related to disposal and use of used tires. Commencing January 1, 2024, existing law reduces the California tire fee to \$0.75 per tire and changes the retailers, share to 3%.

Existing law, until January 1, 2024, requires that \$0.75 per tire on which the California tire fee is imposed be deposited in the Air Pollution Control Fund with these moneys to be available upon appropriation by the Legislature for use by the State Air Resources Board and local air districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, as provided.

This bill would increase the California tire fee by \$1.50. The bill would deposit the additional moneys in the Stormwater Permit

Compliance Fund, which would be established by the bill, and would make the moneys available to the State Water Resources Control Board Division of Financial Assistance. The bill would continuously appropriate moneys in the fund for competitive grants for projects and programs for municipal storm sewer system permit compliance requirements that would prevent or remediate zinc pollutants caused by tires in the state and for an annual audit of the fund. Money in the fund would be available upon appropriation for the administrative expenses of the fund, not to exceed 3% of the overall revenue annually deposited in the fund, except as specified.

This bill would make conforming changes.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42885 of the Public Resources Code, as
2 amended by Section 31 of Chapter 401 of the Statutes of 2013, is
3 amended to read:

4 42885. (a) For purposes of this section, "California tire fee"
5 means the fee imposed pursuant to this section.

6 (b) (1) A person who purchases a new tire, as defined in
7 subdivision (g), shall pay a California tire fee of ~~one dollar and~~
8 ~~seventy-five cents (\$1.75)~~ *three dollars and twenty-five cents*
9 *(\$3.25)* per tire.

10 (2) The retail seller shall charge the retail purchaser the amount
11 of the California tire fee as a charge that is separate from, and not
12 included in, any other fee, charge, or other amount paid by the
13 retail purchaser.

14 (3) (A) The retail seller shall collect the California tire fee from
15 the retail purchaser at the time of sale and may retain 1 1/2 percent
16 of the fee as reimbursement for any costs associated with the
17 collection of the fee. ~~The~~

18 (B) *The* retail seller shall remit the remainder to the state on a
19 quarterly schedule for deposit in the California Tire Recycling
20 Management Fund, which is hereby created in the State ~~Treasury.~~
21 *Treasury, the Air Pollution Control Fund, and the Stormwater*
22 *Permit Compliance Fund, established pursuant to Section 42888.5.*

1 *Of this amount, for each tire subject to the California Tire Fee,*
2 *seventy-five cents (\$0.75) shall be deposited in the Air Pollution*
3 *Control Fund pursuant to Section 42889, one dollar and fifty cents*
4 *(\$1.50) shall be deposited in the Stormwater Permit Compliance*
5 *Fund, and the balance shall be deposited in the California Tire*
6 *Recycling Management Fund.*

7 (c) The department, or its agent authorized pursuant to Section
8 42882, shall be reimbursed for its costs of collection, auditing, and
9 making refunds associated with the California Tire Recycling
10 Management Fund, but not to exceed 3 percent of the total annual
11 revenue deposited in the fund.

12 (d) The California tire fee imposed pursuant to subdivision (b)
13 shall be separately stated by the retail seller on the invoice given
14 to the customer at the time of sale. Any other disposal or
15 transaction fee charged by the retail seller related to the tire
16 purchase shall be identified separately from the California tire fee.

17 (e) A person or business ~~who~~ *that* knowingly, or with reckless
18 disregard, makes a false statement or representation in a document
19 used to comply with this section is liable for a civil penalty for
20 each violation or, for continuing violations, for each day that the
21 violation continues. Liability under this section may be imposed
22 in a civil action and shall not exceed twenty-five thousand dollars
23 (\$25,000) for each violation.

24 (f) In addition to the civil penalty that may be imposed pursuant
25 to subdivision (e), the department may impose an administrative
26 penalty in an amount not to exceed five thousand dollars (\$5,000)
27 for each violation of a separate provision or, for continuing
28 violations, for each day that the violation continues, on a person
29 who intentionally or negligently violates a permit, rule, regulation,
30 standard, or requirement issued or adopted pursuant to this chapter.
31 The department shall adopt regulations that specify the amount of
32 the administrative penalty and the procedure for imposing an
33 administrative penalty pursuant to this subdivision.

34 (g) For purposes of this section, “new tire” means a pneumatic
35 or solid tire intended for use with ~~on-road~~ *on-road* or off-road motor
36 vehicles, motorized equipment, construction equipment, or farm
37 equipment that is sold separately from the motorized equipment,
38 or a new tire sold with a new or used motor vehicle, as defined in
39 Section 42803.5, including the spare tire, construction equipment,

1 or farm equipment. “New tire” does not include retreaded, reused,
2 or recycled tires.

3 (h) The California tire fee shall not be imposed on a tire sold
4 with, or sold separately for use on, any of the following:

5 (1) A self-propelled wheelchair.

6 (2) A motorized tricycle or motorized quadricycle, as defined
7 in Section 407 of the Vehicle Code.

8 (3) A vehicle that is similar to a motorized tricycle or motorized
9 quadricycle and is designed to be operated by a person who, by
10 reason of the person’s physical disability, is otherwise unable to
11 move about as a pedestrian.

12 (i) ~~This section shall remain in effect only until January 1, 2024,~~
13 ~~and as of that date is repealed, unless a later enacted statute, that~~
14 ~~is enacted before January 1, 2024, deletes or extends that date.~~

15 *This section shall remain in effect only until January 1, 2024,*
16 *and as of that date is repealed, unless a later enacted statute that*
17 *is enacted before January 1, 2024, deletes or extends that date.*

18 SEC. 2. Section 42885 of the Public Resources Code, as
19 amended by Section 32 of Chapter 401 of the Statutes of 2013, is
20 amended to read:

21 42885. (a) For purposes of this section, “California tire fee”
22 means the fee imposed pursuant to this section.

23 (b) (1) ~~Every~~ A person who purchases a new tire, as defined in
24 subdivision (g), shall pay a California tire fee of ~~seventy-five cents~~
25 ~~(\$0.75)~~ *two dollars and twenty-five cents (\$2.25)* per tire.

26 (2) The retail seller shall charge the retail purchaser the amount
27 of the California tire fee as a charge that is separate from, and not
28 included in, any other fee, charge, or other amount paid by the
29 retail purchaser.

30 (3) (A) The retail seller shall collect the California tire fee from
31 the retail purchaser at the time of sale and may retain 3 percent of
32 the fee as reimbursement for any costs associated with the
33 collection of the fee. ~~The~~

34 (B) ~~The~~ retail seller shall remit the remainder to the state on a
35 quarterly schedule for deposit in the California Tire Recycling
36 Management Fund, which is hereby created in the State ~~Treasury.~~
37 *Treasury, and the Stormwater Permit Compliance Fund,*
38 *established pursuant to Section 42888.5. Of this amount, for each*
39 *tire subject to the California Tire Fee, one dollar and fifty cents*
40 *(\$1.50) shall be deposited in the Stormwater Permit Compliance*

1 *Fund and the balance shall be deposited in the California Tire*
2 *Recycling Management Fund.*

3 (c) The department, or its agent authorized pursuant to Section
4 42882, shall be reimbursed for its costs of collection, auditing, and
5 making refunds associated with the California Tire Recycling
6 Management Fund, but not to exceed 3 percent of the total annual
7 revenue deposited in the fund.

8 (d) The California tire fee imposed pursuant to subdivision (b)
9 shall be separately stated by the retail seller on the invoice given
10 to the customer at the time of sale. Any other disposal or
11 transaction fee charged by the retail seller related to the tire
12 purchase shall be identified separately from the California tire fee.

13 (e) ~~Any~~ A person or business ~~who~~ *that* knowingly, or with
14 reckless disregard, makes ~~any~~ a false statement or representation
15 in ~~any~~ a document used to comply with this section is liable for a
16 civil penalty for each violation or, for continuing violations, for
17 each day that the violation continues. Liability under this section
18 may be imposed in a civil action and shall not exceed twenty-five
19 thousand dollars (\$25,000) for each violation.

20 (f) In addition to the civil penalty that may be imposed pursuant
21 to subdivision (e), the department may impose an administrative
22 penalty in an amount not to exceed five thousand dollars (\$5,000)
23 for each violation of a separate provision or, for continuing
24 violations, for each day that the violation continues, on ~~any~~ a
25 person who intentionally or negligently violates ~~any~~ a permit, rule,
26 regulation, standard, or requirement issued or adopted pursuant to
27 this chapter. The department shall adopt regulations that specify
28 the amount of the administrative penalty and the procedure for
29 imposing an administrative penalty pursuant to this subdivision.

30 (g) For purposes of this section, “new tire” means a pneumatic
31 or solid tire intended for use with ~~on-road~~ *on-road* or off-road motor
32 vehicles, motorized equipment, construction equipment, or farm
33 equipment that is sold separately from the motorized equipment,
34 or a new tire sold with a new or used motor vehicle, as defined in
35 Section 42803.5, including the spare tire, construction equipment,
36 or farm equipment. “New tire” does not include retreaded, reused,
37 or recycled tires.

38 (h) The California tire fee ~~may~~ *shall* not be imposed on ~~any~~ a
39 tire sold with, or sold separately for use on, any of the following:

40 (1) ~~Any~~ A self-propelled wheelchair.

1 (2) ~~Any~~A motorized tricycle or motorized quadricycle, as
2 defined in Section 407 of the Vehicle Code.

3 (3) ~~Any~~A vehicle that is similar to a motorized tricycle or
4 motorized quadricycle and is designed to be operated by a person
5 who, by reason of the person's physical disability, is otherwise
6 unable to move about as a pedestrian.

7 (i) This section shall become operative on January 1, 2024.

8 SEC. 3. Section 42888.5 is added to the Public Resources Code,
9 to read:

10 42888.5. (a) The Stormwater Permit Compliance Fund is
11 hereby established in the State Treasury. Moneys in the Stormwater
12 Permit Compliance Fund shall be available to the State Water
13 Resources Control Board Division of Financial Assistance as
14 follows:

15 (1) Notwithstanding Section 13340 of the Government Code,
16 moneys in the fund shall be continuously appropriated, without
17 regard to fiscal year, for the following purposes:

18 (A) Competitive grants to fund projects and programs for
19 municipal separate storm sewer system permit compliance
20 requirements that would prevent or remediate zinc pollutants
21 caused by tires in the state. Grants that are issued under this
22 subparagraph shall address zinc impairments and zinc total
23 maximum daily loads under the federal Clean Water Act (33 U.S.C.
24 Sec. 1251), and priority shall be given to applicants with zinc levels
25 that exceed the total maximum daily loads. Grants issued under
26 this subparagraph are authorized for the development,
27 administration, and operation of a program to fund a municipal
28 permittee's compliance with municipal separate storm sewer
29 system permit requirements and the costs associated with that
30 program.

31 (B) An annual audit of the Stormwater Permit Compliance Fund
32 on the financial status of the Stormwater Permit Compliance Fund
33 as of June 30. The audit shall be submitted to the State Water
34 Resources Control Board and shall be posted on the State Water
35 Resources Control Board's Division of Financial Assistance
36 Internet Web site.

37 (2) Moneys in the fund shall be available upon appropriation
38 by the Legislature for the administrative overhead cost of the
39 Stormwater Permit Compliance Fund, not to exceed 3 percent of
40 the total revenue deposited in the Stormwater Permit Compliance

1 Fund annually, or an amount otherwise specified in the annual
 2 Budget Act. If moneys for administrative expenses are not timely
 3 appropriated, those expenses shall be advanced from the
 4 Stormwater Permit Compliance Fund. Expenses advanced pursuant
 5 to this paragraph shall be reimbursed in full to the Stormwater
 6 Permit Compliance Fund upon enactment of an annual Budget Act
 7 that appropriates those moneys.

8 (b) Except as provided in paragraph (2) of subdivision (a),
 9 moneys in the fund shall not be used or borrowed for any other
 10 purpose.

11 SEC. 4. Section 42889 of the Public Resources Code, as
 12 amended by Section 152 of Chapter 35 of the Statutes of 2014, is
 13 amended to read:

14 42889. (a) Of the moneys collected pursuant to *subparagraph*
 15 *(B) of paragraph (3) of subdivision (b) of Section 42885*, ~~an amount~~
 16 ~~equal to seventy-five cents (\$0.75) per tire on which the fee is~~
 17 ~~imposed~~ *the amount designated there for deposit in the Air*
 18 *Pollution Control Fund shall be transferred by the State Board of*
 19 ~~Equalization to the Air Pollution Control Fund.~~ *that fund.* The state
 20 board shall expend those moneys, or allocate those moneys to the
 21 districts for expenditure, to fund programs and projects that
 22 mitigate or remediate air pollution caused by tires in the state, to
 23 the extent that the state board or the applicable district determines
 24 that the program or project remediates air pollution harms created
 25 by tires upon which the fee described in Section 42885 is imposed.

26 (b) ~~The remaining moneys collected~~ *remitted* pursuant to
 27 *subparagraph (B) of paragraph (3) of subdivision (b) of Section*
 28 *42885 that are designated for deposit in the California Tire*
 29 *Recycling Management Fund shall be used to fund the waste tire*
 30 *program, and shall be appropriated to the department in the annual*
 31 *Budget Act in a manner consistent with the five-year plan adopted*
 32 *and updated by the department. These moneys shall be expended*
 33 *for the payment of refunds under this chapter and for the following*
 34 *purposes:*

35 (1) To pay the administrative overhead cost of this chapter, not
 36 to exceed 6 percent of the total revenue deposited in the fund
 37 annually, or an amount otherwise specified in the annual Budget
 38 Act.

39 (2) To pay the costs of administration associated with collection,
 40 making refunds, and auditing revenues in the fund, not to exceed

1 3 percent of the total revenue deposited in the fund, as provided
2 in subdivision (c) of Section 42885.

3 (3) To pay the costs associated with operating the tire recycling
4 program specified in Article 3 (commencing with Section 42870).

5 (4) To pay the costs associated with the development and
6 enforcement of regulations relating to the storage of waste tires
7 and used tires. The department shall consider designating a city,
8 county, or city and county as the enforcement authority of
9 regulations relating to the storage of waste tires and used tires, as
10 provided in subdivision (c) of Section 42850, and regulations
11 relating to the hauling of waste and used tires, as provided in
12 subdivision (b) of Section 42963. If the department designates a
13 local entity for that purpose, the department shall provide sufficient,
14 stable, and noncompetitive funding to that entity for that purpose,
15 based on available resources, as provided in the five-year plan
16 adopted and updated as provided in subdivision (a) of Section
17 42885.5. The department may consider and create, as appropriate,
18 financial incentives for citizens who report the illegal hauling or
19 disposal of waste tires as a means of enhancing local and statewide
20 waste tire and used tire enforcement programs.

21 (5) To pay the costs of cleanup, abatement, removal, or other
22 remedial action related to waste tire stockpiles throughout the state,
23 including all approved costs incurred by other public agencies
24 involved in these activities by contract with the department. Not
25 less than six million five hundred thousand dollars (\$6,500,000)
26 shall be expended by the department during each of the following
27 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

28 (6) To make studies and conduct research directed at promoting
29 and developing alternatives to the landfill disposal of waste tires.

30 (7) To assist in developing markets and new technologies for
31 used tires and waste tires. The department's expenditure of funds
32 for purposes of this subdivision shall reflect the priorities for waste
33 management practices specified in subdivision (a) of Section
34 40051.

35 (8) To pay the costs associated with implementing and operating
36 a waste tire and used tire hauler program and manifest system
37 pursuant to Chapter 19 (commencing with Section 42950).

38 (9) To pay the costs to create and maintain an emergency
39 reserve, which shall not exceed one million dollars (\$1,000,000).

1 (10) To pay the costs of cleanup, abatement, or other remedial
 2 action related to the disposal of waste tires in implementing and
 3 operating the Farm and Ranch Solid Waste Cleanup and Abatement
 4 Grant Program established pursuant to Chapter 2.5 (commencing
 5 with Section 48100) of Part 7.

6 (11) To fund border region activities specified in paragraph (8)
 7 of subdivision (b) of Section 42885.5.

8 (12) For expenditure pursuant to paragraph (3) of subdivision
 9 (a) of, and paragraph (3) of subdivision (b) of, Section 17001.

10 (c) This section shall remain in effect only until January 1, 2024,
 11 and as of that date is repealed, unless a later enacted statute that
 12 is enacted before January 1, 2024, deletes or extends that date.

13 SEC. 5. Section 42889 of the Public Resources Code, as
 14 amended by Section 153 of Chapter 35 of the Statutes of 2014, is
 15 amended to read:

16 ~~42889. Funding for~~ *The moneys remitted pursuant to*
 17 *subparagraph (B) of paragraph (3) of subdivision (b) of Section*
 18 *42885 that are not for deposit in the Stormwater Permit*
 19 *Compliance Fund shall be used to fund the waste tire program and*
 20 *shall be appropriated to the department in the annual Budget Act.*
 21 *The moneys in the fund shall be expended for the payment of*
 22 *refunds under this chapter and for the following purposes:*

23 (a) To pay the administrative overhead cost of this chapter, not
 24 to exceed 5 percent of the total revenue deposited in the fund
 25 annually, or an amount otherwise specified in the annual Budget
 26 Act.

27 (b) To pay the costs of administration associated with collection,
 28 making refunds, and auditing revenues in the fund, not to exceed
 29 3 percent of the total revenue deposited in the fund, as provided
 30 in subdivision ~~(b)~~ (c) of Section 42885.

31 (c) To pay the costs associated with operating the tire recycling
 32 program specified in Article 3 (commencing with Section 42870).

33 (d) To pay the costs associated with the development and
 34 enforcement of regulations relating to the storage of waste tires
 35 and used tires. The department shall consider designating a city,
 36 county, or city and county as the enforcement authority of
 37 regulations relating to the storage of waste tires and used tires, as
 38 provided in subdivision (c) of Section 42850, and regulations
 39 relating to the hauling of waste and used tires, as provided in
 40 subdivision (b) of Section 42963. If the department designates a

1 local entity for that purpose, the department shall provide sufficient,
2 stable, and noncompetitive funding to that entity for that purpose,
3 based on available resources, as provided in the five-year plan
4 adopted and updated as provided in subdivision (a) of Section
5 42885.5. The department may consider and create, as appropriate,
6 financial incentives for citizens who report the illegal hauling or
7 disposal of waste tires as a means of enhancing local and statewide
8 waste tire and used tire enforcement programs.

9 (e) To pay the costs of cleanup, abatement, removal, or other
10 remedial action related to waste tire stockpiles throughout the state,
11 including all approved costs incurred by other public agencies
12 involved in these activities by contract with the department. Not
13 less than six million five hundred thousand dollars (\$6,500,000)
14 shall be expended by the department during each of the following
15 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

16 (f) To fund border region activities specified in paragraph (8)
17 of subdivision (b) of Section 42885.5.

18 (g) For expenditure pursuant to paragraph (3) of subdivision (a)
19 of, and paragraph (3) of subdivision (b) of, Section 17001.

20 (h) This section shall become operative on January 1, 2024.

21 SEC. 6. This act is an urgency statute necessary for the
22 immediate preservation of the public peace, health, or safety within
23 the meaning of Article IV of the California Constitution and shall
24 go into immediate effect. The facts constituting the necessity are:

25 To help grant recipients achieve municipal separate storm sewer
26 system permit compliance requirements that would prevent or
27 remediate zinc pollutants caused by tires in the state at the earliest
28 possible time, it is necessary that this act ~~shall~~ take effect
29 immediately.

O

AMENDED IN ASSEMBLY MAY 30, 2017

AMENDED IN ASSEMBLY APRIL 19, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1180

Introduced by Assembly Member Holden

February 17, 2017

An act to amend Sections 42885 and 42889 of, and to add Section 42888.5 to, the Public Resources Code, relating to tires, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. *add Section 25253.7 to the Health and Safety Code, relating to hazardous materials.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1180, as amended, Holden. ~~California tire fee: Stormwater Permit Compliance Fund.~~ *Hazardous materials: motor vehicle tires that contain zinc oxide substances.*

The hazardous waste control laws require the Department of Toxic Substances Control to regulate the handling and management of hazardous materials and hazardous waste. Existing law, known as the Green Chemistry program, requires the department to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products that may be considered as being chemicals of concern. Existing law requires the department to adopt regulations that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by chemicals of concern, as specified. Existing law requires the regulations adopted to specify the range of regulatory responses that the department

may take following the completion of the analysis of alternatives. Under its regulatory authority, the department has adopted the 2015–17 Priority Product Work Plan, which describes categories from which the department will select priority products for which safer alternatives are to be evaluated.

This bill would require the department to revise the 2015–17 Priority Product Work Plan, and subsequent work plans, as necessary, to include motor vehicle tires that contain zinc oxide substances for consideration and evaluation as potential priority products under the Green Chemistry program. The bill would require the department, on or before January 1, 2021, to begin adoption of Green Chemistry regulations for those motor vehicle tires.

~~The California Tire Recycling Act, until January 1, 2024, requires a person who purchases a new tire to pay a California tire fee of \$1.75 per tire, for deposit, except for 1 ½% retained by retailers and as provided below, in the California Tire Recycling Management Fund, for expenditure by the Department of Resources Recycling and Recovery upon appropriation by the Legislature for prescribed purposes related to disposal and use of used tires. Commencing January 1, 2024, existing law reduces the California tire fee to \$0.75 per tire and changes the retailers' share to 3%.~~

~~Existing law, until January 1, 2024, requires that \$0.75 per tire on which the California tire fee is imposed be deposited in the Air Pollution Control Fund with these moneys to be available upon appropriation by the Legislature for use by the State Air Resources Board and local air districts to fund programs and projects that mitigate or remediate air pollution caused by tires in the state, as provided.~~

~~This bill would increase the California tire fee by \$1.50. The bill would deposit the additional moneys in the Stormwater Permit Compliance Fund, which would be established by the bill, and would make the moneys available to the State Water Resources Control Board Division of Financial Assistance. The bill would continuously appropriate moneys in the fund for competitive grants for projects and programs for municipal storm sewer system permit compliance requirements that would prevent or remediate zinc pollutants caused by tires in the state and for an annual audit of the fund. Money in the fund would be available upon appropriation for the administrative expenses of the fund, not to exceed 3% of the overall revenue annually deposited in the fund, except as specified.~~

~~This bill would make conforming changes.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 25253.7 is added to the Health and Safety~~
2 ~~Code, to read:~~

3 ~~25253.7. (a) The department shall revise its 2015–17 Priority~~
4 ~~Product Work Plan, and subsequent priority product work plans,~~
5 ~~as necessary, to include motor vehicle tires, as that term may be~~
6 ~~defined by the department, that contain zinc oxide substances for~~
7 ~~consideration and evaluation as potential priority products.~~

8 ~~(b) On or before January 1, 2020, the department shall identify~~
9 ~~motor vehicle tires that contain zinc oxide substances as draft~~
10 ~~priority products. On or before January 1, 2021, the department~~
11 ~~shall begin adoption of regulations in accordance with this article~~
12 ~~for the identified motor vehicle tires containing zinc oxide.~~

13 ~~SECTION 1. Section 42885 of the Public Resources Code, as~~
14 ~~amended by Section 31 of Chapter 401 of the Statutes of 2013, is~~
15 ~~amended to read:~~

16 ~~42885. (a) For purposes of this section, “California tire fee”~~
17 ~~means the fee imposed pursuant to this section.~~

18 ~~(b) (1) A person who purchases a new tire, as defined in~~
19 ~~subdivision (g), shall pay a California tire fee of three dollars and~~
20 ~~twenty-five cents (\$3.25) per tire.~~

21 ~~(2) The retail seller shall charge the retail purchaser the amount~~
22 ~~of the California tire fee as a charge that is separate from, and not~~
23 ~~included in, any other fee, charge, or other amount paid by the~~
24 ~~retail purchaser.~~

25 ~~(3) (A) The retail seller shall collect the California tire fee from~~
26 ~~the retail purchaser at the time of sale and may retain 1 ½ percent~~
27 ~~of the fee as reimbursement for any costs associated with the~~
28 ~~collection of the fee.~~

29 ~~(B) The retail seller shall remit the remainder to the state on a~~
30 ~~quarterly schedule for deposit in the California Tire Recycling~~
31 ~~Management Fund, which is hereby created in the State Treasury,~~
32 ~~the Air Pollution Control Fund, and the Stormwater Permit~~
33 ~~Compliance Fund, established pursuant to Section 42888.5. Of~~

1 ~~this amount, for each tire subject to the California tire fee,~~
2 ~~seventy-five cents (\$0.75) shall be deposited in the Air Pollution~~
3 ~~Control Fund pursuant to Section 42889, one dollar and fifty cents~~
4 ~~(\$1.50) shall be deposited in the Stormwater Permit Compliance~~
5 ~~Fund, and the balance shall be deposited in the California Tire~~
6 ~~Recycling Management Fund.~~

7 ~~(e) The department, or its agent authorized pursuant to Section~~
8 ~~42882, shall be reimbursed for its costs of collection, auditing, and~~
9 ~~making refunds associated with the California Tire Recycling~~
10 ~~Management Fund, but not to exceed 3 percent of the total annual~~
11 ~~revenue deposited in the fund.~~

12 ~~(d) The California tire fee imposed pursuant to subdivision (b)~~
13 ~~shall be separately stated by the retail seller on the invoice given~~
14 ~~to the customer at the time of sale. Any other disposal or~~
15 ~~transaction fee charged by the retail seller related to the tire~~
16 ~~purchase shall be identified separately from the California tire fee.~~

17 ~~(e) A person or business that knowingly, or with reckless~~
18 ~~disregard, makes a false statement or representation in a document~~
19 ~~used to comply with this section is liable for a civil penalty for~~
20 ~~each violation or, for continuing violations, for each day that the~~
21 ~~violation continues. Liability under this section may be imposed~~
22 ~~in a civil action and shall not exceed twenty-five thousand dollars~~
23 ~~(\$25,000) for each violation.~~

24 ~~(f) In addition to the civil penalty that may be imposed pursuant~~
25 ~~to subdivision (e), the department may impose an administrative~~
26 ~~penalty in an amount not to exceed five thousand dollars (\$5,000)~~
27 ~~for each violation of a separate provision or, for continuing~~
28 ~~violations, for each day that the violation continues, on a person~~
29 ~~who intentionally or negligently violates a permit, rule, regulation,~~
30 ~~standard, or requirement issued or adopted pursuant to this chapter.~~
31 ~~The department shall adopt regulations that specify the amount of~~
32 ~~the administrative penalty and the procedure for imposing an~~
33 ~~administrative penalty pursuant to this subdivision.~~

34 ~~(g) For purposes of this section, “new tire” means a pneumatic~~
35 ~~or solid tire intended for use with on-road or off-road motor~~
36 ~~vehicles, motorized equipment, construction equipment, or farm~~
37 ~~equipment that is sold separately from the motorized equipment,~~
38 ~~or a new tire sold with a new or used motor vehicle, as defined in~~
39 ~~Section 42803.5, including the spare tire, construction equipment,~~

1 or farm equipment. “New tire” does not include retreaded, reused,
2 or recycled tires.

3 ~~(h) The California tire fee shall not be imposed on a tire sold~~
4 ~~with, or sold separately for use on, any of the following:~~

5 ~~(1) A self-propelled wheelchair.~~

6 ~~(2) A motorized tricycle or motorized quadricycle, as defined~~
7 ~~in Section 407 of the Vehicle Code.~~

8 ~~(3) A vehicle that is similar to a motorized tricycle or motorized~~
9 ~~quadricycle and is designed to be operated by a person who, by~~
10 ~~reason of the person’s physical disability, is otherwise unable to~~
11 ~~move about as a pedestrian.~~

12 ~~(i) This section shall remain in effect only until January 1, 2024,~~
13 ~~and as of that date is repealed, unless a later enacted statute that~~
14 ~~is enacted before January 1, 2024, deletes or extends that date.~~

15 ~~SEC. 2. Section 42885 of the Public Resources Code, as~~
16 ~~amended by Section 32 of Chapter 401 of the Statutes of 2013, is~~
17 ~~amended to read:~~

18 ~~42885. (a) For purposes of this section, “California tire fee”~~
19 ~~means the fee imposed pursuant to this section.~~

20 ~~(b) (1) A person who purchases a new tire, as defined in~~
21 ~~subdivision (g), shall pay a California tire fee of two dollars and~~
22 ~~twenty-five cents (\$2.25) per tire.~~

23 ~~(2) The retail seller shall charge the retail purchaser the amount~~
24 ~~of the California tire fee as a charge that is separate from, and not~~
25 ~~included in, any other fee, charge, or other amount paid by the~~
26 ~~retail purchaser.~~

27 ~~(3) (A) The retail seller shall collect the California tire fee from~~
28 ~~the retail purchaser at the time of sale and may retain 3 percent of~~
29 ~~the fee as reimbursement for any costs associated with the~~
30 ~~collection of the fee.~~

31 ~~(B) The retail seller shall remit the remainder to the state on a~~
32 ~~quarterly schedule for deposit in the California Tire Recycling~~
33 ~~Management Fund, which is hereby created in the State Treasury,~~
34 ~~and the Stormwater Permit Compliance Fund, established pursuant~~
35 ~~to Section 42888.5. Of this amount, for each tire subject to the~~
36 ~~California tire fee, one dollar and fifty cents (\$1.50) shall be~~
37 ~~deposited in the Stormwater Permit Compliance Fund and the~~
38 ~~balance shall be deposited in the California Tire Recycling~~
39 ~~Management Fund.~~

1 ~~(e) The department, or its agent authorized pursuant to Section~~
2 ~~42882, shall be reimbursed for its costs of collection, auditing, and~~
3 ~~making refunds associated with the California Tire Recycling~~
4 ~~Management Fund, but not to exceed 3 percent of the total annual~~
5 ~~revenue deposited in the fund.~~

6 ~~(d) The California tire fee imposed pursuant to subdivision (b)~~
7 ~~shall be separately stated by the retail seller on the invoice given~~
8 ~~to the customer at the time of sale. Any other disposal or~~
9 ~~transaction fee charged by the retail seller related to the tire~~
10 ~~purchase shall be identified separately from the California tire fee.~~

11 ~~(e) A person or business that knowingly, or with reckless~~
12 ~~disregard, makes a false statement or representation in a document~~
13 ~~used to comply with this section is liable for a civil penalty for~~
14 ~~each violation or, for continuing violations, for each day that the~~
15 ~~violation continues. Liability under this section may be imposed~~
16 ~~in a civil action and shall not exceed twenty-five thousand dollars~~
17 ~~(\$25,000) for each violation.~~

18 ~~(f) In addition to the civil penalty that may be imposed pursuant~~
19 ~~to subdivision (e), the department may impose an administrative~~
20 ~~penalty in an amount not to exceed five thousand dollars (\$5,000)~~
21 ~~for each violation of a separate provision or, for continuing~~
22 ~~violations, for each day that the violation continues, on a person~~
23 ~~who intentionally or negligently violates a permit, rule, regulation,~~
24 ~~standard, or requirement issued or adopted pursuant to this chapter.~~
25 ~~The department shall adopt regulations that specify the amount of~~
26 ~~the administrative penalty and the procedure for imposing an~~
27 ~~administrative penalty pursuant to this subdivision.~~

28 ~~(g) For purposes of this section, “new tire” means a pneumatic~~
29 ~~or solid tire intended for use with on-road or off-road motor~~
30 ~~vehicles, motorized equipment, construction equipment, or farm~~
31 ~~equipment that is sold separately from the motorized equipment,~~
32 ~~or a new tire sold with a new or used motor vehicle, as defined in~~
33 ~~Section 42803.5, including the spare tire, construction equipment,~~
34 ~~or farm equipment. “New tire” does not include retreaded, reused,~~
35 ~~or recycled tires.~~

36 ~~(h) The California tire fee shall not be imposed on a tire sold~~
37 ~~with, or sold separately for use on, any of the following:~~

38 ~~(1) A self-propelled wheelchair.~~

39 ~~(2) A motorized tricycle or motorized quadricycle, as defined~~
40 ~~in Section 407 of the Vehicle Code.~~

1 ~~(3) A vehicle that is similar to a motorized tricycle or motorized~~
2 ~~quadricycle and is designed to be operated by a person who, by~~
3 ~~reason of the person's physical disability, is otherwise unable to~~
4 ~~move about as a pedestrian.~~

5 ~~(i) This section shall become operative on January 1, 2024.~~

6 ~~SEC. 3. Section 42888.5 is added to the Public Resources Code,~~
7 ~~to read:~~

8 ~~42888.5. The Stormwater Permit Compliance Fund is hereby~~
9 ~~established in the State Treasury. Moneys in the Stormwater Permit~~
10 ~~Compliance Fund shall be available as follows:~~

11 ~~(a) Notwithstanding Section 13340 of the Government Code,~~
12 ~~moneys in the fund shall be continuously appropriated, without~~
13 ~~regard to fiscal year, to the following entities for the following~~
14 ~~purposes:~~

15 ~~(1) To the State Water Resources Control Board Division of~~
16 ~~Financial Assistance for competitive grants to fund projects and~~
17 ~~programs for municipal separate storm sewer system permit~~
18 ~~compliance requirements that would prevent or remediate zinc~~
19 ~~pollutants caused by tires in the state. Grants that are issued under~~
20 ~~this subparagraph shall address zinc impairments and zinc total~~
21 ~~maximum daily loads under the federal Clean Water Act (33 U.S.C.~~
22 ~~Sec. 1251), and priority shall be given to applicants with zinc levels~~
23 ~~that exceed the total maximum daily loads. Grants issued under~~
24 ~~this subparagraph are authorized for the development,~~
25 ~~administration, and operation of a program to fund a municipal~~
26 ~~permittee's compliance with municipal separate storm sewer~~
27 ~~system permit requirements and the costs associated with that~~
28 ~~program.~~

29 ~~(2) To the Department of Finance for an annual audit of the~~
30 ~~Stormwater Permit Compliance Fund on the financial status of the~~
31 ~~Stormwater Permit Compliance Fund as of June 30. The audit shall~~
32 ~~be submitted to the State Water Resources Control Board and shall~~
33 ~~be posted on the State Water Resources Control Board's Division~~
34 ~~of Financial Assistance Internet Web site.~~

35 ~~(b) Moneys in the fund shall be available upon appropriation~~
36 ~~by the Legislature for the administrative overhead cost of the~~
37 ~~Stormwater Permit Compliance Fund, not to exceed 3 percent of~~
38 ~~the total revenue deposited in the Stormwater Permit Compliance~~
39 ~~Fund annually, or an amount otherwise specified in the annual~~
40 ~~Budget Act. If moneys for administrative expenses are not timely~~

1 ~~appropriated, those expenses shall be advanced from the~~
2 ~~Stormwater Permit Compliance Fund. Expenses advanced pursuant~~
3 ~~to this paragraph shall be reimbursed in full to the Stormwater~~
4 ~~Permit Compliance Fund upon enactment of an annual Budget Act~~
5 ~~that appropriates those moneys.~~

6 ~~SEC. 4. Section 42889 of the Public Resources Code, as~~
7 ~~amended by Section 152 of Chapter 35 of the Statutes of 2014, is~~
8 ~~amended to read:~~

9 ~~42889. (a) Of the moneys collected pursuant to subparagraph~~
10 ~~(B) of paragraph (3) of subdivision (b) of Section 42885, the~~
11 ~~amount designated there for deposit in the Air Pollution Control~~
12 ~~Fund shall be transferred by the State Board of Equalization to~~
13 ~~that fund. The state board shall expend those moneys, or allocate~~
14 ~~those moneys to the districts for expenditure, to fund programs~~
15 ~~and projects that mitigate or remediate air pollution caused by tires~~
16 ~~in the state, to the extent that the state board or the applicable~~
17 ~~district determines that the program or project remediates air~~
18 ~~pollution harms created by tires upon which the fee described in~~
19 ~~Section 42885 is imposed.~~

20 ~~(b) The moneys remitted pursuant to subparagraph (B) of~~
21 ~~paragraph (3) of subdivision (b) of Section 42885 that are~~
22 ~~designated for deposit in the California Tire Recycling~~
23 ~~Management Fund shall be used to fund the waste tire program,~~
24 ~~and shall be appropriated to the department in the annual Budget~~
25 ~~Act in a manner consistent with the five-year plan adopted and~~
26 ~~updated by the department. These moneys shall be expended for~~
27 ~~the payment of refunds under this chapter and for the following~~
28 ~~purposes:~~

29 ~~(1) To pay the administrative overhead cost of this chapter, not~~
30 ~~to exceed 6 percent of the total revenue deposited in the fund~~
31 ~~annually, or an amount otherwise specified in the annual Budget~~
32 ~~Act.~~

33 ~~(2) To pay the costs of administration associated with collection,~~
34 ~~making refunds, and auditing revenues in the fund, not to exceed~~
35 ~~3 percent of the total revenue deposited in the fund, as provided~~
36 ~~in subdivision (c) of Section 42885.~~

37 ~~(3) To pay the costs associated with operating the tire recycling~~
38 ~~program specified in Article 3 (commencing with Section 42870).~~

39 ~~(4) To pay the costs associated with the development and~~
40 ~~enforcement of regulations relating to the storage of waste tires~~

1 and used tires. The department shall consider designating a city,
2 county, or city and county as the enforcement authority of
3 regulations relating to the storage of waste tires and used tires, as
4 provided in subdivision (c) of Section 42850, and regulations
5 relating to the hauling of waste and used tires, as provided in
6 subdivision (b) of Section 42963. If the department designates a
7 local entity for that purpose, the department shall provide sufficient,
8 stable, and noncompetitive funding to that entity for that purpose,
9 based on available resources, as provided in the five-year plan
10 adopted and updated as provided in subdivision (a) of Section
11 42885.5. The department may consider and create, as appropriate,
12 financial incentives for citizens who report the illegal hauling or
13 disposal of waste tires as a means of enhancing local and statewide
14 waste tire and used tire enforcement programs.

15 (5) To pay the costs of cleanup, abatement, removal, or other
16 remedial action related to waste tire stockpiles throughout the state,
17 including all approved costs incurred by other public agencies
18 involved in these activities by contract with the department. Not
19 less than six million five hundred thousand dollars (\$6,500,000)
20 shall be expended by the department during each of the following
21 fiscal years for this purpose: 2001–02 to 2006–07, inclusive.

22 (6) To make studies and conduct research directed at promoting
23 and developing alternatives to the landfill disposal of waste tires.

24 (7) To assist in developing markets and new technologies for
25 used tires and waste tires. The department's expenditure of funds
26 for purposes of this subdivision shall reflect the priorities for waste
27 management practices specified in subdivision (a) of Section
28 40051.

29 (8) To pay the costs associated with implementing and operating
30 a waste tire and used tire hauler program and manifest system
31 pursuant to Chapter 19 (commencing with Section 42950).

32 (9) To pay the costs to create and maintain an emergency
33 reserve, which shall not exceed one million dollars (\$1,000,000).

34 (10) To pay the costs of cleanup, abatement, or other remedial
35 action related to the disposal of waste tires in implementing and
36 operating the Farm and Ranch Solid Waste Cleanup and Abatement
37 Grant Program established pursuant to Chapter 2.5 (commencing
38 with Section 48100) of Part 7.

39 (11) To fund border region activities specified in paragraph (8)
40 of subdivision (b) of Section 42885.5.

1 (12) ~~For expenditure pursuant to paragraph (3) of subdivision~~
2 ~~(a) of, and paragraph (3) of subdivision (b) of, Section 17001.~~

3 ~~(e) This section shall remain in effect only until January 1, 2024,~~
4 ~~and as of that date is repealed, unless a later enacted statute that~~
5 ~~is enacted before January 1, 2024, deletes or extends that date.~~

6 ~~SEC. 5. Section 42889 of the Public Resources Code, as~~
7 ~~amended by Section 153 of Chapter 35 of the Statutes of 2014, is~~
8 ~~amended to read:~~

9 ~~42889. The moneys remitted pursuant to subparagraph (B) of~~
10 ~~paragraph (3) of subdivision (b) of Section 42885 that are not for~~
11 ~~deposit in the Stormwater Permit Compliance Fund shall be used~~
12 ~~to fund the waste tire program and shall be appropriated to the~~
13 ~~department in the annual Budget Act. The moneys in the fund shall~~
14 ~~be expended for the payment of refunds under this chapter and for~~
15 ~~the following purposes:~~

16 ~~(a) To pay the administrative overhead cost of this chapter, not~~
17 ~~to exceed 5 percent of the total revenue deposited in the fund~~
18 ~~annually, or an amount otherwise specified in the annual Budget~~
19 ~~Act.~~

20 ~~(b) To pay the costs of administration associated with collection,~~
21 ~~making refunds, and auditing revenues in the fund, not to exceed~~
22 ~~3 percent of the total revenue deposited in the fund, as provided~~
23 ~~in subdivision (c) of Section 42885.~~

24 ~~(c) To pay the costs associated with operating the tire recycling~~
25 ~~program specified in Article 3 (commencing with Section 42870).~~

26 ~~(d) To pay the costs associated with the development and~~
27 ~~enforcement of regulations relating to the storage of waste tires~~
28 ~~and used tires. The department shall consider designating a city,~~
29 ~~county, or city and county as the enforcement authority of~~
30 ~~regulations relating to the storage of waste tires and used tires, as~~
31 ~~provided in subdivision (c) of Section 42850, and regulations~~
32 ~~relating to the hauling of waste tires and used tires, as provided in~~
33 ~~subdivision (b) of Section 42963. If the department designates a~~
34 ~~local entity for that purpose, the department shall provide sufficient,~~
35 ~~stable, and noncompetitive funding to that entity for that purpose,~~
36 ~~based on available resources, as provided in the five-year plan~~
37 ~~adopted and updated as provided in subdivision (a) of Section~~
38 ~~42885.5. The department may consider and create, as appropriate,~~
39 ~~financial incentives for citizens who report the illegal hauling or~~

1 disposal of waste tires as a means of enhancing local and statewide
2 waste tire and used tire enforcement programs:

3 (e) ~~To pay the costs of cleanup, abatement, removal, or other~~
4 ~~remedial action related to waste tire stockpiles throughout the state,~~
5 ~~including all approved costs incurred by other public agencies~~
6 ~~involved in these activities by contract with the department. Not~~
7 ~~less than six million five hundred thousand dollars (\$6,500,000)~~
8 ~~shall be expended by the department during each of the following~~
9 ~~fiscal years for this purpose: 2001-02 to 2006-07, inclusive.~~

10 (f) ~~To fund border region activities specified in paragraph (8)~~
11 ~~of subdivision (b) of Section 42885.5.~~

12 (g) ~~For expenditure pursuant to paragraph (3) of subdivision (a)~~
13 ~~of, and paragraph (3) of subdivision (b) of, Section 17001.~~

14 (h) ~~This section shall become operative on January 1, 2024.~~

15 ~~SEC. 6. This act is an urgency statute necessary for the~~
16 ~~immediate preservation of the public peace, health, or safety within~~
17 ~~the meaning of Article IV of the California Constitution and shall~~
18 ~~go into immediate effect. The facts constituting the necessity are:~~

19 ~~To help grant recipients achieve municipal separate storm sewer~~
20 ~~system permit compliance requirements that would prevent or~~
21 ~~remediate zinc pollutants caused by tires in the state at the earliest~~
22 ~~possible time, it is necessary that this act take effect immediately.~~

O

RESOLUTION 17-18

A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”) SUPPORTING AB 1180 (HOLDEN)

WHEREAS, the California Department of Toxic Substances Control (the Department) regulates the handling and management of hazardous materials,

WHEREAS, existing law requires the Department to adopt regulations that establish a process for evaluating chemicals of concern in consumer products, and their potential alternatives, to determine how best to limit exposure or to reduce the level of hazard posed by those chemicals,

WHEREAS, the Department has adopted the 2015-2017 Priority Product Work Plan (PPWP), which describes categories from which the department will select priority products for which safer alternatives are to be evaluated,

WHEREAS, this bill, as amended on May 30, 2017, would require the Department to revise the 2015-2017 PPWP, to include motor vehicle tires that contain zinc oxide for consideration and evaluation as potential priority products,

WHEREAS, this bill would require the Department, on or before January 1, 2021, to begin adoption of regulations for motor vehicle tires,

NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE SGVCOG SUPPORTS AB 1180 (HOLDEN)

PASSED, APPROVED, and ADOPTED this 15th day of June, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-18 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

DATE: June 15, 2017

TO: SGVCOG Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **AB 1274 (O'DONNELL)**

RECOMMENDED ACTION

Adopt Resolution 17-21 supporting AB 1274 (O'Donnell).

AB 1274 (O'DONNELL) BACKGROUND

Existing law provides, with limited exceptions, that vehicles that are six years old or newer are not required to participate in smog check and instead pay a \$12 annual smog abatement fee. Existing law also establishes the Moyer Program, administered by the Air Resources Board to provide grants to offset the incremental cost of eligible projects that reduce emissions from certain vehicular sources.

This legislation (Attachment A) exempts two additional model years of vehicles (model years 7 and 8) from motor vehicle inspection and maintenance program (smog check) requirements, assesses these vehicles a fee of \$24 per year for each year they are exempted, and directs revenue from the fee to the Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program).

On May 17th, this bill was reviewed by the EENR Committee and recommended it for support.

SUPPORT AND OPPOSITION

Supporters believe with the passage of the recent Air Quality Management Plan; the district needs funding for incentive programs to reduce emissions and achieve targets. This smog abatement bill would redistribute funds that are already collected for such programs to help reach the \$10 billion over 10-year funding goal.

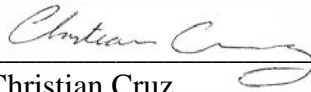
The bill is being supported by the following groups:

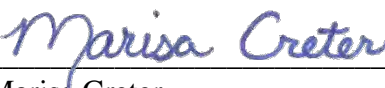
- California Air Pollution Control Officers Association
- Sacramento Metropolitan Air Quality Management District
- Bay Area Air Quality Management District
- San Joaquin Air Pollution Control District
- South Coast Air Quality Management District
- Calstart
- League of California Cities (LA Co Div)
- Los Angeles County Board of Supervisors
- South Bay Cities Council of Governments (COG)
- City of Covina

REPORT

- City of Duarte
- City of South Pasadena
- Los Angeles County Business Federation (BizFed)
- Los Angeles Chamber of Commerce
- Valley Industry and Commerce Association (VICA)

There is currently no opposition to this bill.

Prepared by: 
Christian Cruz
Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

- Attachment A – AB 1274 (O'Donnell)
- Attachment B – AB 1274 (O'Donnell) Bill Analysis
- Attachment C – AB 1274 (O'Donnell) Resolution

AMENDED IN ASSEMBLY MAY 30, 2017
AMENDED IN ASSEMBLY MARCH 30, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1274

Introduced by Assembly Member O'Donnell

February 17, 2017

An act to amend Sections 44011, 44060, 44060.5, and 44091.1 of the Health and Safety Code, relating to vehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1274, as amended, O'Donnell. Smog check: exemption.

Existing law establishes a motor vehicle inspection and maintenance (smog check) program that is administered by the Department of Consumer Affairs. The smog check program requires inspection of motor vehicles upon initial registration, biennially upon renewal of registration, upon transfer of ownership, and in certain other circumstances. Existing law, except as provided, exempts motor vehicles that are 6 or less model-years old from being inspected biennially upon renewal of registration.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program, which is administered by the State Air Resources Board. The program authorizes the state board to provide grants to offset the incremental cost of eligible projects that reduce emissions from covered vehicular sources. The program also authorizes funding for a fueling infrastructure demonstration program and for technology development efforts that are expected to result in commercially available technologies in the near-term that would improve the ability of the program to achieve its goals.

This bill would, except as provided, exempt motor vehicles that are 8 or less model-years old from being inspected biennially upon renewal of registration. The bill would assess an annual smog abatement fee of \$24 on motor vehicles that are 7 or 8 model-years old. The bill would require *a certain amount of the fee to be deposited into the Air Pollution Control Fund and to be available for expenditure, upon appropriation by the Legislature, to fund the Carl Moyer Memorial Air Quality Standards Attainment Program. The bill would require the balance of the fee to be deposited into the Vehicle Inspection and Repair Fund.*

This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 44011 of the Health and Safety Code is
- 2 amended to read:
- 3 44011. (a) All motor vehicles powered by internal combustion
- 4 engines that are registered within an area designated for program
- 5 coverage shall be required biennially to obtain a certificate of
- 6 compliance or noncompliance, except for the following:
- 7 (1) All motorcycles until the department, pursuant to Section
- 8 44012, implements test procedures applicable to motorcycles.
- 9 (2) All motor vehicles that have been issued a certificate of
- 10 compliance or noncompliance or a repair cost waiver upon a change
- 11 of ownership or initial registration in this state during the preceding
- 12 six months.
- 13 (3) All motor vehicles manufactured prior to the 1976
- 14 model-year.
- 15 (4) (A) Except as provided in subparagraph (B), all motor
- 16 vehicles four or less model-years old.
- 17 (B) (i) Beginning January 1, 2018, all motor vehicles eight or
- 18 less model-years old, unless the state board finds that providing
- 19 an exception for these vehicles will prohibit the state from meeting
- 20 the requirements of Section 176(c) of the federal Clean Air Act
- 21 (42 U.S.C. Sec. 7401 et seq.) or the state’s commitments with

1 respect to the state implementation plan required by the federal
2 Clean Air Act.

3 (ii) Clause (i) does not apply to a motor vehicle that is seven
4 model-years old in year 2017 for which a certificate of compliance
5 has been obtained.

6 (C) All motor vehicles excepted by this paragraph shall be
7 subject to testing and to certification requirements as determined
8 by the department, if any of the following apply:

9 (i) The department determines through remote sensing activities
10 or other means that there is a substantial probability that the vehicle
11 has a tampered emission control system or would fail for other
12 cause a smog check test as specified in Section 44012.

13 (ii) The vehicle was previously registered outside this state and
14 is undergoing initial registration in this state.

15 (iii) The vehicle is being registered as a specially constructed
16 vehicle.

17 (iv) The vehicle has been selected for testing pursuant to Section
18 44014.7 or any other provision of this chapter authorizing
19 out-of-cycle testing.

20 (D) This paragraph does not apply to diesel-powered vehicles.

21 (5) In addition to the vehicles exempted pursuant to paragraph
22 (4), any motor vehicle or class of motor vehicles exempted pursuant
23 to subdivision (c) of Section 44024.5. It is the intent of the
24 Legislature that the department, pursuant to the authority granted
25 by this paragraph, exempt at least 15 percent of the lowest emitting
26 motor vehicles from the biennial smog check inspection.

27 (6) All motor vehicles that the department determines would
28 present prohibitive inspection or repair problems.

29 (7) Any vehicle registered to the owner of a fleet licensed
30 pursuant to Section 44020 if the vehicle is garaged exclusively
31 outside the area included in program coverage, and is not primarily
32 operated inside the area included in program coverage.

33 (8) (A) All diesel-powered vehicles manufactured prior to the
34 1998 model-year.

35 (B) All diesel-powered vehicles that have a gross vehicle weight
36 rating of 8,501 to 10,000 pounds, inclusive, until the department,
37 in consultation with the state board, pursuant to Section 44012,
38 implements test procedures applicable to these vehicles.

39 (C) All diesel-powered vehicles that have a gross vehicle weight
40 rating from 10,001 pounds to 14,000 pounds, inclusive, until the

1 state board and the Department of Motor Vehicles determine the
2 best method for identifying these vehicles, and until the department,
3 in consultation with the state board, pursuant to Section 44012,
4 implements test procedures applicable to these vehicles.

5 (D) All diesel-powered vehicles that have a gross vehicle weight
6 rating of 14,001 pounds or greater.

7 (b) Vehicles designated for program coverage in enhanced areas
8 shall be required to obtain inspections from appropriate smog
9 check stations operating in enhanced areas.

10 (c) For purposes of subdivision (a), a collector motor vehicle,
11 as defined in Section 259 of the Vehicle Code, is exempt from
12 those portions of the test required by subdivision (f) of Section
13 44012 if the collector motor vehicle meets all of the following
14 criteria:

15 (1) Submission of proof that the motor vehicle is insured as a
16 collector motor vehicle, as shall be required by regulation of the
17 bureau.

18 (2) The motor vehicle is at least 35 model-years old.

19 (3) The motor vehicle complies with the exhaust emissions
20 standards for that motor vehicle's class and model-year as
21 prescribed by the department, and the motor vehicle passes a
22 functional inspection of the fuel cap and a visual inspection for
23 liquid fuel leaks.

24 SEC. 2. Section 44060 of the Health and Safety Code is
25 amended to read:

26 44060. (a) The department shall prescribe the form of the
27 certificate of compliance or noncompliance, repair cost waivers,
28 and economic hardship extensions.

29 (b) The certificates, repair cost waivers, and economic hardship
30 extensions shall be in the form of an electronic entry filed with the
31 department, the Department of Motor Vehicles, and any other
32 person designated by the department. The department shall ensure
33 that the motor vehicle owner or operator is provided with a written
34 report, signed by the licensed technician who performed the
35 inspection, of any test performed by a smog check station,
36 including a pass or fail indication, and written confirmation of the
37 issuance of the certificate.

38 (c) (1) The department shall charge a fee to a smog check
39 station, including a test-only station, and a station providing referee
40 functions, for a motor vehicle inspected at that station that meets

1 the requirements of this chapter and is issued a certificate of
2 compliance, a certificate of noncompliance, repair cost waiver, or
3 economic hardship extension.

4 (2) The fee charged pursuant to paragraph (1) shall be calculated
5 to recover the costs of the department and any other state agency
6 directly involved in the implementation, administration, or
7 enforcement of the motor vehicle inspection and maintenance
8 program, and shall not exceed the amount reasonably necessary
9 to fund the operation of the program, including all responsibilities,
10 requirements, and obligations imposed upon the department or
11 any of those state agencies by this chapter, that are not otherwise
12 recoverable by fees received pursuant to Section 44034.

13 (3) Except for adjustments to reflect changes in the Consumer
14 Price Index, as published by the United States Bureau of Labor
15 Statistics, the fee for each certificate, waiver, or extension shall
16 not exceed seven dollars (\$7).

17 (4) Fees collected by the department pursuant to this subdivision
18 shall be deposited in the Vehicle Inspection and Repair Fund. It
19 is the intent of the Legislature that a prudent surplus be maintained
20 in the Vehicle Inspection and Repair Fund.

21 (d) (1) (A) Motor vehicles exempted under paragraph (4) of
22 subdivision (a) of Section 44011 that are six or less model-years
23 old shall be subject to an annual smog abatement fee of twelve
24 dollars (\$12).

25 (B) Motor vehicles exempted under paragraph (4) of subdivision
26 (a) of Section 44011 that are seven or eight model-years old shall
27 be subject to an annual smog abatement fee of twenty-four dollars
28 (\$24).

29 (C) The department may also, by regulation, subject motor
30 vehicles that are exempted under paragraph (5) of subdivision (a)
31 of Section 44011 to the twelve dollar (\$12) annual smog abatement
32 fee. Payment of the annual smog abatement fee shall be made to
33 the Department of Motor Vehicles at the time of registration of
34 the motor vehicle.

35 (2) Except as provided in paragraph (1) of subdivision (a) of,
36 and subdivision (b) of, Section 44091.1, fees collected pursuant
37 to this subdivision shall be deposited on a daily basis into the
38 Vehicle Inspection and Repair Fund.

39 (e) The sale or transfer of the certificate, waiver, or extension
40 by a licensed smog check station or test-only station to any other

1 licensed smog check station or to any other person, and the
2 purchase or acquisition of the certificate, waiver, or extension, by
3 any person, other than from the department, the department's
4 designee, or pursuant to a vehicle's inspection or repair conducted
5 pursuant to this chapter, is prohibited.

6 (f) Following implementation of the electronic entry certificate
7 under subdivision (b), the department may require the modification
8 of the analyzers and other equipment required at smog check
9 stations to prevent the entry of a certificate that has not been issued
10 or validated through prepayment of the fee authorized by
11 subdivision (c).

12 (g) The fee charged by licensed smog check stations to
13 consumers for a certificate, waiver, or extension shall be the same
14 amount that is charged by the department.

15 SEC. 3. Section 44060.5 of the Health and Safety Code is
16 amended to read:

17 44060.5. (a) Beginning July 1, 2008, the smog abatement fee
18 described in subparagraph (A) or (C) of paragraph (1) of
19 subdivision (d) of Section 44060 shall be increased by eight dollars
20 (\$8).

21 (b) Revenues generated by the increase described in this section
22 shall be distributed as follows:

23 (1) The revenues generated by four dollars (\$4) shall be
24 deposited in the Air Quality Improvement Fund created by Section
25 44274.5.

26 (2) The revenues generated by four dollars (\$4) shall be
27 deposited in the Alternative and Renewable Fuel and Vehicle
28 Technology Fund created by Section 44273.

29 (c) This section shall remain in effect only until January 1, 2024,
30 and as of that date is repealed, unless a later enacted statute, that
31 is enacted before January 1, 2024, deletes or extends that date.

32 SEC. 4. Section 44091.1 of the Health and Safety Code is
33 amended to read:

34 44091.1. (a) Revenue from the fee specified in subparagraph
35 (A) or (C) of paragraph (1) of subdivision (d) of Section 44060
36 shall be allocated as follows:

37 (1) The revenues generated by six dollars (\$6) of the fee shall
38 be deposited in the Air Pollution Control Fund, and shall be
39 available for expenditure, upon appropriation by the Legislature,
40 to fund the Carl Moyer Memorial Air Quality Standards Attainment

1 Program (Chapter 9 (commencing with Section 44275)) to the
2 extent that the state board or a participating district determines the
3 moneys are expended to mitigate or remediate the harm caused by
4 the type of motor vehicle on which the fee is imposed.

5 (2) (A) Except as provided for in subparagraph (B), of the
6 revenue generated by the remaining six dollars (\$6) of the fee, four
7 dollars (\$4) shall be deposited in the account created by Section
8 44091, while the revenue generated by the remaining two dollars
9 (\$2) shall be deposited in the Vehicle Inspection and Repair Fund
10 and may be expended, upon appropriation, for, among other things,
11 the Clean Vehicle Rebate Project established as a part of the Air
12 Quality Improvement Program pursuant to Article 3 (commencing
13 with Section 44274) of Chapter 8.9.

14 (B) All revenue generated by the remaining six dollars (\$6) of
15 the fee described in this paragraph that is imposed at first
16 registration of a motor vehicle and that is exempted under
17 paragraph (4) of subdivision (a) of Section 44011 shall be deposited
18 in the account created by Section 44091.

19 ~~(b) Revenue from~~ (1) *Twenty-one dollars (\$21) of the amount*
20 *of the fee specified in subparagraph (B) of paragraph (1) of*
21 *subdivision (d) of Section 44060 shall be deposited into the Air*
22 *Pollution Control Fund and shall be available for expenditure,*
23 *upon appropriation by the Legislature, to fund the Carl Moyer*
24 *Memorial Air Quality Standards Attainment Program (Chapter 9*
25 *(commencing with Section 44275)).*

26 (2) *Three dollars (\$3) of the amount of the fee specified in*
27 *subparagraph (B) of paragraph (1) of subdivision (d) of Section*
28 *44060 shall be deposited into the Vehicle Inspection and Repair*
29 *Fund to offset the reduction in revenues collected pursuant to*
30 *Section 44060 caused by the exemption provided pursuant to*
31 *Section 44011 for vehicles that are model years 7 and 8.*

O

ASSEMBLY THIRD READING
 AB 1274 (O'Donnell)
 As Amended May 30, 2017
 2/3 vote

Committee	Votes	Ayes	Noes
Transportation	11-2	Frazier, Aguiar-Curry, Baker, Berman, Bocanegra, Chu, Daly, Friedman, Medina, Nazarian, O'Donnell	Fong, Harper
Appropriations	12-5	Gonzalez Fletcher, Bloom, Bocanegra, Bonta, Calderon, McCarty, Quirk, Friedman, Eduardo Garcia, Gray, Muratsuchi, Reyes	Bigelow, Brough, Fong, Gallagher, Obernolte

SUMMARY: Exempts two additional model years of vehicles (model years 7 and 8) from motor vehicle inspection and maintenance program (smog check) requirements and assesses these vehicles a fee of \$24 per year for each year they are exempted, directs revenue from the fee to the Carl Moyer Memorial Air Quality Standards Attainment Program (Moyer Program). Specifically, **this bill:**

- 1) Adds, beginning on January 1, 2018, two additional years to the number of vehicle model years that are exempted from smog check.
- 2) Requires that the newly exempted motor vehicles (model years 7 and 8) would be subject to an annual smog abatement fee of \$24 and directs \$21 of the fee to the Air Pollution Control Fund to fund the Moyer Program and \$3 of the fee to the smog check program.
- 3) Clarifies that this exemption does not apply to a motor vehicle that is seven model years old in the year 2017 for which a certificate of compliance has been obtained.

FISCAL EFFECT: According to the Assembly Appropriations Committee, revenue increase of about \$67 million annually from the assessment of the \$24 fee on the roughly 2.8 million vehicles that are considered model years 7 and 8, although the specific amount of revenue would fluctuate from year to year based on the number of model year 7 and 8 vehicles in each year.

Of the total estimated revenue, \$58.6 million would be allocated to the Carl Moyer Memorial Air Quality Standards Attainment Program and about \$8.4 million would backfill lost revenue for the Bureau of Automotive Repair.

COMMENTS: Smog check is a joint effort between the California Air Resources Board, the Bureau of Automotive Repair, and Department of Motor Vehicles (DMV) that requires vehicles manufactured in 1976 or later to participate in the biennial inspection at DMV-approved smog check stations in order to renew vehicle registration. The goal of smog check is to reduce air pollution from vehicles by ensuring that cars with excessive emissions are repaired in accordance with state and federal guidelines. With some exceptions, gas-powered vehicles that are six years old or newer are not required to participate in smog check and instead pay a smog abatement fee each year during this 6-year period.

Approximately 12 million Californians currently live in communities that exceed the federal standards for ozone and particulate matter (PM) with the South Coast and San Joaquin Valley air basins experiencing some of the worst air pollution in the nation. While various regulatory and legislative efforts have led to substantial and noticeable improvements in air quality and public health, many Californians continue to be seriously affected by poor air quality.

Emissions from heavy-duty diesel engines are a major source of the state's air pollution, including smog-forming nitrogen oxides (NO_x), and cancer-causing PM. According to the South Coast Air Quality Management District's (SCAQMD's) 2016 Air Quality Management Plan (AQMP), mobile sources contributed about 88% of the region's total NO_x emissions in 2012. The AQMP further explains that, existing rules, regulations and programs are not sufficient to fulfill the SCAQMD's public health mandate given that over the next seven to 15 years, the region must achieve substantial additional reductions in NO_x emissions in order to attain the ozone standards by the 2023 deadline.

Incentive programs such as the Moyer Program have been very successful in achieving emission reductions. Specifically, the Moyer Program incentivizes owners of diesel engines to go beyond regulatory requirements by retrofitting, repowering, or replacing their engines with newer and cleaner ones. Unfortunately, the incentive funding levels needed for attainment are significantly more than what has been allocated to date. For example, SCAQMD, estimates that in order to meet the upcoming 2023 and 2031 air quality standards, approximately \$11-14 billion in total funding over a seven to fifteen year period is needed in the south coast region alone.

To obtain the incentive funding needed to help SCAQMD and other regions of the state facing similar challenges achieve mandated federal air quality standards, the author has introduced this bill which would defer, from year six to year eight, the required smog check requirements for motor vehicles and during the exempted period, these vehicles would instead pay an annual smog abatement fee of \$24, due upon registration, in lieu of the cost to complete smog check at a DMV-approved smog check station. A portion (\$21) of the revenue generated by the \$24 fee would then be utilized to fund the Moyer Program which would, in turn, would reduce toxic air pollution by providing incentive funding to private companies and public agencies to purchase cleaner-than-required engines, equipment, and emission reduction technologies. SCAQMD estimates that this bill would triple the nearly \$65 million generated through smog abatement fees per year for the Moyer Program.

Writing in support of this bill, SCAQMD points out that in years 7 and 8, a vehicle owner will ultimately save money over what they would have spent to complete a smog check. They note that given that the average smog test costs between \$29 and \$69, depending on the county of residence and the type of vehicle being evaluated, vehicle owners can expect to save up to \$45 per vehicle for each year of the exemption. SCAQMD also notes that the vast majority of newer light-duty vehicles are equipped with cleaner technologies that typically pass smog check after six years. SCAQMD also notes that the benefits of emissions reductions that would be achieved from diesel engines would far outweigh those achieved from smog repairs on gasoline engines because diesel emissions are significantly more toxic.

Please see the policy committee analysis for full discussion of this bill.

Analysis Prepared by: Victoria Alvarez / TRANS. / (916) 319-2093

FN: 0000773

RESOLUTION 17-21

A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”) SUPPORTING AB 1274 (O’Donnell).

WHEREAS, existing law establishes the smog check program administered by the state Air Resources Board (ARB) and the Bureau of Automotive Repair (BAR),

WHEREAS, existing law establishes the Moyer Program, administered by ARB to provide grants to offset the incremental cost of eligible projects that reduce emissions from certain vehicular sources,

WHEREAS, incentive programs such as the Moyer Program have been very successful in achieving emission reductions and incentivizes owners to go beyond regulatory requirements by retrofitting, repowering, or replacing their engines with newer and cleaner ones,

WHEREAS, AB 1274 would generate funds that allow real and surplus diesel emissions reductions from heavy-duty vehicles on a voluntary basis and earlier than required by rules and regulations, thereby creating State Implementation Plan credits through early emission reductions,

WHEREAS, AB 1274 would achieve emissions reductions from diesel engines, whose emissions are more toxic than gasoline engines, thus more effectively protecting public health throughout the state,

WHEREAS, AB 1274 exempts two additional model years of vehicles (model years 7 and 8) from motor vehicle inspection and maintenance program (smog check) requirements and assesses these vehicles a fee of \$24 per year for each year they are exempted, and

WHEREAS, all revenue generated by those fees will be deposited into the Air Pollution Control Fund, administered by CARB, to fund the Carl Moyer Memorial Air Quality Standards Attainment Program.

NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE SGVCOG SUPPORTS AB 1274 (O’DONNELL).

PASSED, APPROVED, and ADOPTED this 15th day of June, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-20 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

DATE: June 15, 2017

TO: Transportation Committee
Governing Board

FROM: Phil Hawkey, Executive Director

RE: **SB 268 (Mendoza)**

RECOMMENDED ACTION

Adopt Resolution 17-22 opposing SB 268 (Mendoza).

BACKGROUND

Under existing law, the Metro Board of Directors is comprised of 14 members as follows:

- Five members of the Los Angeles Board of Supervisors
- The Mayor of Los Angeles
- Two public members and one Los Angeles City Council Member, appointed by the Mayor of Los Angeles
- Four members selected by the Los Angeles County City Selection Committee
- One non-voting member appointed by the Governor

SB 268 (Mendoza) would modify the Metro Board as follows:

- Adds the Los Angeles County Auditor-Controller as a non-voting member to the METRO Board.
- Reduces the number of County Supervisors on the METRO Board from five to two Supervisors with one Supervisor representing the largest population of the unincorporated area within Los Angeles County.
- Removes the appointment of two public members to the METRO Board.
- Increases Los Angeles Councilmember appointments by the Los Angeles Mayor from two to five. Further specifies that each Councilmember must represent three contiguous groups of council districts. Additionally specifies the Los Angeles City Council is to determine the grouped council districts.
- Increases from four to seven the number of Board appointments by the Los Angeles City Selection Committee
- Requires all appointed members to the METRO board to serve four-year terms, as specified.

This would increase the total number of Board members from 14 to 16.

In 2016, Senator Mendoza proposed similar legislation (SB 1472). The SGVCOG Governing Board opposed that legislation, and it was ultimately pulled by the author.

SUPPORT AND OPPOSITON (AS OF 5/30/2017)

The City of Torrance is in support of this legislation.

This bill is opposed by the following city, groups and individuals:

- City of Glendora
- Councilmember Mike Bonin, City of Los Angeles
- County of Los Angeles
- Los Angeles Area Chamber of Commerce
- Los Angeles County Metropolitan Transportation Authority
- Los Angeles/Orange Counties Building and Construction Trades Council
- Mayor Eric Garcetti, City of Los Angeles
- San Bernardino County Transportation Authority
- State Building and Construction Trades Council
- WSP Parsons Brinckerhoff

The SGVCOG Transportation Committee reviewed an earlier version of this bill in May and recommended that the Governing Board oppose it.

Prepared by: Marisa Creter
Marisa Creter
Assistant Executive Director

Approved by: Phil Hawkey
Phil Hawkey
Executive Director

ATTACHMENTS

- Attachment A – SB 268 (Mendoza)
- Attachment B – SB 268 Bill Analysis
- Attachment C – Resolution 17-22

AMENDED IN SENATE MAY 26, 2017

AMENDED IN SENATE MAY 1, 2017

AMENDED IN SENATE MARCH 28, 2017

SENATE BILL

No. 268

Introduced by Senator Mendoza

February 8, 2017

An act to amend Section 130051 of the Public Utilities Code, relating to transportation.

LEGISLATIVE COUNSEL'S DIGEST

SB 268, as amended, Mendoza. Los Angeles County Metropolitan Transportation Authority.

Existing law creates the Los Angeles County Metropolitan Transportation Authority with specified powers and duties relative to transportation planning, programming, and operations in the County of Los Angeles. The authority is governed by a 14-member board of directors that consists of the Mayor of the City of Los Angeles, 2 public members and one Los Angeles City Council member appointed by the mayor, 4 members appointed from the other cities in the county, the 5 members of the Los Angeles County Board of Supervisors, and a nonvoting member appointed by the Governor.

Existing law requires the authority to submit a plan to the Legislature for revising the composition of the authority, if the number of members of the board of supervisors is increased, within 60 days of the increase.

This bill would delete this ~~requirement and would add the county auditor as a nonvoting member of the board of directors.~~ *requirement*. The bill would also reduce the *number of* members of the board of supervisors *on the board of directors of the authority* from 5 to 2

members and would require that one supervisor represent the largest population in the unincorporated area of the County of Los Angeles. The bill would delete the appointment of 2 public members and require the Mayor of the City of Los Angeles to appoint 5 members of the City Council of the City of Los Angeles who represent contiguous clusters of 3 council districts. The bill would require the city council to determine contiguity. *The bill would provide for 7 members to be appointed by the Los Angeles County City Selection Committee to represent the other cities in the County of Los Angeles from 4 specified sectors.* The bill would require every appointee to serve a 4-year term without limitation or until the expiration of the term of his or her elected office.

By imposing new duties on local government within the County of Los Angeles, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 130051 of the Public Utilities Code is
2 amended to read:
3 130051. The Los Angeles County Metropolitan Transportation
4 Authority consists of ~~14~~ 16 members, as follows:
5 (a) Two members of the Los Angeles County Board of
6 Supervisors. One supervisor shall represent the largest population
7 in the unincorporated area of the County of Los Angeles.
8 (b) The Mayor of the City of Los Angeles.
9 (c) Five members of the City Council of the City of Los Angeles,
10 appointed by the Mayor of the City of Los Angeles, who represent
11 contiguous clusters of three council districts. The city council shall
12 determine contiguity.
13 (d) (1) ~~Four~~ Seven members, each of whom shall be a mayor
14 or a member of a city council, appointed by the Los Angeles
15 County City Selection Committee. For purposes of the selection

1 of these ~~four~~ *seven* members, the County of Los Angeles,
 2 excluding the City of Los Angeles, shall be divided into the
 3 following four sectors:

4 (A) The North County/San Fernando Valley sector.

5 (B) The Southwest Corridor sector.

6 (C) The San Gabriel Valley sector.

7 (D) The Southeast Long Beach sector.

8 (2) The League of California Cities, Los Angeles County
 9 Division, shall define the sectors. Every city within a sector shall
 10 be entitled to vote to nominate one or more candidates from that
 11 sector for consideration for appointment by the Los Angeles
 12 County City Selection Committee. A city's vote shall be weighted
 13 in the same proportion that its population bears to the total
 14 population of all cities within the sector.

15 (3) The members appointed pursuant to this subdivision shall
 16 be appointed by the Los Angeles County City Selection Committee
 17 upon an affirmative vote of its members who represent a majority
 18 of the population of all cities within the county, excluding the City
 19 of Los Angeles.

20 (e) *One nonvoting member appointed by the Governor.*

21 ~~(4)~~

22 (f) All members appointed pursuant to this section shall serve
 23 four-year terms, with no limitation on the number of terms that
 24 may be served by any individual, or until the expiration of the term
 25 of the elected office.

26 ~~(e) One nonvoting member appointed by the Governor.~~

27 ~~(f) The county auditor shall serve as a nonvoting member.~~

28 SEC. 2. If the Commission on State Mandates determines that
 29 this act contains costs mandated by the state, reimbursement to
 30 local agencies and school districts for those costs shall be made
 31 pursuant to Part 7 (commencing with Section 17500) of Division
 32 4 of Title 2 of the Government Code.

O

THIRD READING

Bill No: SB 268
Author: Mendoza (D)
Amended: 5/26/17
Vote: 21

SENATE TRANS. & HOUSING COMMITTEE: 7-3, 5/9/17
AYES: Beall, Cannella, Atkins, McGuire, Mendoza, Skinner, Wiener
NOES: Allen, Gaines, Morrell
NO VOTE RECORDED: Bates, Roth, Wieckowski

SENATE APPROPRIATIONS COMMITTEE: 5-2, 5/25/17
AYES: Lara, Beall, Bradford, Hill, Wiener
NOES: Bates, Nielsen

SUBJECT: Los Angeles County Metropolitan Transportation Authority

SOURCE: Author

DIGEST: This bill makes various changes to the governing board of the Los Angeles County Metropolitan Transportation Authority (METRO), as specified.

ANALYSIS:

Existing law:

- 1) Establishes the County Transportation Commissions Act, which provides for the creation of county transportation commissions in the Counties of Los Angeles, Orange, Riverside, San Bernardino, and Ventura, with various powers and duties relative to transportation planning and funding, as specified.
- 2) Establishes METRO, which is the successor agency to the Southern California Rapid Transit District and the Los Angeles County Transportation Commission.

- 3) Provides METRO with specified powers and duties relative to transportation planning, programming, and operations in the County of Los Angeles.
- 4) Requires METRO to submit a plan within 60 days to the Legislature relative to revising the composition of METRO's governing board if the membership on the County Board of Supervisors is increased.
- 5) Specifies the METRO Board of Directors is comprised of 14 members consisting of:
 - a) Five members of the Los Angeles Board of Supervisors.
 - b) The Mayor of Los Angeles.
 - c) Two public members and one Los Angeles City Council Member, appointed by the Mayor of Los Angeles.
 - d) Four members selected by the Los Angeles County City Selection Committee.
 - e) One non-voting member appointed by the Governor.

This bill:

- 1) Deletes METRO's requirement to draft a plan and submit it to the Legislature within 60 days relative to Board composition if the Los Angeles County Board of Supervisor's membership increases.
- 2) Reduces the number of County Supervisors on the METRO Board from five to two Supervisors with one Supervisor representing the largest population of the unincorporated area within Los Angeles County.
- 3) Removes the appointment of two public members to the METRO Board.
- 4) Increases Los Angeles Councilmember appointments by the Los Angeles Mayor from two to five. Further specifies that each Councilmember must represent three contiguous groups of council districts. Additionally specifies the Los Angeles City Council is to determine the grouped council districts.
- 5) Increases from four to seven the number of Board appointments by the Los Angeles City Selection Committee, as specified.
- 6) Requires all appointed members to the METRO board to serve four-year terms, as specified.

Comments

- 1) *Author's statement.* According to the author, "SB 268 will provide proportional representation, improved access, and accountability within the Los Angeles County Metropolitan Authority Transportation Board of Directors (MTA Board) and ensure that all areas of LA County are represented fairly during the allocation of local, state, and federal funds.

The Los Angeles County Metropolitan Transportation Authority serves more than 9.6 million people. Nearly one-third of California's residents live and work within its 1,433 square-mile service area. The Metropolitan Authority Transportation develops and oversees transportation plans, policies, and funding programs. The agency proposes both short-term and long-range solutions that address the County's increasing mobility, accessibility, and environmental needs. Unfortunately, under the current distribution of MTA Board members, the 87 cities outside of the City of Los Angeles, which represent 51% of the county's total population, only account for 31% of the MTA Board. The current distribution of the MTA Board is unrepresentative of LA County and has resulted in uneven allocation of resources and services. SB 268 will realign and expand the MTA Board to provide better representation for the entire County of Los Angeles, including the unincorporated areas."

- 2) *Other local transportation boards.* The governing boards of local transportation agencies vary across the state. For example, the Orange County Transportation Authority is comprised of 18 board members that include members from the County Board of Supervisors; members selected by the city selection committee, with several board members selected based on population and several others based on city representation; two public members appointed by the board; and the State Department of Transportation (Caltrans) district director (nonvoting member). Whereas the Bay Area Metropolitan Transportation Commission is comprised of 21 commissioners that include members from various Bay Area counties and cities, Mayor's appointees from the cities of Oakland, San Francisco, and San Jose, a member representing the Council of Governments, and the Caltrans district director for the region (non-voting member). Thus, the board composition of these respective agencies is reflective of the regional needs and functions they carry out and is typical of other local transportation agencies throughout the state.
- 3) *State's existing role.* Governing boards for local county transportation commissions (CTC) and regional transportation planning agencies (RTPA) are

identified in statute and primarily consist of locally elected officials and public members who are either appointed by an elected official, selected by a county/city selection committee, or who have a designated seat specified in statute (e.g., Mayor of Los Angeles). While the Governor does have a designated appointment on most CTCs and RTPAs throughout the state, those appointments are non-voting (ex officio) board members and are typically the Caltrans district director for that specific region/county.

- 4) *Second time around.* SB 1472 was introduced last session by the author which similarly attempted to change METRO's governing board structure. At that time, METRO was pursuing an increase of an existing sales tax measure to fund a contentious transit expansion program. The point of contention surrounded the program's geographic balance of projects when some regions within the county argued their projects were not adequately prioritized in the transit program. In response, the author introduced SB 1472 to expand METRO's governing board to ensure geographic representation. SB 1472 remained in the Senate and did not move through the legislative process. Over the past year, the author has engaged with local stakeholders and introduced SB 268 aimed at ensuring the entire county is reasonably represented on METRO's governing board.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- Unknown reimbursable mandate costs, potentially in excess of \$50,000 (General Fund), to the extent the City of Los Angeles submits a successful reimbursement claim with the Commission on State Mandates related to four new members of the City Council serving on the METRO board. Costs associated with duties and responsibilities of serving on the METRO board, and participating in the work of its Committees, are unknown.
- Unknown local costs for MTA to add two new members to the governing board, some of which may be reimbursable by the state General Fund. Potentially reimbursable costs are likely to be minor.

SUPPORT: (Verified 5/30/17)

City of Torrance

OPPOSITION: (Verified 5/30/17)

City of Glendora
Councilmember Mike Bonin, City of Los Angeles
County of Los Angeles
Los Angeles Area Chamber of Commerce
Los Angeles County Metropolitan Transportation Authority
Los Angeles/Orange Counties Building and Construction Trades Council
Mayor Eric Garcetti, City of Los Angeles
San Bernardino County Transportation Authority
State Building and Construction Trades Council
WSP Parsons Brinckerhoff

Prepared by: Manny Leon / T. & H. / (916) 651-4121
5/30/17 17:39:01

**** **END** ****

RESOLUTION 17-22

**A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”)
OPPOSING SB 268 (MENDOZA)**

WHEREAS, the Los Angeles County Metropolitan Transportation Authority (Metro) Board of Directors is currently comprised of 14 members from across Los Angeles County;

WHEREAS, the current composition of the Metro Board includes all five members of the Los Angeles County Board of Supervisors (LACBOS);

WHEREAS, the LACBOS members represent both the unincorporated and unincorporated communities within their respective jurisdictions; and

WHEREAS, SB 268 would reduce the number of Los Angeles County Board of Supervisors on the Metro Board from five to two.

**NOW, THEREFORE BE IT RESOLVED BY THE GOVERNING BOARD OF THE
SGVCOG OPPOSES SB 268 (MENDOZA)**

PASSED, APPROVED, and ADOPTED this 15th day of June 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-22 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

REPORT

DATE: June 15, 2017

TO: Transportation Committee
Governing Board

FROM: Phil Hawkey, Executive Director

RE: **REQUEST FOR LETTER OF NO PREJUDICE (LONP) FOR
SUBREGIONAL PLANNING FUNDS**

RECOMMENDED ACTION

Pending Metro Board adoption of the Measure M Guidelines, direct the Executive Director to submit a request to Metro for a LONP to allow expenditures related subregional planning and programming activities to be eligible for reimbursement.

BACKGROUND

In February, the Governing Board directed staff to develop a Transportation Planner/Programmer Manager position and secure Measure M dollars to fund this position. Since that time, SGVCOG staff has participated in the Measure M Policy Advisory Council (PAC) to provide comment on the draft Measure M Guidelines. One objective of this participation was to secure this funding.

The Metro Board of Directors is set to adopt the Measure M guidelines at their June 22 meeting, and these guidelines identify a process by which these funds will be programmed by the subregional entities, including the SGVCOG, through the development of five-year subregional fund programming plans. These plans will be submitted to the Metro Board of Directors for adoption and will then guide the flow of funding to various specific projects that fall within each program. The draft Measure M guidelines also allow for up to .5% of the funding from each program to be used to for the development of these five-year programming plans, including conducting the necessary public outreach and coordination with jurisdictions and other stakeholders. As shown in Table 1 below, for the programs in the San Gabriel Valley, this .5% cap averages to \$185,125 annually.

Program	Total Funding (in millions)	Average Funding Per Year (in millions)	0.5% (per year)
Active Transportation	\$231	\$5.78	\$28,875
Bus System Improvement	\$55	\$1.38	\$6,875
First/last mile	\$198	\$4.95	\$24,750
Highway Demand	\$231	\$5.78	\$28,875
Goods Movement	\$33	\$0.83	\$4,125
Highway Efficiency	\$534	\$13.35	\$66,750
Subregional Equity	\$199	\$4.98	\$24,875
TOTAL	\$1,481	\$37	\$185,125

Table 1.
SGVCOG Subregional Program Funding.

Metro staff has indicated that within six months of the adoption of the Measure M guidelines, they will develop administrative procedures relative to the subregional programmatic funds, including procedures for developing Multi-Year Subregional Programs 5 year plans, project readiness, and other criteria. After adoption of those guidelines, Metro would then execute memorandums of understanding (MOUs) with the councils of governments (COGs) to provide for the funding to develop these subregional plans. However, Metro staff has also indicated that if a COG wishes to start this work earlier, it may request a letter of no prejudice (LONP) and seek reimbursement for costs incurred prior to the execution of the MOUs, provided that the costs are eligible and do not exceed the .5% cap. Attached is a draft letter. If approved by the Governing Board, the letter would be submitted to Metro subsequent to the adoption of the Measure M Guidelines.

Prepared by: Marisa Creter
Marisa Creter
Assistant Executive Director

Approved by: Phil Hawkey
Phil Hawkey
Executive Director

ATTACHMENTS

Attachment A – Draft request for LONP



June 23, 2017

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Cynthia Sternquist

1st Vice President
Margaret Clark

2nd Vice President
Vacant

3rd Vice President
Vacant

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- Irwindale*
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- Montebello*
- Monterey Park*
- Pasadena*
- Pomona*
- Rosemead*
- San Dimas*
- San Gabriel*
- San Marino*
- Sierra Madre*
- South El Monte*
- South Pasadena*
- Temple City*
- Walnut*
- West Covina*
- First District, LA County
Unincorporated Communities*
- Fourth District, LA County
Unincorporated Communities*
- Fifth District, LA County
Unincorporated Communities*
- SGV Water Districts*

Phillip Washington
 Chief Executive Officer
 Los Angeles County Metropolitan Transportation Authority
 One Gateway Plaza
 Los Angeles, CA 90012

**RE: REQUEST FOR ISSUANCE OF A MEASURE M LETTER OF NO
 PREJUDICE FOR SUBREGIONAL PROGRAM PLANNING**

Dear Mr. Washington:

Measure M includes an ambitious plan of capital transportation projects and programs. In the San Gabriel Valley, based on input from the San Gabriel Valley Council of Governments (SGVCOG), the Measure M expenditure plan includes \$1.481 billion in funding for various transportation programs as follows:

- Active Transportation / Greenway Network (\$231 million)
- Bus System Improvement (\$55 million)
- First/last Mile and Complete Streets (\$198 million)
- Highway Demand (\$231 million)
- Goods Movement (\$33 million)
- Highway Efficiency (\$534 million)
- Subregional Equity Funds (\$199 million)

Furthermore, the Measure M guidelines identify a process by which these funds will be programmed by the subregional entities, including the SGVCOG, through the development of five-year subregional fund programming plans. These plans will be submitted to the Los Angeles County Metropolitan Transportation Authority (Metro) Board of Directors for adoption and will then guide the flow of funding to various specific projects that fall within each program.

The Measure M guidelines allow for up to .5% of the funding from each program to be used to for the development of these five-year programming plans, including conducting the necessary public outreach and coordination with jurisdictions and other stakeholders. As shown in Table 1 below, for the programs in the San Gabriel Valley, this .5% cap averages to \$185,125 annually.

Program	Total Funding (in millions)	Average Funding Per Year (in millions)	0.5% (per year)
Active Transportation	\$231	\$5.78	\$28,875
Bus System Improvement	\$55	\$1.38	\$6,875
First/last mile & Complete Streets	\$198	\$4.95	\$24,750
Highway Demand	\$231	\$5.78	\$28,875
Goods Movement	\$33	\$0.83	\$4,125
Highway Efficiency	\$534	\$13.35	\$66,750
Subregional Equity	\$199	\$4.98	\$24,875
TOTAL	\$1,481	\$37	\$185,125

Table 1.
SGVCOG Subregional Program Funding.

Metro staff has indicated that within six months of the adoption of the Measure M guidelines, they will develop administrative procedures relative to the subregional programmatic funds, including procedures for developing Multi-Year Subregional Programs 5 year plans, project readiness, and other criteria. After adoption of those guidelines, Metro would then execute memorandums of understanding (MOUs) with the councils of governments (COGs) to provide for the funding to develop these subregional plans. However, Metro staff has also indicated that if a COG wishes to start this work earlier, it may request a letter of no prejudice (LONP) and seek reimbursement for costs incurred prior to the execution of the MOUs, provided that the costs are eligible and do not exceed the .5% cap.

The SGVCOG is eager to initiate work on this comprehensive planning effort and is currently working on several planning studies that would inform the subregional funding program. Notably, in June, the SGVCOG initiated work on the Greenway Network Feasibility Study to identify “shovel ready” active transportation projects that could be completed over the next five years. Because of this work and other similar efforts related to the other Measure M programs, the SGVCOG Governing Board has directed staff to request a LONP to initiate work related to Measure M subregional fund programming. The SGVCOG is also reserving the right to request that Metro advance these funds based on available cash flows or as a loan between the subregional programs in order to provide a stable source of funding over the duration of these programs.

Should you have any questions regarding this matter, please contact Mark Christoffels at (626) 962-9292.

Sincerely,



Philip A Hawkey
Executive Director
San Gabriel Valley Council of Governments

cc: Honorable John Fasana, Chair, Metro Board of Directors

REPORT

DATE: June 5, 2017

TO: City Managers' Steering Committee
Executive Committee
Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **FY 2016-17 BUDGET AMENDMENT #3**

RECOMMENDED ACTION

Recommend Governing Board adopt Resolution 17-16 approving Amendment #3 to the FY 2016-17 budget.

BACKGROUND

Staff is recommending some minor revisions to the FY 2016-17 budget in prepared for the end of the fiscal year. The overall impact of the proposed revision is to increase the net revenue to expenses ratio by \$263, resulting in a year-end balance of -\$24,249.

Prepared by: Marisa Creter
Marisa Creter
Assistant Executive Director

Approved by: Phil Hawkey
Phil Hawkey

ATTACHMENTS

Attachment A– Explanation of Revisions to Revenue and Expenses
Attachment B – Resolution 17-16

Attachment A - Summary of Proposed Revisions (FY 2016-17)

Line	Note
10, 11, 13, 24, 26, 56	The San Gabriel Valley Energy Wise Partnership is currently fully staffed, with one full-time management analyst and 5 part-time interns. These staff work on various energy efficiency programs, including assisting cities with energy efficiency projects in municipal facilities and conducting community outreach and education. All employee costs for these staff members, including salary, benefits, and a proportional share of the SGVCOG overhead costs, are fully reimbursed through the grant. The Energy Wise budget is based on a calendar year, rather than a fiscal year and there are three agreements that fund this program, two with Southern California Edison and one with SoCalGas. Staff is recommending shifting some of the anticipated revenue between these three funding sources, increasing expenditures for part-time staff, including salary and employee taxes, and reducing expenses. The net impact of these changes is to increase the year-end balance by \$15,000.
32, 37, 38, 40, 41	Staff is recommending minor changes to various operational expenses based on actual-to-date expenditures. These changes are as follows: <ul style="list-style-type: none"> • Reduce the utilities budget by \$2,025 from \$8,025 to \$6,000; • Reduce the miscellaneous expenditures budget by \$2,000 from \$5,000 to \$3,000; • Reduce the meetings and travel budget by \$5,000 from \$40,000 to \$35,000; • Increase the administrative fees budget by \$500 from \$3,500 to \$4,000; • Reduce the insurance budget by \$2,000 from \$8,000 to \$6,000. The net impact of these changes is to increase the year-end balance by \$10,525.
42	Staff has begun planning the 2017 General Assembly, which is scheduled for October 2017. The event will be held at the Pacific Palms Resort in Industry. Staff is recommending increasing the General Assembly budget by \$1,315 to reflect payment of the deposit to secure the location.
46	The SGVCOG has an agreement with ACE to provide transportation technical assistance. Those charges are billed hourly. With the passage of Measure M, ACE staff has provided additional assistance to the SGVCOG, including reviewing and commenting on the Measure M guidelines and participating on the Measure M Policy Advisory Committee. Staff is recommending increasing the budget for this line item by \$10,000, from \$30,000 to \$40,000.
47	The SGVCOG has an agreement with ACE to provide administrative support. This includes managing the COG’s payroll and HR functions and ensuring compliance with conflict of interest requirements (i.e. Form 700). ACE administrative staff have assisted on special projects this year, including implementation of a new timekeeping system, development of payroll processes, and the preparation of the SGVCOG’s updated financial policy. Staff is recommending increasing the budget for this line item by \$8,500, from \$25,000 to \$33,500.
51	Staff is recommending increasing the budget for grant-writing services by \$3,500, from \$50,000 to \$53,500. These additional funds will be used to assist interested cities submit applications to Metro’s Transit Oriented Development (TOD) Round 5 Grant program. To date this year, the SGVCOG has spent \$47,420 on grant writing and those projects have received \$895,972 in funding (19:1).

REPORT

53	Governing Board members receive a \$50 stipend per meeting. Due to high attendance at Board meetings, staff is recommending increasing the budget for stipends by \$1,000, from \$11,000 to \$12,000.
57	Earlier this year, the SGVCOG completed work on the SCE CEESP Phase 3 grant, which developed a green building guide and created a home energy assessment program. Staff has submitted the final invoice and closed out the grant. Staff is recommending increasing the expenses for this grant by \$947 to reflect the final invoice.

RESOLUTION NO. 17-16

**RESOLUTION OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
(SGVCOG) APPROVING AMENDMENT #3 TO THE FY 2016-17 BUDGET**

WHEREAS, the SGVCOG Governing Board adopted the FY 2016-17 Budget on May 19, 2016;

WHEREAS, annual budget serves as the basis for the SGVCOG’s programs and activities;

WHEREAS, since the adoption of the budget the SGVCOG has updated information regarding revenues and expenditures;

NOW, THEREFORE, BE IT RESOLVED that the Governing Board approves Amendment #3 to the FY 2016-17 budget to incorporate the following changes (as shown in Exhibit A):

1. Increase Energy Wise (Gas) revenues by \$20,000 from \$100,000 to \$120,000.
2. Increase Energy Wise (Edison) revenues by \$21,000 from \$109,000 to \$130,000.
3. Decrease SGVEWP Strategic Plan revenues by \$12,000 from \$40,000 to \$28,000.
4. Increase Internship Program expenses by \$23,000 from \$60,500 to \$83,500.
5. Increase PERS and Employer Taxes expenses by \$6,000, from \$34,122 to \$40,122.
6. Reduce Utilities expenses by \$2,025 from \$8,025 to \$6,000.
7. Reduce Miscellaneous expenses by \$2,000 from \$5,000 to \$3,000.
8. Reduce Meeting/Travel expenses by \$5,000 from \$40,000 to \$35,000.
9. Increase Administrative Fee expenses by \$500 from \$3,500 to \$4,000.
10. Reduce Insurance expenses by \$2,000 from \$8,000 to \$6,000.
11. Increase General Assembly expenses by \$1,315 from \$10,500 to \$11,815.
12. Increase Transportation Technical Support expenses by \$10,000, from \$30,000 to \$40,000.
13. Increase Administrative Support expenses by \$8,500, from \$25,000 to \$33,500.
14. Increase Grant Writing expenses by \$3,500, from \$50,000 to \$53,500.
15. Increase Stipend expenses by \$1,000, from \$11,000 to \$12,000.
16. Decrease SGVEWP expenses by \$15,000, from \$40,000 to \$25,000.
17. Increase SCE CEESP Phase 3 expenses by \$947, from \$2,475 to \$3,422.

PASSED AND ADOPTED by the Governing Board of San Gabriel Valley Council of Governments, County of Los Angeles, in the County of Los Angeles, State of California, on the 15th day of June, 2017.

San Gabriel Valley Council of Governments

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-16 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Philip A. Hawkey, Secretary

	Adopted Budget FY 16/17	Adopted Amendment #1	Adopted Amendment #2	Proposed Amendment #3	Change (+/-)
1	General Operating Income				
2	\$ 745,909	\$ 745,909	\$ 745,909	\$ 745,909	\$ -
3	-	10,500	12,551	12,551	\$ -
4	12,000	12,000	12,000	12,000	\$ -
5	-	2,500	13,146	13,146	\$ -
6	1,000	1,000	1,000	1,000	\$ -
7	<i>Total General Operating Income</i>	758,909	771,909	784,606	784,606
8	Grants & Special Project Income				
9	88,413	88,413	88,413	88,413	\$ -
10	80,000	80,000	100,000	120,000	\$ 20,000
11	109,000	109,000	109,000	130,000	\$ 21,000
12	47,850	47,850	15,846	15,846	\$ -
13			40,000	28,000	\$ (12,000)
14	<i>Total Grants & Special Project Income</i>	325,263	325,263	353,259	382,259
15	Total Income	1,084,172	1,097,172	1,137,865	1,166,865
16	General Operating Expenses				
17	<u>Ongoing Operational Contracts</u>				
18	30,000	30,000	35,000	35,000	\$ -
19	20,000	20,000	20,000	20,000	\$ -
20	5,000	5,000	13,500	13,500	\$ -
21	28,000	28,000	32,000	32,000	\$ -
22	<u>Personnel</u>				
23	260,000	260,000	364,167	364,167	\$ -
24	40,500	40,500	60,500	83,500	\$ 23,000
25	33,600	33,600	56,700	56,700	\$ -
26	19,162	19,162	34,122	40,122	\$ 6,000
27	-	-	25,000	25,000	\$ -
28	5,000	5,000	5,000	5,000	\$ -
29	-	-			

	Adopted Budget FY 16/17	Adopted Amendment #1	Adopted Amendment #2	Proposed Amendment #3	Change (+/-)
30	<u>General & Administrative</u>				
31	Rent & Parking	72,627	72,627	72,627	72,627 \$ -
32	Utilities	8,025	8,025	8,025	6,000 \$ (2,025)
33	Postage	2,000	2,000	2,000	2,000 \$ -
34	Equipment & Software Acquisition	10,000	10,000	10,000	10,000 \$ -
35	Storage	2,671	2,671	2,671	2,671 \$ -
36	Office Supplies	5,000	5,000	5,000	5,000 \$ -
37	Miscellaneous maint/ops expense	5,000	5,000	5,000	3,000 \$ (2,000)
38	Meeting/Travel	40,000	40,000	40,000	35,000 \$ (5,000)
39	Dues & Subscriptions	3,500	3,500	3,500	3,500 \$ -
40	Administrative Fees	3,500	3,500	3,500	4,000 \$ 500
41	Insurance	8,000	8,000	8,000	6,000 \$ (2,000)
42	General Assembly	-	13,000	10,500	11,815 \$ 1,315
43	<u>Consultant Services</u>				
44	Management Consultant Services	156,000	156,000	65,000	65,000 \$ -
45	MTA Board Support	106,090	106,090	106,090	106,090 \$ -
46	Transportation Technical Support (ACE)	30,000	30,000	30,000	40,000 \$ 10,000
47	Administrative Support (ACE)	20,000	20,000	25,000	33,500 \$ 8,500
49	Media/Public Relations	2,000	2,000	2,000	2,000 \$ -
50	Information Technology	2,000	2,000	2,000	2,000 \$ -
51	Grant Writing Services	50,000	50,000	50,000	53,500 \$ 3,500
52	Transportation Consultant	-	10000	-	- \$ -
52	<u>Direct Expenses</u>				
53	Board Stipends & Taxes	11,000	11,000	11,000	12,000 \$ 1,000
54	Printing / Publication	12,000	12,000	12,000	12,000 \$ -
55	<u>Direct Grant Expenses</u>				
56	SGVEWP Edison & Gas Expenses	40,000	40,000	40,000	25,000 \$ (15,000)
57	SCE CEESP Phase 3 Expenses	40,000	40,000	2,475	3,422 \$ 947
58	Total Expenditures	1,070,675	1,093,675	1,162,376	1,191,114
59	Net income (Loss)	\$ 13,497	\$ 3,497	\$ (24,511)	\$ (24,249)

DATE: June 15, 2017

TO: City Managers Steering Committee
Executive Committee
Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

VIA: Mark Christoffels, CEO, ACE Construction Authority

RE: Approval of ACE's Fiscal Year 2017-18 Budget

RECOMMENDED ACTION:

Recommend Governing Board adopt Resolution 17-17 approving ACE's Fiscal Year 2017-18 budget.

BACKGROUND:

Since ACE is wholly funded through allocated grants, ACE's annual budget is based on anticipated expenditures of those grant funds during FY 2018. Unlike a typical municipal budget, where expenditures are confined to anticipated revenues, ACE's annual budget is based on anticipated progress, and corresponding expenditures including any indirect support costs, of the approved and fully funded projects in its program. ACE's annual budget consist of two parts; anticipated indirect expenditures and direct expenditures. The following is a comparison of ACE's budget to a typical municipal budget:

- City has an Operating and a Capital Improvement Project (CIP) budget
 - Operating is ongoing annual expenditures such as city staff, fuel, rent, supplies, utilities, etc.
 - CIP are one time capital expenditures such as street repaving, new buildings, new traffic signals, etc.
- ACE has an Indirect and a Direct budget
 - Indirect is ongoing annual expenditures such as ACE staff, rent, supplies, utilities, etc.
 - Direct are project related expenditures such as design, R/W acquisition and construction

The following is a comparison of how ACE closes out its previous fiscal year to a typical municipal budget:

- City
 - Operating Budget is closed out and any funds left go to fund balance. Council approves a new Operating Budget
 - Remaining funds of CIP Budget are carried over into the new fiscal year to complete projects that were approved and started in prior fiscal years. Only new additional project funding is approved by the Council

- ACE
 - Indirect Budget is closed out and any funds left go to fund balance. ACE Board approves a new Indirect Budget
 - Since ACE's Direct Budget reflects only each project's one-year window of expected costs and not the entire anticipated project cost, fund balances are not carried over into the new fiscal year, and the Board approves a new Direct Budget.

FY 2017 Budget Year End Summary

Overall ACE will close out FY2017 approximately \$41 million below its adopted fiscal year budget, or expenditure plan. The following summarizes the FY 2017 indirect and direct costs:

FY 2017 Indirect Project Expense

Indirect expenses (such as salaries, rent, office supplies, etc.) that cannot easily be charged to specific project activities are billed to grants based on an annual indirect rate plan approved by Caltrans. The FY 2017 rate was approved by Caltrans and included adjustments for over or under spending in prior years. ACE anticipates indirect expenses for FY 2017 will be \$21,000 under the budgeted amount of \$4.025 million (approximately 0.5%). For FY 2017 ACE will collect all of the indirect costs.

FY 2017 Direct Project Expense

Direct expenses are those that can be readily associated with specific projects such as staff or program management time, engineering or construction management contracts, property acquisition, construction, and miscellaneous support costs. For FY 2017 direct costs will be \$40.932 million below the budgeted amount of \$129.381 million (30%). These projected under expenditures, unfortunately, are not project savings, but rather expected expenditures that did not occur this year and will most likely happen in FY 2018. Delayed expenditures are primarily a result of construction activities not progressing as we anticipated. Some were weather related, others third party, and some were simply unavoidable circumstances during construction. These delays result in lower monthly billings from ACE's contractors. These funds will be carried over and re-budgeted in the proposed FY 2018 budget.

FY 2018 Proposed Budget

The total proposed FY 2018 budget is \$148,001,000. This includes \$4,073,000 in indirect costs and \$143,928,000 in direct costs. Total grants that have been allocated to ACE is \$1,698,837,000. With the proposed expenditures for FY 2018, ACE will have a remaining grant balance of \$418,626,000 for anticipated remaining project expenses.

FY 2018 Indirect Project Expense

The proposed FY 2018 indirect expense budget was developed by line item, based on past expenditures and anticipated cost changes such as liability insurance, rent, utility costs, salaries, CalPERS, legal support, office supplies, and IT support. The ratio of all indirect costs to

anticipated direct labor and fringe benefit cost is used to calculate the Indirect Cost Allocation Plan (ICAP) which is submitted to Caltrans for approval, and becomes the basis for billing indirect costs in FY 2018.

Total anticipate indirect costs is \$4.073 million, which is approximately 1.6% more than last year. This increase is due to a lump sum pre-paid liability insurance payment for the Durfee Avenue project, as well as some IT costs for software purchases.

FY 2018 Direct Project Expense

The proposed FY 2018 direct expense budget assumes six projects in construction and three projects in design as well as ongoing land acquisition activities. For the active construction projects (San Gabriel Trench, Fairway, Puente, Temple, Durfee and Fullerton) staff used the approved construction schedules to determine the rate of construction and determine the anticipated contractor expenditures. For the three projects in design (At-grade safety improvements, Montebello and Turnbull Canyon) staff included in the project budget the final design as well as the current estimated cost of land acquisition if applicable to the project. It should be noted that the pace and cost of land acquisition is the most speculative part of the budget estimates and may change if cost settlements require court action.

Total anticipated direct costs is \$144 million which is 12% more than last year. This increase reflects an anticipated increase in construction expenses (our largest budget item).

Project Financing for FY 2018

ACE will continue to utilize the funds from a \$45 million working capital loan from the Los Angeles County Metropolitan Transportation Authority (Metro) to maintain cash flows and bridge the timing gap between project expenditures and reimbursements from our granting agencies. Based on the projected cash flow, ACE will be able to fund the interest expenses on the working capital loan from the proceeds of ACE's short term investments. Investments continue to generate interest income in excess of interest expense.

FY 2018 Budget Approval

The proposed budget was adopted by the ACE Board on June 5, 2017 and presented to San Gabriel Valley Council of Governments (SGVCOG) City Manager Steering Committee on June 7, 2017. In accordance with the SGVCOG's by-laws, the ACE budget requires approval by both the ACE and SGVCOG Governing Boards.

Upon adoption of the FY 2018 budget, staff will continue to provide both the ACE Board and the SGVCOG Governing Board with project status and budget updates on a quarterly basis. ACE's Finance Committee will also be provided a comprehensive discussion of the financial state of the ACE Program at its quarterly meetings.

RESOLUTION NO. 17-17
RESOLUTION OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS
(SGVCOG) ADOPTING THE ALAMEDA CORRIDOR-EAST (ACE) PROJECT FY
2017-18 BUDGET

WHEREAS, the SGVCOG Joint Powers Agreement (JPA) and Bylaws direct that the SGVCOG Governing Board adopted adopt a Budget for the ACE Project prior to July 1 of every year;

WHEREAS, the ACE Project Budget serves as the basis for the ACE Project's programs and activities;

WHEREAS, the ACE Chief Executive Officer (CEO) is responsible for the development and implementation of the ACE Project Budget;

WHEREAS, there are funds within this budget document that are for specific purposes and appropriations of those funds will comply with accounting principles and governing rules of the funding sources.

NOW, THEREFORE, BE IT RESOLVED that the Governing Board adopts the ACE Project's FY 2017-18 Budget, attached hereto and incorporated herein as Exhibit A.

PASSED AND ADOPTED by the Governing Board of San Gabriel Valley Council of Governments, County of Los Angeles, in the County of Los Angeles, State of California, on the 15th day of June, 2016.

San Gabriel Valley Council of Governments

Cynthia Sternquist, President

Attest:

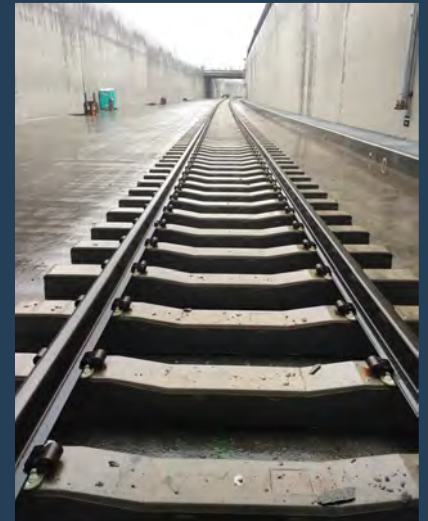
I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-17 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary



FY 2018 Proposed Budget



At-Grade Safety Improvements

Durfee Avenue

Fairway Drive

Fullerton Road

Montebello Corridor

Puente Avenue

San Gabriel Trench

Turnbull Canyon

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Budget Message

Fiscal year 2017 was an exceptionally busy time for ACE with four grade separation projects and one rail diversion project in construction at an estimated total cost of \$1.1 billion. In addition, during FY17 ACE continued working on the design of three more grade separation projects as well as safety enhancements at eight crossings. FY17 also posed schedule delays for construction activity due to record breaking rainfalls. An overall update of the ACE Program is as follows:

Construction

The Nogales Street grade separation was completed in FY17. This project was recently recognized as Safety Project of the Year by the California Transportation Foundation. Though open to traffic in June, there remains some work that will be completed shortly.

The Fullerton Road grade separation broke ground in September. With Nogales open, the Fullerton project now is our busiest construction project area, located in a heavily traveled corridor to shopping, restaurants, warehousing, residential and the State Road 60 freeway. As with all projects, ACE is working closely with local businesses to mitigate the construction and traffic impacts.

The San Gabriel Trench project progressed well in FY17 and was expected to be running trains on its tracks by now, however rain delayed delivery of ballast required for the new tracks. Full train service in the trench is expected in early FY18.

The Temple Avenue train diversion project affecting the Cal Poly Pomona area is expected to be complete by the end of the year.

The Fairway Drive grade separation project was amended to include construction of on and off ramps on the State Route 60 freeway. This phase of the Fairway project is expected to be complete before the end of calendar year 2017.

The Puente Avenue grade separation project has reached its half way milestone of construction. The Puente Avenue grade separation in the City of Industry, the Temple Avenue project in Pomona and our most extensive endeavor, the San Gabriel Trench project, are all expected to be complete in fiscal year 2018.

Design

The Durfee Avenue grade separation project in the City of Pico Rivera is in the midst of design and expected to begin construction early 2018.

The Montebello Corridor project, a long awaited project for the City is also in design.

Finally, the *At-Grade Safety Improvement* project, a series of much needed safety improvements in Pomona is also well into design.

While we do not have construction funding for the *Turnbull Canyon Road grade separation* project in the City of Industry, this project is also in design. Staff has applied for various state and

federal grants and is optimistic that funding for Turnbull Canyon, ACE's final grade separation project, will be available when the design is completed.

Looking ahead: During FY17, our parent agency, the San Gabriel Valley Council of Governments' (SGVCOG) Governing Board acknowledged the value of having a construction entity available for future regional projects being funded with Measure M and potentially other grants that the SGVCOG may obtain. Recognizing the benefits of maintaining some version of the current ACE organization and its expertise is something we are exceptionally proud of. In February, the Governing Board agreed to expand the scope of ACE beyond grade separations and a reorganization of ACE, the details of such are still in discussion. While it is for the SGVCOG Governing Board ultimately to decide, ACE does not anticipate any immediate changes to the current ACE organization. The current staff's primary focus will be to complete the ACE Program.

On the funding side, ACE staff successfully petitioned the California Transportation Commission to re-allocate Trade Corridor Improvement Funds from project savings on the Baldwin Avenue Project as well as regional funds that remained unspent to the Durfee Road Grade Separation Project. ACE has also submitted \$50 million in grant applications under the recently approved Federal FAST ACT. If approved, ACE will be very close to being a fully funded program.

Administratively, ACE has continued to recover all billable costs in a timely manner. As an agency completely reliant on reimbursement of expenses, this is an extremely important goal and insures that the agencies borrowing costs are kept to a minimum.

During FY17 ACE continued to provide finance, accounting, IT and human resources services through Memorandums of Understanding to the SGVCOG. Through our team efforts, improved policies and procedures were developed and implemented and audited by Caltrans. As a result, the SGVCOG's high risk designation has been removed and the SGVCOG is now eligible to receive and administer state and federal grants. ACE also continued to provide transportation planning and legislative advocacy support for programs related to Measure M.

The Fiscal Year 2018 budget provides for a work plan as ambitious as the one ACE just completed. It is anticipated that project expenditures will match or even exceed those of Fiscal Year 2017 and ACE will be one step closer to its goal of completing all of the adopted projects in the ACE Program.

Mark Christoffels

Chief Executive Officer

Background

The planning for the ACE Project, done in the late 1990s, was based on anticipated increases in train traffic through the San Gabriel Valley from the then current level of approximately 55 trains per day, to approximately 160 by 2020. The result would be traffic delays at crossings increasing by up to 300%. Based on current train traffic along both subdivisions of the Union Pacific Railroad through the San Gabriel Valley, train counts have increased significantly and are predicted to reach the numbers anticipated in the original study within the next 10 years.

The originally adopted ACE Project included safety improvements at 39 grade crossings located throughout the San Gabriel Valley and 22 grade crossing eliminations (grade separations). In 2007 the original project estimate from 1998 was updated to take into account inflation over the previous 10 years, higher than anticipated right-of-way requirements, and increased railroad and utility relocation costs. In late 2007 ACE increased the project cost estimate from \$910 million to \$1.404 billion (without an allowance for escalation over time), which remained fairly consistent until the remaining project scope was restudied in 2010-11. Subsequently in 2013, and again in 2015 the project was amended to revise the scope of projects in Pomona and Montebello. During fiscal year 2017 the addition of a betterment at Lemon Avenue, requested by the Cities of Diamond Bar and Industry was included in the adopted project. With the adoption of these project changes the overall ACE program cost now stands at \$1.735 billion.

To date ACE has implemented 39 crossing safety improvements and nine grade separation projects.

Project Status

The following is a summary of the status of the active projects:

Nogales Street Grade Separation (LA subdivision): The Nogales Street grade separation was opened to traffic in June 2017. While the street has been open, minor work remains related to the groundwater system and a local sewer connection that should be completed this summer.

San Gabriel Trench: Construction crews are nearing completion of the 1.2-mile, 65-foot-wide and 30-foot-deep San Gabriel railroad trench. With work completed on the trench walls and floor, and bridges at all four railroad crossings, the focus shifts to new mainline construction. However, due to the record rainfall and severe weather conditions in California through the months of January and February, track outages and service interruptions required Union Pacific to divert their crews and materials for repairs elsewhere in the state and across the Pacific Northwest, ultimately impacting the schedule for the mainline track work. The new mainline tracks are scheduled to be installed by Union Pacific crews by mid-Summer. Once complete, freight traffic will shift from the temporary railroad shoofly onto the new tracks in the trench. The majority of the project is anticipated to be completed by the end of the year.

Puente Avenue Grade Separation: Construction of a roadway underpass and railroad bridge on Puente Avenue at Valley Boulevard in the City of Industry and unincorporated community of Avocado Heights is moving into its next phase. Excavation has begun on Workman Mill Road, south of Valley Boulevard, to prepare the site for construction of the south abutment, retaining walls and roadway underpass. Crews recently finished work on the southern portion of the roadway bridge that will carry vehicles across Puente Avenue. Despite construction taking place on busy Valley Boulevard, work was staged to ensure traffic flow and access to local businesses was maintained at all times. Work now moves on to the northern portion of the Valley Boulevard roadway bridge as well as the railroad bridge that will span the underpass. As a result, traffic lanes on Valley Boulevard have been shifted onto the newly constructed portion of the bridge structure

on the south. In addition, 3rd Avenue has been opened to traffic to provide access to eastbound Valley Boulevard. Project completion is scheduled for fall 2018.

Fullerton Road Grade Separation: Fullerton Road from Gale Avenue on the north and the eastbound State Route 60 freeway off-ramp on the south is being widened to three lanes in each direction, improving traffic flow and reducing congestion at the bottleneck, traversed by over 23,000 vehicles daily. The widening is being completed in advance of a road closure this summer to construct a six-lane roadway underpass and railroad bridge on Fullerton Road in the City of Industry and unincorporated community of Rowland Heights. Completion of the grade separation and reopening of the roadway is anticipated in summer 2020.

Fairway Drive Grade Separation: In anticipation of the crossing closure to construct a roadway underpass and railroad bridge on Fairway Drive later this year, crews are working to build a new interchange on State Route 60 at Lemon Avenue in the Cities of Diamond Bar and Industry that will be used as a detour for motorists. The three-legged interchange will include a westbound on-ramp and eastbound off and on-ramps. Freeway ramp work is scheduled to be completed in the fall. This was a betterment requested by the Cities of Diamond Bar and Industry. The Lemon Avenue project, once complete, will be the first major construction project funded under the Measure M program. This is not only a major achievement for all parties involved - ACE, Caltrans, Diamond Bar and City of Industry, but is the first major highway project undertaken by the ACE Construction Authority. Subsequent completion of the grade separation is anticipated in summer 2020.

Temple Avenue: This project consists of the diversion of the Union Pacific Railroad's (UPRR) Alhambra subdivision to join the UPRR Los Angeles subdivision in Pomona to eliminate grade crossings at both Pomona Boulevard and Temple Avenue. The diversion required a track across Cal Poly Pomona agricultural property and the addition of 2½ miles of third track along the Los Angeles subdivision and the modification of a storm drain box. This work will be completed this summer followed by UPRR completing rail installations and signal modifications. Thereafter rail operations along these lines will

begin, thus abandoning the portion of the Alhambra Subdivision from west of Temple Avenue to Hamilton Boulevard.

Montebello Corridor: The Montebello Corridor Grade Separation Project calls for constructing a roadway underpass, sidewalks, bike lanes and railroad bridge at the railroad crossing on Montebello Boulevard. Safety improvements will include quad crossing gates at the crossings on Maple, Greenwood and Vail Avenues. A pedestrian overcrossing is also planned for the Maple Avenue crossing due to significant numbers of pedestrians and cyclists. The environmental review process is moving forward as ACE staff continues to coordinate with the City and other stakeholders during the preliminary design phase. The project is expected to begin construction in early 2020.

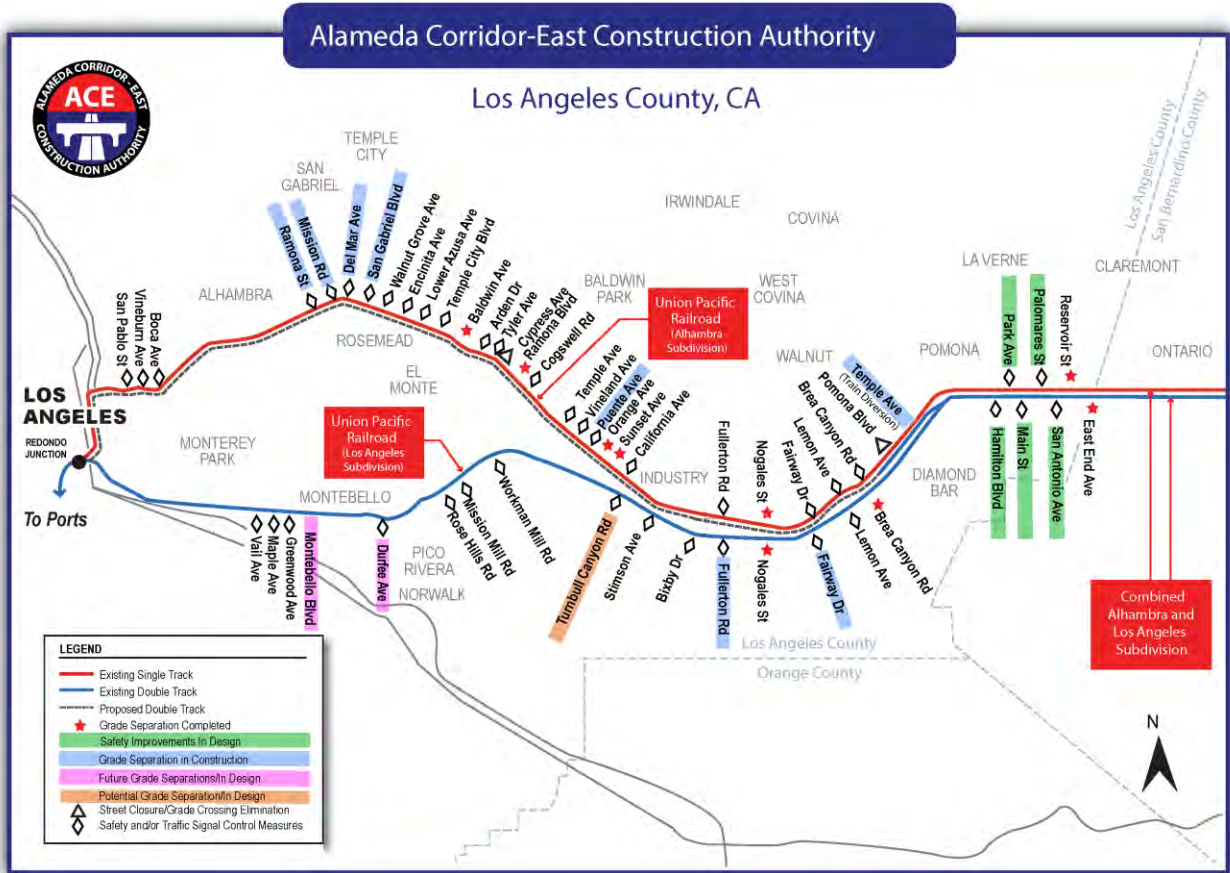
Durfee Avenue Grade Separation: Final design work and property acquisition is taking place on the Durfee Avenue Grade separation project. This project will lower Durfee Avenue between Beverly Road and Whittier Boulevard in the City of Pico Rivera and construct a new railroad bridge for freight and Metrolink passenger trains. Staff is addressing design revisions requested by project stakeholders and finalizing right-of-way acquisitions and utility coordination issues. Bids for construction of the underpass are scheduled to be solicited this fall with groundbreaking slated for early 2018.

At-Grade Safety Improvements: The proposed crossing safety improvement project in Pomona includes features such as pedestrian channelization, roadway modifications, updated signage and striping and traffic signal improvements at five at-grade railroad crossings near the downtown area at Hamilton Boulevard, Park Avenue, Main Street, Palomares Street and San Antonio Avenue. The project will address safety issues at the crossings, where five fatalities of pedestrians and a cyclist have been recorded at four of the crossings over the last 10 years, with one motorist injured when a vehicle was stuck on the tracks at the fifth crossing. Project design plans have reached the 35 percent preliminary engineering stage and ACE staff continues to coordinate with stakeholders, utilities and other agencies. The current schedule calls for construction to start in summer 2019.

Turnbull Canyon Road Grade Separation: Plans for a grade separation project on Turnbull Canyon Road in the City of Industry and unincorporated community of Hacienda Heights are moving on to the preliminary design phase. The City of Industry Council voted last year to approve construction of a two-lane overpass structure. The overpass concept was recommended due to potential property impacts, utility conflicts, groundwater concerns, coordination with Union Pacific Railroad and estimated project costs for an underpass. Preliminary design and engineering is anticipated to be completed by early 2018.

PROJECT MAP

The ACE project area map depicts completed projects to date and updated activities for the projects in construction and in design.



Alameda Corridor-East Project Area

Project Construction Photos



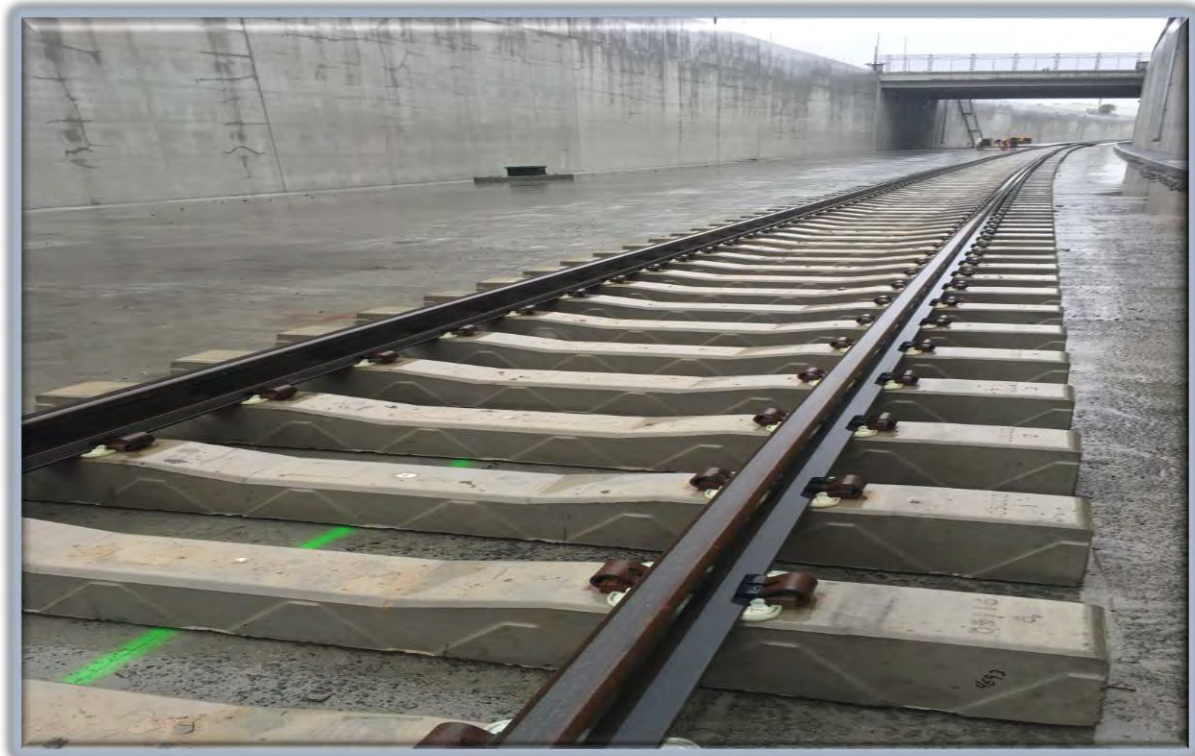
PUMP STATION EXCAVATION – FULLERTON ROAD GRADE SEPARATION PROJECT – CITY OF INDUSTRY



CAST IN DRILL HOLE PILE DRIVING – PUENTE AVENUE GRADE SEPARATION PROJECT – CITY OF INDUSTRY



LAYING TRAIN TRACK – SAN GABRIEL TRENCH PROJECT – CITY OF SAN GABRIEL





STORM DRAIN INSTALLATION- LEMON AVENUE/60FWY BETTERMENT – CITIES OF DIAMOND BAR & INDUSTRY



AGGREGATE PIER INSTALLATION - FAIRWAY DRIVE GRADE SEPARATION PROJECT – CITY OF INDUSTRY

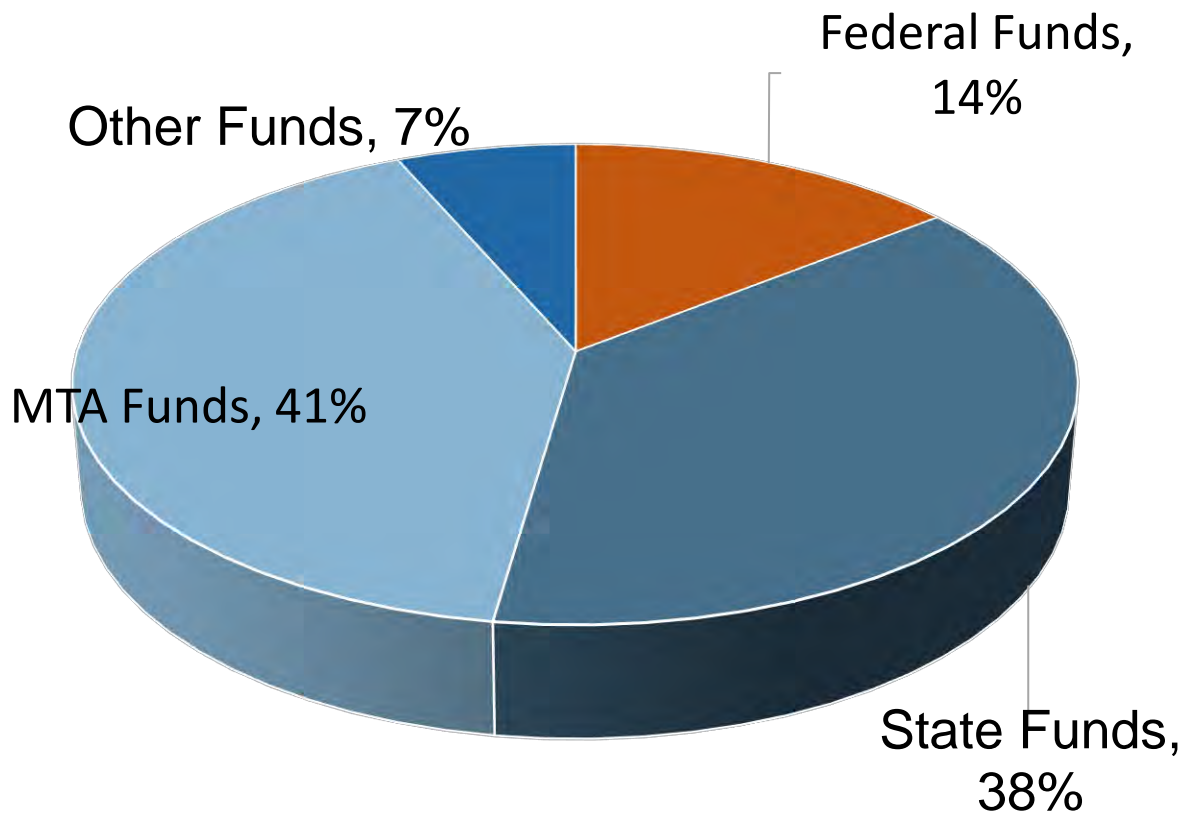
Project Cost Estimates

The current cost estimate for all completed and currently active projects as well as proposed future projects is as follows:

PROJECT	COST <i>(in millions)</i>
<u>Completed Projects</u>	
Safety Crossings/IRRIS	\$ 34.141
Nogales Street (Alh) (West Covina/Industry)	49.798
East End Avenue/Reservoir Street (Pomona)	79.000
Brea Canyon Road (Diamond Bar/Industry)	73.903
Ramona Boulevard (El Monte)	53.091
Sunset Avenue (Industry)	93.862
Baldwin Avenue (El Monte)	70.365
Nogales Street (LA sub) Industry/Unincorporated LA Co.)	121.088
<u>Active Projects</u>	
San Gabriel Trench (San Gabriel)	312.758
Puente Avenue (Industry)	97.377
Fairway Drive (Industry)	158.357
Fullerton Road (Industry)	152.384
Temple Avenue Train Diversion (Pomona)	98.165
Durfee Avenue (Pico Rivera)	91.143
At-Grade Improvements (Pomona)	22.916
Montebello Corridor (Montebello)	160.045
Turnbull Canyon Road (Industry/Unincorporated LA) (design only)	10.106
Total	\$ 1,680.288

FY 2018 Funding Status

The total funding sources and commitments to the ACE program since its inception is \$1,698,837. Matching these funding commitments against the projects expenditures of \$1.680 billion plus \$11.9 million in startup and administrative costs shows that the ACE program currently has \$6.6 million in funding available for the one remaining project in the adopted ACE program that is not fully funded (Turnbull Canyon Road grade separation). Design of this project was initiated this fiscal year however whether this project moves into right of way acquisition or construction activities will be dependent upon ACE securing additional grant funding.



Committed Funding & Sources

(\$ in millions)

FEDERAL	
Federal TEA-21 Highway Demonstration Earmark (FY 1999-2003)	\$132.557
FY 2001 FHWA Highway Fund Transportation Appropriation	1.497
FY 2000 FHWA Discretionary Sec. 1118(c) Trade Corridor Funds	1.240
FY 2001 FHWA Discretionary Sec. 1118(c) Trade Corridor Funds	2.397
FY 2002 FHWA Highway Fund Transportation Appropriation	3.884
FY 2003 FHWA Highway Fund Transportation Appropriation	1.485
FY 2004 FHWA Highway Fund Transportation Appropriation	1.881
FY 2006 FHWA Highway Fund Transportation Appropriation	4.158
FY 2009 Surface Transportation Program	0.570
FY 2010 Surface Transportation Program	0.500
AAA FY 2010	1.349
Federal SAFETEA-LU (FY 2005-2009)	67.346
FY 2009 FRA Grade Crossing Program	2.544
PUC (Section 130)	10.000
Intermodal Surface Transportation Efficiency Act Funds	6.936
Congestion Mitigation and Air Quality Improvement Funds	6.347
Total Federal Funding: \$244.691	
STATE	
1998 State ITIP Discretionary Funds (FY 2000- 2004)	\$38.982
State Transportation Congestion Relief Program Funds	130.300
Section 190 PUC Funds	10.000
Prop. 1B Trade Corridor Improvement Funds	420.497
Prop. 1B Highway-Rail Crossing Safety Account	43.906
Total State Funding: \$643.685	
MTA	
MTA 17% Local Match Commitment	\$259.891
MTA Call for Projects Funding (2007)	28.849
MTA Measure R*	400.000
Total MTA Funding: \$698.719	
OTHER	
City/County/MWD Funds	\$12.122
Railroad contribution to active projects	40.552
Betterments	26.274
Property Sales	3.224
Total Other Funding: \$111.172	

Total Funds Committed \$1,698.837

Less Project and Start Up Costs (1,692.215)

Remaining Funds Available **\$6.622**

FY 2017 Budget Status

The Board of Directors adopted the Fiscal Year 2017 budget in June 2016.

As in the past, ACE's adopted 2017 budget was broken down into two categories - indirect project expense and direct project expense.

Indirect Project Expense

Indirect expenses (such as salaries, rent, office supplies, etc.) that cannot easily be charged to specific project activities are billed to grants based on an annual indirect rate plan approved by Caltrans. The FY 2017 rate was approved by Caltrans and included adjustments for over or under spending in prior years. ACE anticipates indirect expenses for FY 2017 will be \$21,000 under the budgeted amount of \$4.025 million (approximately 0.5%). For FY 2017 ACE will collect all of the indirect costs.

Direct Project Expense

Direct expenses are those that can be readily associated with specific projects such as staff or program management time, engineering or construction management contracts, property acquisition, construction, and miscellaneous support costs. For FY 2017 direct costs will be \$40.932 million below the budgeted amount of \$129.381 million (30%). These projected under expenditures, unfortunately, are not project savings, but rather expected expenditures that did not occur this year and will most likely happen in FY 2018. Delayed expenditures are primarily a result of construction activities not progressing as we anticipated. Some were weather related, others third party, and some were simply unavoidable circumstances during construction. These delays result in lower monthly billings from ACE's contractors. These funds will be carried over and re-budgeted in the proposed FY 2018 budget

FY 2017 Budget vs. Estimated Actual

(\$ in thousands)

Expenditures	Year End Estimate	FY 2017 Budget	Under/ (Over)
Indirect			
Personnel			
Salaries and Wages	\$ 1,555	\$ 1,536	\$ (19)
Fringe Benefits	1,361	1,349	(12)
Board/Employee Expense			
Auto/Travel	24	28	4
Training/Memberships	30	38	8
Board Expense	17	21	4
Professional Services			
Auditing/Accounting	44	42	(2)
Community Outreach Program	5	-	(5)
Legal-Agency Support	25	25	-
Program Management	17	17	-
State/Federal Advisory Services	242	256	14
Risk Management	52	65	13
Insurance	230	230	-
Equipment Expense	99	113	14
Office Expense	244	244	-
Office Operations	51	53	2
Other	8	8	-
Total Indirect	4,004	4,025	21
Direct			
Salaries and Wages	1,343	1,417	74
Fringe Benefits	538	568	30
Auto Allowance Allocated to Projects	19	23	4
Program Management	3,174	3,557	383
Legal	1,291	2,904	1,613
Design	4,117	7,956	3,839
ROW Acquisition	3,577	13,498	9,921
Utility Relocation	2,402	1,169	(1,233)
Construction Mgt	9,833	10,708	875
Railroad	8,248	4,040	(4,208)
Construction	53,192	82,771	29,579
UPRR Invoice Review	8	70	62
Third Party Review	671	700	29
Utilities (Site)	35	-	(35)
Advertising	1	-	(1)
Total Direct	88,449	129,381	40,932
Total Expenditures	\$ 92,453	\$ 133,406	\$ 40,953

FY 2017 Goals Status

Within each annual budget, goals are established based on best estimates at the time of budget preparation. The following represents how ACE met or expects to meet each goal in the areas of project implementation, funding/ finance and outreach by June 30, 2017.

Project Implementation

PROJECT	GOAL	STATUS
At-Grade Safety Improvements	Design at 35% & completion of environmental clearance	Will meet this goal
Durfee Avenue Grade Separation	100% design complete/advertise for construction	Expect design to be complete in October; advertise for construction in November
Fairway Drive Grade Separation	Construction 40% complete	Anticipate 35% completion
Fullerton Road Grade Separation	Construction 20% complete	Anticipate 12% completion
Montebello Corridor	Design 35% complete & completion of environmental clearance	Will meet this goal
Puente Avenue Grade Separation	Construction 70% complete	Will meet this goal
San Gabriel Trench	Construction 90% complete	Will meet this goal
Temple Avenue Train Diversion	Complete project	Project expected to be complete in September 2017
Turnbull Canyon Grade Separation	Design 25% complete	Will not meet this goal. Expect design at 35% by the end of calendar year 2017

Funding/Financial Administration

GOAL	STATUS
Ensure ACE's interests are represented in Federal National Freight Programs	Accomplished. Grade separations are eligible for new Federal freight funding programs; construction authorities are eligible grant applicants.
Pursue additional funding for remaining grade separation project or potential shortfall on existing projects	Accomplished. \$35M state bond funding reallocated from Baldwin to Fullerton. Two Federal freight grant fund applications submitted/under consideration.
Timely completion of "clean" financial and single audits	Accomplished.
Maintain at least 25% of borrowed funds invested	Accomplished.
Complete 18 professional services contract audits	Expect 17 audits to be complete.
Complete four quality control/quality assurance audits	Exceeded. Expect to complete five.

Community Outreach

GOAL	STATUS
Conduct dedication ceremonies for the San Gabriel Trench and potentially the Temple Avenue project	The San Gabriel Trench opening ceremony is expected to be held in FY '18.
Conduct community open house/public meetings for the Montebello Corridor, Turnbull Canyon and At-Grade Safety Improvement projects	Outreach meetings for all three projects will be held in FY '18.
Conduct environmental, community and school outreach effort for five projects in construction (San Gabriel Trench, Puente Ave., Fairway Dr., Fullerton Rd., and Durfee Ave)	Extensive outreach efforts continued for four projects in construction (San Gabriel Trench, Puente, Fairway and Fullerton). Early construction outreach activities held for Durfee Ave project.
Conduct groundbreaking ceremonies for the Fullerton Road and Durfee Avenue Projects	Groundbreaking held for Fullerton; Durfee Ave project groundbreaking will be held in FY '18



FULLERTON ROAD GRADE SEPARATION PROJECT GROUNDBREAKING CEREMONY – CITY OF INDUSTRY



FY 2018 Proposed Budget

ACE has developed and implemented budgeting, accounting and project control systems that meet generally accepted accounting standards with the goal of delivering a project that accomplishes its intended purposes as expeditious and cost effective as possible. The budget for FY 2018 (July 1, 2017 through June 30, 2018) was developed in two parts: anticipated project related direct expenses and general indirect expenses.

Indirect Budget

The proposed FY 2018 indirect expense budget was developed by line item, based on past expenditures and anticipated cost changes such as liability insurance, rent, utility costs, salaries, CalPERS, legal support, office supplies, and IT support. The ratio of all indirect costs to anticipated direct labor and fringe benefit cost is used to calculate the Indirect Cost Allocation Plan (ICAP) which is submitted to Caltrans for approval, and becomes the basis for billing indirect costs in FY 2018.

Direct Budget

The proposed FY 2018 direct expense budget assumes six projects in construction and three projects in design as well as ongoing land acquisition activities. For the active construction projects (San Gabriel Trench, Fairway, Puente, Temple, Durfee and Fullerton) staff used the approved construction schedules to determine the rate of construction and determine the anticipated contractor expenditures. For the three projects in design (At-grade safety improvements, Montebello and Turnbull Canyon) staff included in the project budget the final design as well as the current estimated cost of land acquisition if applicable to the project. It should be noted that the pace and cost of land acquisition is the most speculative part of the budget estimates and may change if cost settlements require court action.

FY 2018 PROPOSED BUDGET

(\$ in thousands)

Expenditures	FY 2018 Proposed
Indirect	
Personnel	
Salaries and Wages	\$ 1,547
Fringe Benefits	1,334
Board/Employee Expense	
Auto/Travel	24
Training/Memberships	34
Board Expense	17
Professional Services	
Auditing/Accounting	42
Community Outreach Program	5
Legal-Agency Support	25
Program Management	18
State/Federal Advisory Services	242
Risk Management	52
Insurance	250
Equipment Expense	174
Office Expense	251
Office Operations	51
Other	7
Total Indirect	4,073
Direct	
Salaries and Wages	\$ 1,485
Fringe Benefits	573
Auto Allowance Allocated to Projects	27
Program Management	3,895
Legal	1,590
Design	8,556
ROW Acquisition	3,835
Utility Relocation	3,866
Construction Mgt	9,187
Railroad	8,760
Construction	101,250
UPRR Invoice Review	29
Third Party Review	832
Utilities (Site)	30
Advertising	13
Total Direct	143,928
Total Expenditures	\$ 148,001

FY 2018 DIRECT COSTS BY PROJECT

(\$ in thousands)

Expenditures	FY 2018		SG Trench	Puente		Fairway		Durfee	Montebello	Turnbull	AT-Grade	Nogales
	Proposed	Temple		Avenue	Drive	Fullerton	Corridor		Canyon	Crossing	(LA)	
Direct												
Salaries and Wages	\$ 1,485	\$ 62	\$ 201	\$ 197	\$ 258	\$ 246	\$ 177	\$ 136	\$ 99	\$ 68	\$ 40	
Fringe Benefits	573	24	78	76	100	95	68	53	38	26	15	
Auto Allowance Allocated to Projects	27	1	5	4	7	4	3	1	1	1	1	
Program Management	3,895	1	160	24	826	490	959	1,152	-	23	260	
Legal	1,590	-	60	-	305	280	613	260	-	10	62	
Design	8,556	10	88	25	265	250	700	4,000	1,588	1,630	-	
ROW Acquisition	3,835	-	5	-	(700)	2,500	830	-	-	-	1,200	
Utility Relocation	3,866	-	4	2	860	1,000	2,000	-	-	-	-	
Construction Mgt	9,187	210	2,012	1,400	1,800	2,400	1,275	-	-	-	90	
Railroad	8,760	100	2,700	2,500	1,500	350	1,520	50	20	20	-	
Construction	101,250	450	17,500	16,800	40,500	18,000	8,000	-	-	-	-	
UPRR Invoice Review	29	-	4	-	-	25	-	-	-	-	-	
Third Party Review	832	2	100	25	120	200	125	200	10	35	15	
Utilities (Site)	30	-	-	-	-	-	25	-	-	-	5	
Advertising	13	-	-	2	-	-	8	3	-	-	-	
Total Direct	\$ 143,928	\$ 860	\$ 22,916	\$ 21,055	\$ 45,840	\$ 25,840	\$ 16,304	\$ 5,855	\$ 1,757	\$ 1,814	\$ 1,688	

FY 2018 Proposed Revenue & Expenditure Budget

(\$ in thousands)

	FY 2018 Proposed
Expenditures	
Revenues	
Federal	\$ 2,766
State	71,430
Local	50,417
Betterment/Other	<u>23,388</u>
Total Revenue	<u>148,001</u>
Operating Expenditures	
Direct	
Design	8,921
ROW Acquisition	11,814
Construction	88,900
Construction Mgt	12,408
Betterment	9,220
Lemon Ave Betterment	<u>12,665</u>
Total Direct	<u>143,928</u>
Indirect	
Personnel	2,881
Board/Employee Expense	75
Professional Services	384
Insurance	250
Equipment Expense	174
Office Expense	251
Office Operations	51
Other	<u>7</u>
Total Indirect	<u>4,073</u>
Total Operating Expenditures	<u>148,001</u>
Excess of Revenue over Expenditures before Financing	-
Financing Income	
Investment Revenue	775
Financing Expense	<u>(697)</u>
Net Financing Income/Expense	<u>79</u>
Excess of Revenues over Expenditures	79
Net position at FY 2016 year's end	<u>\$ 14,539</u>
Estimated net position at FY 2018 year's end	<u><u>\$ 14,618</u></u>

FY 2017/18 Expenditure Comparison

The following addresses significant line item changes proposed for FY 2018 compared to the FY 2017 budgeted (greater than 10%). The total anticipated expenditures in FY 2018 will be up from what was budgeted in FY 2017 as construction expenses (our largest budget item) is increased to reflect the extensive construction activity anticipated.

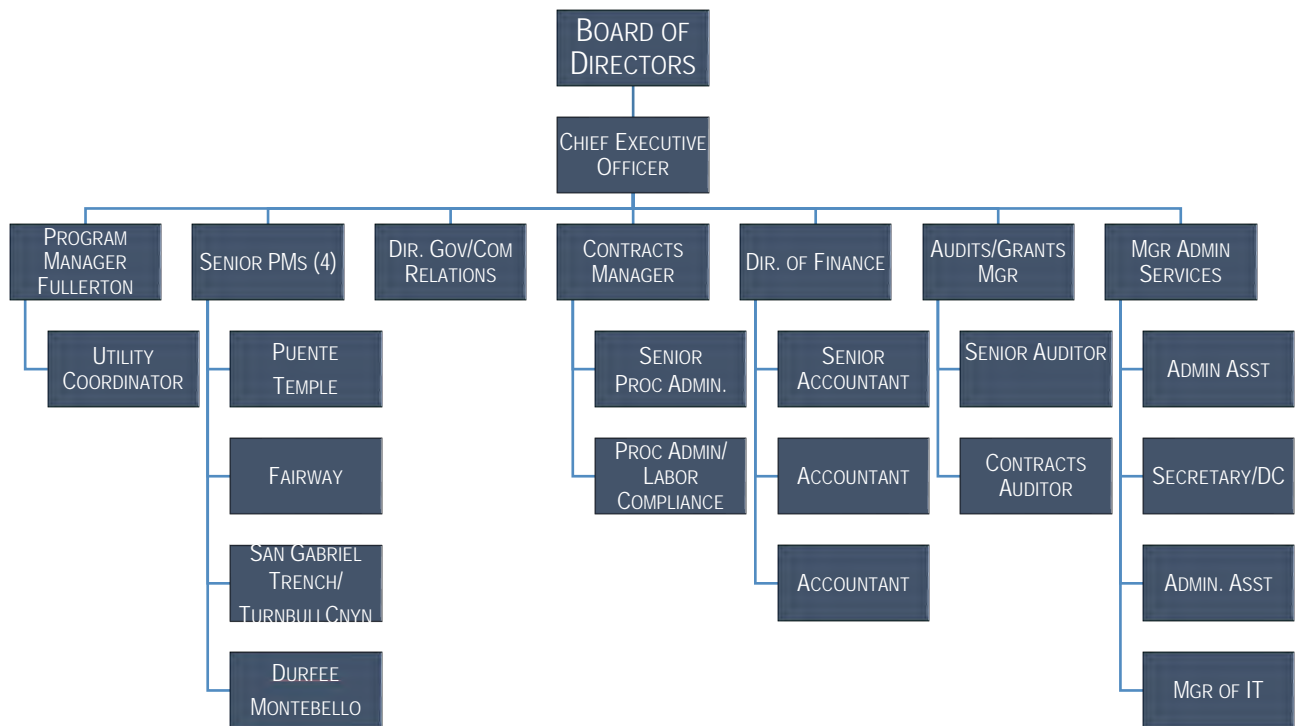
Indirect Expenditures

Insurance (\$20,000 increase) – This reflects the premium for the prepaid excess liability insurance required when we begin construction on a project. The increase this fiscal year reflects purchase of insurance for the Durfee Avenue grade separation project.

Office Equipment (\$61,000 increase) – ACE will purchase audit software to implement electronic audit work papers. ACE is one of the few agencies that still creates paper-based audit work papers. During peer reviews, utilization of electronic audit software was recommended by participating agencies. The implementation of electronic work papers will improve effectiveness and efficiency. We are also including funds for new office work station cubicles. The ACE office lease expires in May 2018 and we are planning to renegotiate our lease and return the office cubicles that belong to the building owner, cubicles that date back to the 1970s and need replacement. We will upgrade work stations to provide an ergonomically friendly work environment.

Personnel: Salary & Wages/Fringe Benefits - The FY 2018 proposed budget assumes no staffing level change. We foresee the organization maintaining the 24 full time positions and one part time position approved by the Board. We have included reclassification of accounting titles for two positions after re-examination of current responsibilities; however the range for the position did not change. The budget does provide for a 3% merit pool to be allocated based on performance evaluations. There is no CPI or fixed percentage salary adjustments included in the budget.

Organizational Chart



Direct Expenditures

Legal (\$1.3M decrease) - Legal costs are normally increased during periods of increased property acquisition activities. Property acquisition activities are expected to decrease during this fiscal year thereby reducing this line item.

Right of Way Acquisition (\$9.663M decrease) - Early acquisitions for properties at Montebello and Durfee during fiscal year 2017 contributed to this decrease. Overall the stage of the project drives this cost category and right of way activities are expected down this fiscal year due to the phase of each project.

Utility Relocations (\$2.697M increase) - With construction in full force at some projects, and early construction activities anticipated at Durfee, utility relocation costs are expected to slightly increase.

Construction (\$18.479 million increase) - Significant construction billing is anticipated on the Puente Avenue, Fullerton Road and Fairway Drive projects as they start constructing major retaining walls and bridge structures.

Railroad (\$4.720 million increase) - Union Pacific Railroad billings are expected to be higher in FY 2018 as mainline construction will be active on the San Gabriel Trench, Temple Avenue, and Puente Avenue projects.

The pace of active projects is the major factor in the annual budget projection. For FY 2018 we have made the following assumptions about the projects having the biggest impact on our spending estimates:

- San Gabriel Trench (San Gabriel) - Construction 100% complete.
- Puente Avenue (Industry) - Construction 80% complete.
- Fairway Drive (Industry/LA County) - Construction 50% complete.
- Durfee Avenue (Pico Rivera) - Construction begins.
- Fullerton Road (Industry) - Construction 35% complete.
- At-Grade Safety Improvements (Pomona) - Design 80% complete.
- Montebello Corridor (Montebello) - Design 60% complete.
- Turnbull Canyon Road - Design 50% complete

FY 2017 Budget vs. FY 2018 Proposed

(\$ in thousands)

Expenditures	FY 2017 Approved	FY 2018 Proposed	Incr/ (Decr)
Indirect			
Personnel			
Salaries and Wages	\$ 1,536	\$ 1,547	\$ 11
Fringe Benefits	1,349	1,334	(15)
Board/Employee Expense			
Auto/Travel	28	24	(4)
Training/Memberships	38	34	(4)
Board Expense	21	17	(4)
Professional Services			
Auditing/Accounting	42	42	-
Community Outreach Program	-	5	5
Legal-Agency Support	25	25	-
Program Management	17	18	1
State/Federal Advisory Services	256	242	(14)
Risk Management	65	52	(13)
Insurance	230	250	20
Equipment Expense	113	174	61
Office Expense	244	251	7
Office Operations	53	51	(2)
Other	8	7	(1)
Total Indirect	4,025	4,073	48
Direct			
Salaries and Wages	1,417	1,485	68
Fringe Benefits	568	573	5
Auto Allowance Allocated to Projects	23	27	4
Program Management	3,557	3,895	338
Legal	2,904	1,590	(1,314)
Design	7,956	8,556	600
ROW Acquisition	13,498	3,835	(9,663)
Utility Relocation	1,169	3,866	2,697
Construction Mgt	10,708	9,187	(1,521)
Railroad	4,040	8,760	4,720
Construction	82,771	101,250	18,479
UPRR Invoice Review	70	29	(41)
Third Party Review	700	832	132
Utilities (Site)	-	30	30
Advertising	-	13	13
Total Direct	129,381	143,928	14,547
Total Expenditures	\$ 133,406	\$ 148,001	\$ 14,595

FY 2017 Estimated Actuals vs. FY 2018 Proposed

(\$ in thousands)

Expenditures	FY 2017 Estimate	FY 2018 Proposed	Incr/ (Decr)
Indirect			
Personnel			
Salaries and Wages	\$ 1,555	\$ 1,547	\$ (8)
Fringe Benefits	1,361	1,334	(27)
Board/Employee Expense			
Auto/Travel	24	24	-
Training/Memberships	30	34	4
Board Expense	17	17	-
Professional Services			
Auditing/Accounting	44	42	(2)
Community Outreach Program	5	5	-
Legal-Agency Support	25	25	-
Program Management	17	18	1
State/Federal Advisory Services	242	242	-
Risk Management	52	52	-
Insurance	230	250	20
Equipment Expense	99	174	75
Office Expense	244	251	7
Office Operations	51	51	-
Other	8	7	(1)
Total Indirect	<u>4,004</u>	<u>4,073</u>	<u>69</u>
Direct			
Salaries and Wages	1,343	1,485	142
Fringe Benefits	538	573	35
Auto Allowance Allocated to Projects	19	27	8
Program Management	3,174	3,895	721
Legal	1,291	1,590	299
Design	4,117	8,556	4,439
ROW Acquisition	3,577	3,835	258
Utility Relocation	2,402	3,866	1,464
Construction Mgt	9,833	9,187	(646)
Railroad	8,248	8,760	512
Construction	53,192	101,250	48,058
UPRR Invoice Review	8	29	21
Third Party Review	671	832	161
Utilities (Site)	35	30	(5)
Advertising	1	13	12
Total Direct	<u>88,449</u>	<u>143,928</u>	<u>55,479</u>
Total Expenditures	<u>\$ 92,453</u>	<u>\$ 148,001</u>	<u>\$ 55,548</u>

FY 2018 Project Goals

Staff proposes to accomplish the following by June 30, 2018 (unless otherwise noted):

Project Implementation

PROJECT	GOAL
At-Grade Safety Improvements	Design 80% complete
Durfee Avenue	Construction begins
Fairway Drive	50% complete/Lemon Ave complete
Fullerton Road	35% complete
Montebello Corridor	35% design complete, begin right of way activity and final design
Puente Avenue	Complete project by July 2018
San Gabriel Trench	100% complete
Temple Avenue	Complete September 2017
Turnbull Canyon	Design 35% complete

Funding/Financial Administration

GOAL
Ensure ACE's interests are represented in Senate Bill 1 grant programs
Pursue additional funding for remaining grade separation project or potential shortfall on existing projects
Timely completion of "clean" financial and single audits
Maintain at least 25% of borrowed funds invested
Complete 16 professional services contract audits
Complete five quality control/quality assurance audits (All active construction projects)

Community Outreach

GOAL
Conduct environmental, community and school outreach effort for five projects in construction (San Gabriel Trench, Puente Avenue, Fairway Drive, and Fullerton Road and Durfee Avenue).
Conduct community open house/ public meetings for the Montebello Corridor, Turnbull Canyon and At-Grade Safety Improvements projects.
Conduct groundbreaking ceremony for Durfee Avenue project.
Conduct dedication ceremony for Temple Avenue project.
Plan dedication ceremony for Puente Avenue project.
Plan dedication ceremony for San Gabriel Trench project.

Project Financing

ACE will continue to utilize the funds from a \$45 million working capital loan from the Los Angeles County Metropolitan Transportation Authority (Metro) to maintain cash flows and bridge the timing gap between project expenditures and reimbursements from our granting agencies. Based on the projected cash flow, ACE will be able to fund the interest expenses on the working capital loan from the proceeds of ACE's short term investments. Investments continue to generate interest income in excess of interest expense.

Because the ACE Construction Authority continues to have no meaningful sources of revenue other than grants and contributions from funding agencies, ACE staff continues to make every effort to ensure that all other expenditures are reimbursable by federal, state or local grants. We use this Budget submittal to annually advise the Board of the cumulative exposure of unreimbursed costs the Authority is incurring. As of this date, we have incurred the following unreimbursed or unreimbursable expenses, dating back to the beginning of the ACE Construction Authority:

FY 1998	\$ 71,185	Expenses incurred by SGVCOG prior to 6/30/98 not reimbursed by MTA
FY 2000	11,298	Net interest cost of loan from City of Industry
FY 2001	2,738	Net interest cost of loan from City of Industry
FY 2006	105,529	Payment to SGVCOG for claimed unreimbursed expenses
	\$ 190,750	Estimated total - project-life-to-date

Based on experience to date, we expect the cumulative surpluses from railroad contributions will be sufficient to pay for our cumulative unreimbursed expense.

Budget Review and Approval

The proposed budget will be presented to San Gabriel Valley Council of Governments City Manager Steering Committee on June 7, 2017 and to the ACE Board and to the public for consideration at the June 5, 2017 ACE Board Special meeting. Any changes will be incorporated into the approved budget and submitted to the San Gabriel Valley Council of Governments (SGVCOG) for consideration at their June 15, 2017 meeting.

Upon adoption of the FY 2018 budget, staff will continue to provide both the ACE and SGVCOG Governing Board with project status and budget updates on a quarterly basis. ACE's Finance Committee will also be provided a comprehensive discussion of the financial state of the ACE Program at its quarterly meetings.

The FY 2018 budget does not request Board approval for new contracts amendments to existing consultant support contracts. Each consultant support contract authorization will be brought to the Board for necessary action after adoption of the FY 2018 budget

Budget Glossary

INDIRECT EXPENSES

Personnel

- Salaries and Wages: Salaries for employees (charged both as indirect and direct expenses).
- Fringe Benefits: Employee benefits such as health insurance, life insurance and pension.

Board/Employee Expenses

- Auto/Travel: Employee travel for business purposes. Includes registration fees and local mileage reimbursement or auto allowance.
- Training/Memberships: Authority and professional memberships; ongoing professional training.
- Board Related Expenses: Per Diem, stipend and Board travel.

Professional Services

- Auditing/Accounting: Financial auditing and accounting services.
- Legal - Agency Support: General Counsel, construction legal and any other legal services not directly chargeable to specific construction projects.
- Program Management: Contracted project administration support which cannot be charged to specific projects. Consists primarily of special studies, community relations, and those activities of our support contractors which address general agency needs.
- State/Federal Advisory Services: State & Federal legislation research, monitoring and funding application services.
- Risk Management: Administrative fee for analyzing insurance requirements, reviewing ACE and contractor policies and obtaining insurance.
- Insurance: Annual insurance premiums
- Equipment Expense: Purchase/lease and maintenance of office equipment such as copiers, printers and computers.
- Office Expense: Rent on ACE office space, including maintenance and miscellaneous expense.
- Office Operations: Office supplies, postage, printing/copying and telephones.

- Other: General advertising, subscriptions, payroll service fees, etc.

DIRECT EXPENSES

- Betterments: City funded work that City desires to have ACE construct concurrently with project (e.g. street modifications, beautifications)
- Program Management: The portion of overall program management expenses which can be directly charged to projects; consists primarily of design and utility relocation support, land acquisition related services and office support.
- Legal: Legal expenses which can be directly charged to specific projects for land acquisition activities.
- Design: Preparation of project plans, specifications and estimates and support during construction.
- Right of Way Acquisition: Property acquisition costs, closing costs, appraisals, surveys, miscellaneous acquisition support costs.
- Utility Relocation: Costs of relocating utilities, including design.
- Construction Management: Field oversight of construction.
- Railroad: Railroad (UPRR and Metro link) charges to projects for project support, design, procurement and construction.
- Construction: Payment to construction contractors.
- Third Party Review: Payment to outside agencies (e.g., UPRR, Cities, LA County) for their costs to review and approve project designs and submittals.
- UPRR Invoice Review: Use of an outside contractor to review UPRR billings for errors, mischarges, questionable costs, etc.
- Advertising: Cost of advertising construction contracts.
- Utilities (Site): Cost of utilities service to construction sites.

DATE: June 15, 2017

TO: SGVCOG Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **LA COUNTY COMMERCIAL PACE**

RECOMMENDED ACTION

Upon review by General Counsel, authorize the Executive Director to execute the commercial PACE MOU with Los Angeles County.

BACKGROUND

The Los Angeles County PACE Program is a financing system designed to facilitate and fund adoption of energy efficiency, water efficiency, and renewable energy building upgrades. PACE funds up to 100% of the installed cost through low interest loans that are designed to be repaid as a portion of the property owner's tax bill. Adopted in 2008, Assembly Bill 811 enabled cities and counties to establish PACE financing for commercial offices, apartment buildings of five or more units, schools and nonprofits, industrial facilities, hotels, and retail/restaurant uses. More than 99 percent of the cities within Los Angeles County have adopted PACE resolutions to participate in PACE.

Eligible building upgrades through PACE include high efficiency lighting, HVAC equipment, cooling towers, high performance windows, fuel cells, solar thermal/PV, high efficiency plumbing fixtures, and smart irrigation systems. Criteria for PACE eligibility requires that all upgrades must be permanently affixed to the building and demonstrate proven energy/water efficiency qualities or the ability to generate clean power. Repayment of PACE loans is determined by California law and typically requires a biannual interest payment and an annual payment toward the principal of the loan amount.

The benefits of financing through the PACE program include the opportunity for building owners to spread the cost of upgrades over a longer period of time, increase property value and rent potential, and reduce financial risk through low interest rates and the unique structuring of the PACE loan system.

PACE MOU


The SGVCOG and Los Angeles County entered negotiations to initiate a joint Memorandum of Understanding (MOU) to promote Commercial PACE in the San Gabriel Valley. See attachment A for the draft MOU agreement. The MOU outlines 3 major task including:

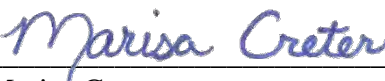
- Administration: Invoicing, reporting and monthly meetings.
- Marketing and Outreach: Creating marketing materials for dissemination to businesses, conducting prescheduled face-to-face on site meetings with targeted businesses, and coordinating informational workshops with property owners.

REPORT

- Technical Assistance: Assisting property owners with PACE financing applications, coordinating energy audits, conducting cost-benefit analyses and obtaining approval from existing mortgage lenders.

On June 20th, the Los Angeles County Board of Supervisors will approve this agreement. The SGVCOG plans to work with the San Gabriel Valley Economic Partnership (SGVEP) to implement the 3 outlined tasks. A separate agreement between the SGVCOG and SGVEP will be presented at the July Governing Board Meeting.

Prepared by: 
Katie Ward
Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

Attachment A – Draft LA County MOU

Memorandum of Understanding

COMMERCIAL PROPERTY ASSESSED CLEAN ENERGY FINANCING (PACE) MEMORANDUM OF UNDERSTANDING BETWEEN THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS AND THE COUNTY OF LOS ANGELES

This Memorandum of Understanding (MOU) is entered into by and between the San Gabriel Valley Council of Governments (SGVCOG) and the County of Los Angeles (COUNTY).

WHEREAS, the SGVCOG was established to have a unified voice to maximize resources and advocate for regional and member interests to improve the quality of life in the San Gabriel Valley by the member cities and other local governmental agencies; and

WHEREAS, the SGVCOG and COUNTY have a mutual desire to promote and expand participation in the County's Commercial PACE program; and

WHEREAS, the SGVCOG and the COUNTY desire to set forth the terms of their collaboration with respect to this effort in this MOU.

NOW, THEREFORE, the Parties agree to the following:

I. General Conditions

- A. The Parties to this MOU are the San Gabriel Valley Council of Governments and the County of Los Angeles.
- B. The term of this MOU shall commence upon execution of the MOU by both parties and shall continue through December 31, 2017. The term may be extended by mutual agreement of both Parties.

II. Responsibilities of each of the Parties

A. COUNTY

1. Provide reimbursement to the SGVCOG for eligible work completed by SGVCOG staff and subcontractors.

B. SGVCOG

1. Submit invoices to the COUNTY for any billable hours by the fifth (5th) calendar day of the month for work completed the prior month, unless otherwise agreed to in writing by the COUNTY. All invoices must be in the format provided by the COUNTY and include the following information: subtask, title/position of staff, hourly rate by staff position, number of hours worked, date of hours worked, and description of work completed. All invoices are subject to review and verification by the COUNTY. Reimbursements will be capped by a not to exceed maximum per deliverable as indicated in Table 1 below.

Subtask	Amount
Task 1: Administration <ul style="list-style-type: none"> • Submit monthly invoices and report on status of tasks. • Conduct monthly meetings with subcontractors. 	\$10,000
Task 2: Marketing and Outreach <ul style="list-style-type: none"> • Create marketing materials for dissemination to businesses, commercial property owners, and cities. • Conduct prescheduled face-to-face on site meetings with targeted businesses, commercial property owners, and city staff in each of its 31 member cities to introduce the Commercial PACE program and provide them information and materials. • Coordinate and conduct informational workshops with property owners, businesses and cities on Commercial PACE. • Disseminate electronic communications with PACE via email, social media, and website. 	\$90,000
Task 3: Technical Assistance <ul style="list-style-type: none"> • Assist property owners with PACE financing applications • Provide assistance with coordinating energy audits • Conduct cost-benefit analyses • Obtain approval from existing mortgage lenders 	\$20,000
<u>Total</u>	\$120,000

Table 1. Maximum Reimbursement by Subtask

2. Maintain official timesheets and other records that support hours billed to the MOU for a five-year period following the completion of the project.
3. Warrants and represents as follows:
 - a. Understands and agrees that for the purposes of the foregoing, any requirements imposed upon COUNTY associated with the funding sources used for this effort are hereby passed-through and adopted as obligations of the SGVCOG to the maximum extent allowable by law;
 - b. Agrees to strictly comply with the scope of any and all authorizations, limitations, exclusions, and/or exceptions for use of funds;
 - c. Shall comply with all applicable Federal, State, and local laws, rules, regulations, ordinances, and directives, now existing and as such may change from time-to-time. Any such laws, rules, regulations, ordinances, and directives required thereby to be included in this MOU are incorporated herein by reference.
4. Notwithstanding any provision to the contrary, whether expressly or by implication, the SGVCOG agrees to indemnify, defend, and hold harmless COUNTY, its elected and appointed officers, employees, and agents from and against any and all liability resulting from the SGVCOG'S negligent and wrongful act(s) and/or omission(s) arising from and/or relating to the MOU and as such would be imposed in the absence of Government Code section 895.2. Without limiting the scope above, such liability includes but is not limited to the following: any funding disallowance; audits; demands; claims; actions; liabilities; damages; fines; fees, costs, and expenses, including attorney, auditor, and/or expert witness fees.

- 5. The SGVCOG understands and agrees that it is solely responsible for any and all incurred amounts found by COUNTY to be ineligible. Immediately upon the request of the COUNTY, the SGVCOG shall return any funds that have been disbursed to the extent that their use has been disallowed.

For the San Gabriel Valley Council of Governments

Signed: _____

Date: _____

For the County of Los Angeles

Signed: _____

Date: _____

DATE: June 15, 2017

TO: Governing Board, San Gabriel Valley Council of Governments

FROM: Phil Hawkey, Executive Director

RE: **ENVIRONMENTAL PROTECTION AGENCY (EPA) WATERS OF THE UNITED STATES (WOTUS) RULEMAKING INFORMAL COMMENT SOLICITATION**

RECOMMENDED ACTION

Authorize the Executive Director to submit comments to the EPA’s informal WOTUS solicitation.

BACKGROUND

The Clean Water Act (CWA) of 1972 gave the Environmental Protection Agency (EPA) and the US Army Corps of Engineers (USACE) (the agencies) jurisdiction over Waters of the United States (WOTUS). Congress enacted the CWA “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”¹ Prior to this, the definition of WOTUS had been limited to waterways that were navigable “in fact” but with the passage of the CWA, that definition began to expand to include non-navigable and non-permanent waterways and tributaries. Since then, the reach and extent of federal jurisdiction has been challenged in court numerous times.

A Supreme Court decision in 2006, *Rapanos v. United States*, attempted to answer where the Federal government can apply the CWA, specifically by determining whether a wetland or tributary is a WOTUS. The justices issued five separate opinions (one plurality, two concurring, and two dissenting), with no single opinion commanding a majority of the Court. When there is no majority opinion, controlling legal principles may be derived from those espoused by five or more justices. Four justices, in a plurality opinion authored by Justice Scalia, rejected the argument that the term WOTUS is limited to only those waters that are navigable in the traditional sense. However, the plurality concluded that the agencies’ regulatory authority should extend only to “relatively permanent, standing or continuously flowing bodies of water” connected to traditional navigable water. Justice Kennedy wrote a concurring opinion arguing that the CWA defines navigable waters as a water or wetland that possesses a “significant nexus” to waters that are navigable in fact. He argued that a nexus exists where the wetland or waterbody, either by itself or in combination with other similar sites, significantly affects the physical, biological, and chemical integrity of the downstream navigable waterway. Thus, the legal principles governing the agencies’ jurisdiction were derived from the plurality opinion plus Justice Kennedy’s concurring opinion.

In 2008, the EPA issued a *Rapanos* interpretation memorandum to provide guidance to the agencies in the application of the plurality opinion and “significant nexus” test. In 2015, the EPA opened a docket in the Federal Registry to formalize the principles of the *Rapanos* case. This resulted in the Clean Water Rule of 2105. Many stakeholders expressed concerns with the Rule and it was immediately challenged in court. A stay was issued causing the agencies to revert back to the use of

¹ 33 U.S.C. 1251(a).

the 2008 *Rapanos* interpretation memorandum for guidance on how to determine jurisdiction over waters. The agencies are now embarking on another effort to provide clarity and predictability regarding the extent of the agencies' jurisdiction over waterways.

PRESIDENTIAL EXECUTIVE ORDER

On February 28, 2017, President Trump signed the “Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.” The E.O. calls on the EPA Administrator and the Assistant Secretary of the Army for Civil Works to review the 2015 Clean Water Rule interpretation of “Waters of the United States” and “publish for notice and comment a proposed rule rescinding or revising the rule....” The E.O. directs that the agencies “shall consider interpreting the term ‘navigable waters’” in a manner “consistent with Justice Scalia’s opinion” in *Rapanos*.

The agencies are implementing the Executive Order in two steps.

1. To provide greater certainty, the agencies will move to formally reinstate the preexisting regulations and guidance and to withdraw the 2015 Clean Water Rule. Under this step, the agencies will define “Waters of the United States” using the regulatory definition in place before the Clean Water Rule. This definition will remain in place until a revised rule with a new definition can be promulgated.
2. The E.O. directs the agencies to consider interpreting the term “navigable waters,” as defined in 33 U.S.C. 1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006). Justice Scalia’s opinion indicates Clean Water Act jurisdiction includes relatively permanent waters, and wetlands with a continuous surface connection to relatively permanent waters.

Presently, the agencies are informally consulting with state and local government officials as they begin to develop the new definition. To this end, they circulated the “Definition of ‘Waters of the United States’” presentation (Attachment A). Later this year there will likely be a formal rescission of the 2015 Clean Water Rule, which will then make effective the 2008 guidance document issued after *Rapanos*. This will initiate the formal rulemaking process. In the meantime, the agencies welcome informal comments. In accordance with the attachment, those comments are due on June 19, 2017.

PROPOSED SGVCOG RESPONSES

The agencies have posed a series of questions for consideration regarding redefining WOTUS. Below are the questions and the proposed responses developed by the SGVCOG Water Policy Committee.

1. How would you like to see the concepts of “relatively permanent” and “continuous surface connection” defined and implemented?
 - “Relatively permanent” and “continuous surface connection” should be defined according to Justice Scalia’s statement in *Rapanos*, without further applying the “significant nexus” test. Scalia stated that relatively permanent waters do not include tributaries “whose flow is ‘coming and going at intervals... broken, fitful.’”² Engineered waterways within the San Gabriel Valley consist of various under-street

² 547 U.S. 715 (2006)

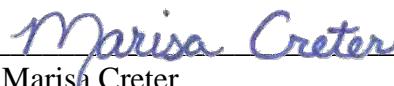
storm drains, open boxed-shaped concrete channels, and trapezoidal concrete rivers. They were designed to capture, contain, divert, and/or rapidly convey urban runoff and stormwater either downstream or into spreading grounds. The entire system is under continuous control of the Los Angeles County Flood Control District and subject to release of upstream water and urban runoff at times set by them and to destinations of their choosing. These engineered channels do have a continuous surface connection to both upstream and downstream navigable waters but the highly engineered nature of the system subjects water flows to the discretion of the Flood Control District. For this reason, the flow is ‘coming and going at intervals... broken, fitful.’”

2. How would you like to see the agencies interpret “consistent with” Scalia?
 - The agencies should interpret Scalia strictly, without applying the “significant nexus” test.
3. Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the Step 2 proposed rule?
 - As the agencies develop the proposed rule they should consider how application of WOTUS jurisdiction to flood control systems impacts the intended use of those systems.
4. What opportunities and challenges exist for your state or locality with taking a Scalia approach?
 - Strictly defining jurisdictional waters according to Scalia, as relatively permanent waters which do not include tributaries “whose flow is ‘coming and going at intervals... broken, fitful,’ provides the opportunity to repeal regulatory control over the flood control system. Declassifying this system as WOTUS removes the requirement to establish and meet CWA standards.
5. Do you anticipate any changes to the scope of your state or local programs (e.g., regulations, statutes or emergency response scope) regarding CWA jurisdiction?
 - The application of WOTUS jurisdiction to flood control infrastructure has already brought about the requirement to control upstream non-point source pollution (stormwater and urban runoff) at the source. In order to do this, the existing flood control infrastructure must, to some extent, be replicated at the city level. It is hoped that by rescinding CWA jurisdiction over flood control infrastructure, those facilities may continue to be used for the efficient conveyance of stormwater and urban runoff.

RECOMMENDATION

Support the submission of comments to the EPA’s WOTUS informal solicitation.

Prepared by: 
Eric Wolf
Senior Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

- Attachment A – EPA Presentation: “The Definition of ‘Waters of the U.S.’”
- Attachment B – SGVCOG Informal WOTUS Comments

The Definition of “Waters of the U.S.”

E.O. 13132 Federalism Consultation Meeting

April 19, 2017

Purpose & Agenda

Purpose:

- Initiate Federalism consultation to obtain state and local government officials' perspectives
- Provide an overview of potential changes under consideration for the definition of "Waters of the U.S."

Agenda:

- Federalism overview
- "Waters of the U.S." over time
- The Executive Order
- Proposed two-step process
 - Step 1
 - Step 2
- Discussion of Potential Approaches
- Next steps

E.O. 13132, Federalism

The Order requires that Federal agencies consult with elected state and local government officials, or their representative national organizations, when developing regulations that have federalism implications.

The agencies are consulting due to strong interest on the part of state and local governments on this issue over the years and potential effects associated with a change in the definition of “waters of the U.S.”

“Waters of the U.S.” Over Time

From the 1970s through the 1990s, the majority of federal courts, as well as the agencies, consistently interpreted a broad scope of Clean Water Act jurisdiction.

Supreme Court decisions in 2001 and 2006 held that the scope of navigable waters must be linked more directly to protecting the integrity of waters used in navigation. The justices in the 2006 *Rapanos* decision were split on how this was to be accomplished.

The agencies have been working since these Supreme Court decisions to provide clarification and predictability in the procedures used to identify waters that are – and are not – covered by the Clean Water Act.

The 2015 Clean Water Rule was an effort to provide that needed clarification and predictability. Many stakeholders, including many states, expressed concerns with the 2015 Rule.

The agencies are now embarking on another effort to provide clarity and predictability to members of the public.

The Executive Order

On February 28, 2017, the President signed the “Executive Order on Restoring the Rule of Law, Federalism, and Economic Growth by Reviewing the ‘Waters of the United States’ Rule.”

The E.O. calls on the EPA Administrator and the Assistant Secretary of the Army for Civil Works to review the final Clean Water Rule and “publish for notice and comment a proposed rule rescinding or revising the rule...”

The E.O. directs that EPA and the Army “shall consider interpreting the term ‘navigable waters’” in a manner “consistent with Justice Scalia’s opinion” in *Rapanos*. Justice Scalia’s opinion indicates CWA jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

<https://www.whitehouse.gov/the-press-office/2017/02/28/presidential-executive-order-restoring-rule-law-federalism-and-economic>

Two-Step Process

The agencies are implementing the Executive Order in two steps to provide as much certainty as possible as quickly as possible to the regulated community and the public during the development of the ultimate replacement rule.

1. The agencies are taking action to establish the legal status quo in the Code of Federal Regulations, by recodifying the regulation that was in place prior to issuance of the Clean Water Rule and that is being implemented now under the U.S. Court of Appeals for the Sixth Circuit's stay of that rule.
2. The agencies plan to propose a new definition that would replace the approach in the 2015 Clean Water Rule with one that reflects the principles that Justice Scalia outlined in the *Rapanos* plurality opinion.

The agencies are aware that the scope of CWA jurisdiction is of intense interest to many stakeholders and therefore want to provide time for appropriate consultation and deliberations on the ultimate regulation.

In the meantime, the agencies will continue to implement regulatory definition in place prior to the 2015 rule, consistent with the 2003 and 2008 guidances, in light of the *SWANCC* and *Rapanos* decisions, pursuant to the Sixth Circuit stay of the Clean Water Rule.

Step 1: Withdraw 2015 Clean Water Rule

While the Sixth Circuit stay may remain in effect for some time, its duration is uncertain.

To provide greater certainty, the agencies will move to reinstate the preexisting regulations and guidance and to withdraw the 2015 Rule.

In the Step 1 proposed rule, the agencies will define “waters of the United States” using the regulatory definition in place before the Clean Water Rule, which the agencies will continue to implement according to longstanding practice, just as they are today.

The Step 1 proposed rule would maintain the approach in place for decades until a revised rule with a new definition can be promulgated.

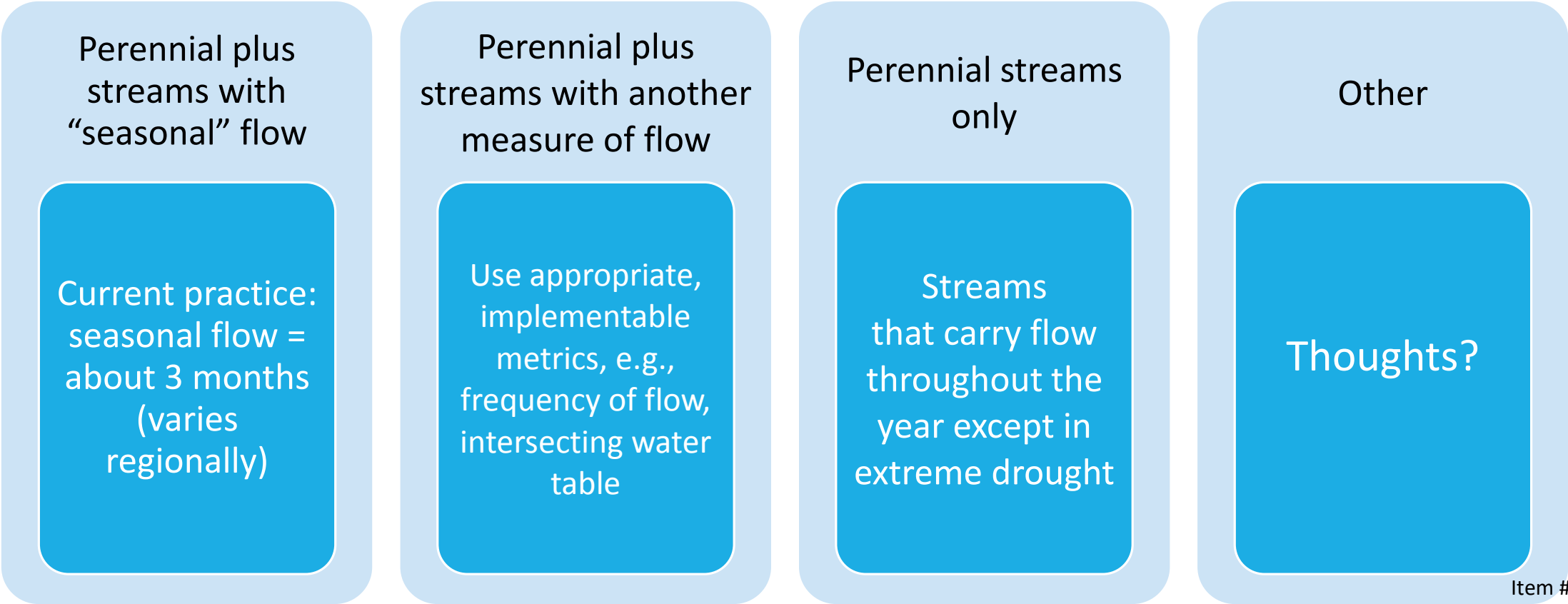
Step 2: Develop New Rule Consistent with the Executive Order

The E.O. directs the agencies to consider interpreting the term “navigable waters,” as defined in 33 U.S.C. 1362(7), in a manner consistent with the opinion of Justice Antonin Scalia in *Rapanos v. United States*, 547 U.S. 715 (2006).

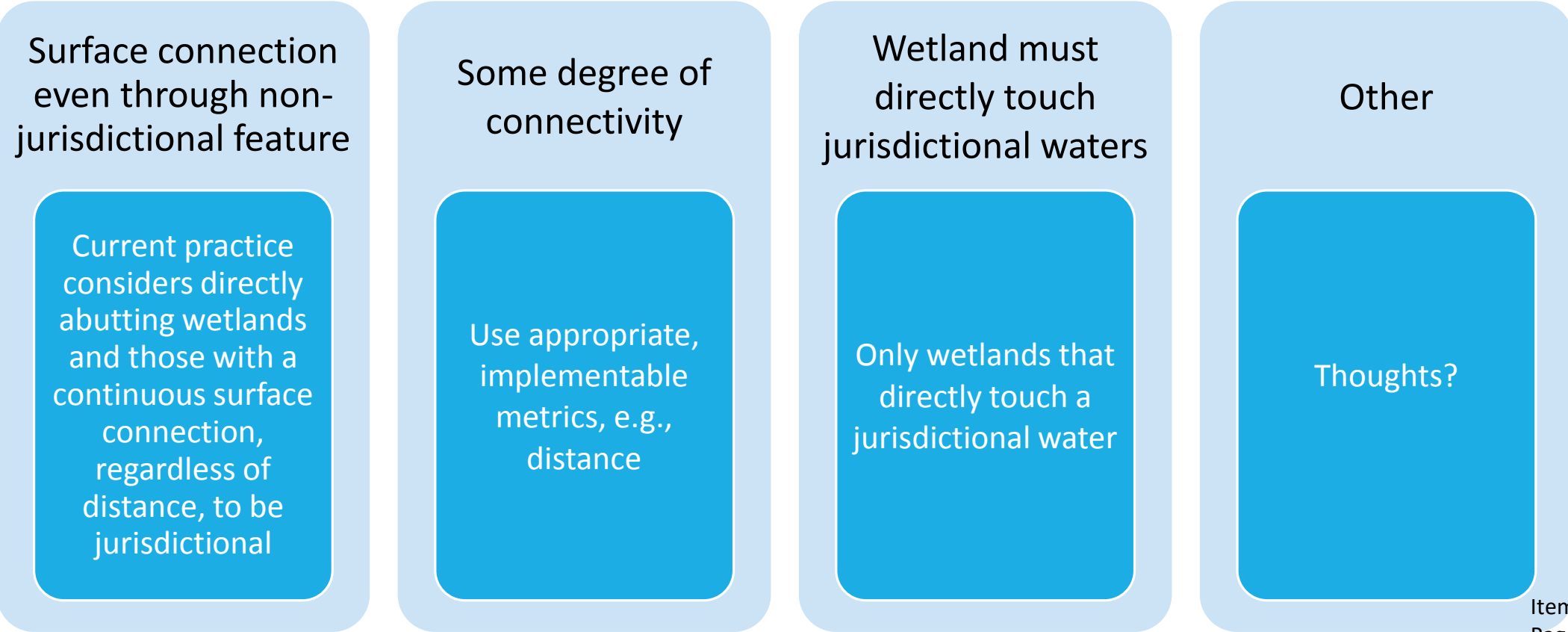
Justice Scalia’s opinion indicates Clean Water Act jurisdiction includes relatively permanent waters and wetlands with a continuous surface connection to relatively permanent waters.

The agencies are consulting with state and local government officials as we begin to develop the new definition.

Potential Approaches to “Relatively Permanent” Waters



Potential Approaches to Wetlands with a “Continuous Surface Connection”



Discussion:

The change in jurisdictional waters will vary across states and localities and with the options suggested above. Given that:

1. How would you like to see the concepts of “relatively permanent” and “continuous surface connection” defined and implemented? How would you like to see the agencies interpret “consistent with” Scalia? Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the step 2 proposed rule?
2. What opportunities and challenges exist for your state or locality with taking a Scalia approach?
3. Do you anticipate any changes to the scope of your state or local programs (e.g., regulations, statutes or emergency response scope) regarding CWA jurisdiction? In addition, how would a Scalia approach potentially affect the implementation of state programs under the CWA (e.g., 303, 311, 401, 402 and 404)? If so, what types of actions do you anticipate would be needed?
4. The agencies’ economic analysis for step 2 intends to review programs under CWA 303, 311, 401, 402 and 404. Are there any other programs specific to your region, state or locality that could be affected but would not be captured in such an economic analysis?

Next Steps

Do you have any additional information that the EPA should be aware of?

- If so, please provide.

Do you have any other approaches that you would like the agencies to consider?

Comments will be due to the EPA in approximately 8 weeks, June 19, 2017.

Please send written comments to: CWAwotus@epa.gov and copy Hanson.Andrew@epa.gov

Contacts

Project Lead:

Donna Downing

- (202) 566-2428
- CWAwotus@epa.gov

Federalism Contact:

Andrew Hanson

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- Hanson.Andrew@epa.gov

San Gabriel Valley Council of Governments

Response to the Environmental Protection Agency (EPA) Informal Call for Comments on Redefining Waters of the United States (WOTUS)

1. How would you like to see the concepts of “relatively permanent” and “continuous surface connection” defined and implemented?
 - “Relatively permanent” and “continuous surface connection” should be defined according to Justice Scalia’s statement in *Rapanos*, without further applying the “significant nexus” test. Scalia stated that relatively permanent waters do not include tributaries “whose flow is ‘coming and going at intervals... broken, fitful.’”¹
 Engineered waterways within the San Gabriel Valley consist of various under-street storm drains, open boxed-shaped concrete channels, and trapezoidal concrete rivers. They were designed to capture, contain, divert, and/or rapidly convey urban runoff and stormwater either downstream or into spreading grounds. The entire system is under continuous control of the Los Angeles County Flood Control District and subject to release of upstream water and urban runoff at times set by them and to destinations of their choosing. These engineered channels do have a continuous surface connection to both upstream and downstream navigable waters but the highly engineered nature of the system subjects water flows to the discretion of the Flood Control District. For this reason, the flow is ‘coming and going at intervals... broken, fitful.’”
2. How would you like to see the agencies interpret “consistent with” Scalia?
 - The agencies should interpret Scalia strictly, without applying the “significant nexus” test.
3. Are there particular features or implications of any such approaches that the agencies should be mindful of in developing the Step 2 proposed rule?
 - As the agencies develop the proposed rule they should consider how application of WOTUS jurisdiction to flood control systems impacts the intended use of those systems.
4. What opportunities and challenges exist for your state or locality with taking a Scalia approach?
 - Strictly defining jurisdictional waters according to Scalia, as relatively permanent waters which do not include tributaries “whose flow is ‘coming and going at intervals... broken, fitful,’ provides the opportunity to repeal regulatory control over the flood control system. Declassifying this system as WOTUS removes the requirement to establish and meet CWA standards.
5. Do you anticipate any changes to the scope of your state or local programs (e.g., regulations, statutes or emergency response scope) regarding CWA jurisdiction?
 - The application of WOTUS jurisdiction to flood control infrastructure has already brought about the requirement to control upstream non-point source pollution (stormwater and urban runoff) at the source. In order to do this, the existing flood control infrastructure must, to some extent, be replicated at the city level. It is hoped that by rescinding CWA jurisdiction over flood control infrastructure, those facilities may continue to be used for the efficient conveyance of stormwater and urban runoff.

¹ 547 U.S. 715 (2006)

DATE: June 15, 2017

TO: SGVCOG Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **ASSEMBLY BILL 1408 (CALDERON)**

RECOMMENDED ACTION

Adopt Resolution 17-19 supporting AB 1408 (Calderon).

BACKGROUND

Current law requires the Board of Parole Hearings (BPH) to set a release date unless it determines that the gravity of the current offense or offenses, or the timing and gravity of current or past offense or offenses, is such that consideration of the public safety requires a lengthier period of incarceration for the inmate. Some offenders, those convicted of more serious crimes, are released on parole under the supervision of the California Department of Corrections and Rehabilitation (CDCR). Other offenders are released from prison to be placed on post-release community supervision (PRCS) under the supervision of a county agency, such as a probation department.

On May 22nd, this bill was reviewed by the Legislative Ad-Hoc Committee and recommended it for support.

ASSEMBLY BILL 1408

AB 1408 (Attachment A) modifies the probation process as follows:

- Requires the CDCR to provide a local law enforcement agency with copies of an inmate's record of supervision during any period of parole, including records of supervision in the Law Enforcement Automated Data System (LEADS).
- Specifies that the Board of BPH must consider an inmate's entire criminal history, including all current and past convictions, in determining whether to grant parole.
- Prohibits the use of intermediate sanctions for a person released on post-release community supervision (PRCS) if the person has violated the terms of his or her release for a third time. In this case, the supervising agency must file a petition to modify or revoke PRCS.
- Permits a peace officer, including a probation officer, to arrest a person on PRCS if he or she has failed to appear at a hearing on a motion to revoke or modify PRCS.
- Requires the probation department to notify the court, public defender, district attorney, and sheriff every time an offender is detained in jail due to a violation of a condition of PRCS.

Assemblymember Calderon introduced AB 1408 as a result of the recent murder of a Whittier police officer by a parolee who had violated the terms of his PRCS five times in the seven months

since his release. On April 24th, the SGVCOG received a letter from the City of Whittier requesting support for AB 1408 (Attachment B)

On May 22nd, this bill was reviewed and recommend for support by the Legislative Committee.

SUPPORT AND OPPOSITION

Supporters believe the adjustments proposed in AB 1408 are important in ensuring that the criminal justice reforms of the past seven years operate as intended and with limited unintended consequences. They point out these modifications are necessary as the rights of formerly incarcerated individuals are considered.

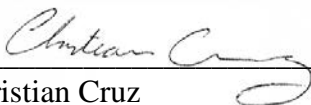
The bill is being supported by the following groups:


- Association for Los Angeles Deputy Sheriffs
- Association of Deputy District Attorneys
- California Association of Code Enforcement Officers
- California College and University Police Chiefs Association
- California Narcotic Officers Association
- Los Angeles County Probation Officers Union AFSCME Local 685
- Los Angeles Police Protective League
- Riverside Sheriffs Association
- Crime Victims United of California
- Peace Officers Research Association of California

Opponents believe AB 1408 strips probation officers of their discretion to choose an appropriate sanction that best accomplishes the goals of supervision and rehabilitation. They point out this bill would arbitrarily require probation officers to file a formal petition for a third violation, without any research to justify what they perceive to be a step backward.

The bill is being opposed by the following groups:

- American Civil Liberties Union
- California Attorneys for Criminal Justice
- California Public Defenders Association

Prepared by: 
Christian Cruz
Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

- Attachment A – AB 1408 (Calderon)
- Attachment A – AB 1408 (Calderon) Bill Analysis
- Attachment B – City of Whittier Letter
- Attachment C – AB 1408 Resolution

AMENDED IN ASSEMBLY APRIL 6, 2017
AMENDED IN ASSEMBLY MARCH 22, 2017
AMENDED IN ASSEMBLY MARCH 6, 2017
CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL

No. 1408

Introduced by Assembly Member Calderon
(Coauthors: Assembly Members Cooper, Dababneh, and Levine)
(Coauthor: Senator Mendoza)

February 17, 2017

An act to amend Sections 3003, 3041, 3454, and 3455 of the Penal Code, relating to supervised release.

LEGISLATIVE COUNSEL'S DIGEST

AB 1408, as amended, Calderon. Crimes: supervised release.

(1) Existing law requires the Department of Corrections and Rehabilitation to provide specified information to local law enforcement agencies regarding an inmate released by the department to the agency's jurisdiction on parole or postrelease community supervision, including a record of the offense for which the inmate was convicted that resulted in parole or postrelease community supervision.

This bill would require the department to also provide the local law enforcement agency with copies of the record of supervision during any prior period of parole.

(2) Existing law requires the department to be the agency primarily responsible for the Law Enforcement Automated Data System and requires county agencies supervising inmates released from prison on postrelease community supervision to provide any information requested by the department to ensure the availability of accurate information

regarding inmates released from state prison. Under existing law, this information may include the issuance of warrants, revocations, or the termination of postrelease community supervision.

This bill would require the county to provide the department, upon request, with all records of supervision. By imposing additional duties on county agencies administering postrelease community supervision, this bill would impose a state-mandated local program.

(3) Existing law provides the procedure by which the Board of Parole Hearings considers an indeterminate sentenced inmate's suitability for parole and generally requires a panel of the board, or the board, sitting en banc, to grant parole on the inmate's minimum eligible parole date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration.

This bill would require the panel or board, sitting en banc, to consider the entire criminal history of the inmate, including all current or past convicted offenses, in making this determination.

(4) Existing law requires the county agency supervising the release of a person on postrelease community supervision to petition a court to revoke, modify, or terminate postrelease community supervision if the agency determines, following application of its assessment processes, that intermediate sanctions are not appropriate.

This bill would require the county agency supervising the release of a person on postrelease community supervision to also petition a court to revoke, modify, or terminate postrelease community supervision if the person has violated the terms of his or her release for a third time. The bill would allow a peace officer to arrest a person without warrant who fails to appear at a hearing to revoke, modify, or terminate postrelease community supervision. By imposing additional duties on county agencies administering postrelease community supervision, this bill would impose a state-mandated local program.

(5) Existing law allows each county agency responsible for postrelease supervision to determine appropriate responses to alleged violations, which can include a one to 10 consecutive day period of flash incarceration.

This bill would require the probation department to notify the court, public defender, district attorney, and sheriff of each imposition of flash incarceration. By imposing additional duties on county agencies

administering postrelease community supervision, this bill would impose a state-mandated local program.

(5)

(6) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3003 of the Penal Code is amended to
2 read:

3 3003. (a) Except as otherwise provided in this section, an
4 inmate who is released on parole or postrelease supervision as
5 provided by Title 2.05 (commencing with Section 3450) shall be
6 returned to the county that was the last legal residence of the inmate
7 prior to his or her incarceration. For purposes of this subdivision,
8 “last legal residence” shall not be construed to mean the county
9 wherein the inmate committed an offense while confined in a state
10 prison or local jail facility or while confined for treatment in a
11 state hospital.

12 (b) Notwithstanding subdivision (a), an inmate may be returned
13 to another county if that would be in the best interests of the public.
14 If the Board of Parole Hearings setting the conditions of parole
15 for inmates sentenced pursuant to subdivision (b) of Section 1168,
16 as determined by the parole consideration panel, or the Department
17 of Corrections and Rehabilitation setting the conditions of parole
18 for inmates sentenced pursuant to Section 1170, decides on a return
19 to another county, it shall place its reasons in writing in the
20 parolee’s permanent record and include these reasons in the notice
21 to the sheriff or chief of police pursuant to Section 3058.6. In
22 making its decision, the paroling authority shall consider, among
23 others, the following factors, giving the greatest weight to the
24 protection of the victim and the safety of the community:

25 (1) The need to protect the life or safety of a victim, the parolee,
26 a witness, or any other person.

1 (2) Public concern that would reduce the chance that the
2 inmate's parole would be successfully completed.

3 (3) The verified existence of a work offer, or an educational or
4 vocational training program.

5 (4) The existence of family in another county with whom the
6 inmate has maintained strong ties and whose support would
7 increase the chance that the inmate's parole would be successfully
8 completed.

9 (5) The lack of necessary outpatient treatment programs for
10 parolees receiving treatment pursuant to Section 2960.

11 (c) The Department of Corrections and Rehabilitation, in
12 determining an out-of-county commitment, shall give priority to
13 the safety of the community and any witnesses and victims.

14 (d) In making its decision about an inmate who participated in
15 a joint venture program pursuant to Article 1.5 (commencing with
16 Section 2717.1) of Chapter 5, the paroling authority shall give
17 serious consideration to releasing him or her to the county where
18 the joint venture program employer is located if that employer
19 states to the paroling authority that he or she intends to employ
20 the inmate upon release.

21 (e) (1) The following information, if available, shall be released
22 by the Department of Corrections and Rehabilitation to local law
23 enforcement agencies regarding a paroled inmate or inmate placed
24 on postrelease community supervision pursuant to Title 2.05
25 (commencing with Section 3450) who is released in their
26 jurisdictions:

27 (A) Last, first, and middle names.

28 (B) Birth date.

29 (C) Sex, race, height, weight, and hair and eye color.

30 (D) Date of parole or placement on postrelease community
31 supervision and discharge.

32 (E) Registration status, if the inmate is required to register as a
33 result of a controlled substance, sex, or arson offense.

34 (F) California Criminal Information Number, FBI number, social
35 security number, and driver's license number.

36 (G) County of commitment.

37 (H) A description of scars, marks, and tattoos on the inmate.

38 (I) Offense or offenses for which the inmate was convicted that
39 resulted in parole or postrelease community supervision in this
40 instance.

- 1 (J) Address, including all of the following information:
2 (i) Street name and number. Post office box numbers are not
3 acceptable for purposes of this subparagraph.
4 (ii) City and ZIP Code.
5 (iii) Date that the address provided pursuant to this subparagraph
6 was proposed to be effective.
- 7 (K) Contact officer and unit, including all of the following
8 information:
9 (i) Name and telephone number of each contact officer.
10 (ii) Contact unit type of each contact officer such as units
11 responsible for parole, registration, or county probation.
- 12 (L) A digitized image of the photograph and at least a single
13 digit fingerprint of the parolee.
- 14 (M) A geographic coordinate for the inmate's residence location
15 for use with a Geographical Information System (GIS) or
16 comparable computer program.
- 17 (N) Copies of the record of supervision during any prior period
18 of parole.
- 19 (2) Unless the information is unavailable, the Department of
20 Corrections and Rehabilitation shall electronically transmit to the
21 county agency identified in subdivision (a) of Section 3451 the
22 inmate's tuberculosis status, specific medical, mental health, and
23 outpatient clinic needs, and any medical concerns or disabilities
24 for the county to consider as the offender transitions onto
25 postrelease community supervision pursuant to Section 3450, for
26 the purpose of identifying the medical and mental health needs of
27 the individual. All transmissions to the county agency shall be in
28 compliance with applicable provisions of the federal Health
29 Insurance Portability and Accountability Act of 1996 (HIPAA)
30 (Public Law 104-191), the federal Health Information Technology
31 for Clinical Health Act (HITECH) (Public Law 111-005), and the
32 implementing of privacy and security regulations in Parts 160 and
33 164 of Title 45 of the Code of Federal Regulations. This paragraph
34 shall not take effect until the Secretary of the United States
35 Department of Health and Human Services, or his or her designee,
36 determines that this provision is not preempted by HIPAA.
- 37 (3) Except for the information required by paragraph (2), the
38 information required by this subdivision shall come from the
39 statewide parolee database. The information obtained from each
40 source shall be based on the same timeframe.

1 (4) All of the information required by this subdivision shall be
2 provided utilizing a computer-to-computer transfer in a format
3 usable by a desktop computer system. The transfer of this
4 information shall be continually available to local law enforcement
5 agencies upon request.

6 (5) The unauthorized release or receipt of the information
7 described in this subdivision is a violation of Section 11143.

8 (f) Notwithstanding any other law, an inmate who is released
9 on parole shall not be returned to a location within 35 miles of the
10 actual residence of a victim of, or a witness to, a violent felony as
11 defined in paragraphs (1) to (7), inclusive, and paragraph (16) of
12 subdivision (c) of Section 667.5 or a felony in which the defendant
13 inflicts great bodily injury on a person other than an accomplice
14 that has been charged and proved as provided for in Section
15 12022.53, 12022.7, or 12022.9, if the victim or witness has
16 requested additional distance in the placement of the inmate on
17 parole, and if the Board of Parole Hearings or the Department of
18 Corrections and Rehabilitation finds that there is a need to protect
19 the life, safety, or well-being of a victim or witness.

20 (g) Notwithstanding any other law, an inmate who is released
21 on parole for a violation of Section 288 or 288.5 whom the
22 Department of Corrections and Rehabilitation determines poses a
23 high risk to the public shall not be placed or reside, for the duration
24 of his or her parole, within one-half mile of a public or private
25 school including any or all of kindergarten and grades 1 to 12,
26 inclusive.

27 (h) Notwithstanding any other law, an inmate who is released
28 on parole or postrelease community supervision for a stalking
29 offense shall not be returned to a location within 35 miles of the
30 victim's actual residence or place of employment if the victim or
31 witness has requested additional distance in the placement of the
32 inmate on parole or postrelease community supervision, and if the
33 Board of Parole Hearings or the Department of Corrections and
34 Rehabilitation, or the supervising county agency, as applicable,
35 finds that there is a need to protect the life, safety, or well-being
36 of the victim. If an inmate who is released on postrelease
37 community supervision cannot be placed in his or her county of
38 last legal residence in compliance with this subdivision, the
39 supervising county agency may transfer the inmate to another
40 county upon approval of the receiving county.

1 (i) The authority shall give consideration to the equitable
2 distribution of parolees and the proportion of out-of-county
3 commitments from a county compared to the number of
4 commitments from that county when making parole decisions.

5 (j) An inmate may be paroled to another state pursuant to any
6 other law. The Department of Corrections and Rehabilitation shall
7 coordinate with local entities regarding the placement of inmates
8 placed out of state on postrelease community supervision pursuant
9 to Title 2.05 (commencing with Section 3450).

10 (k) (1) Except as provided in paragraph (2), the Department of
11 Corrections and Rehabilitation shall be the agency primarily
12 responsible for, and shall have control over, the program, resources,
13 and staff implementing the Law Enforcement Automated Data
14 System (LEADS) in conformance with subdivision (e). County
15 agencies supervising inmates released to postrelease community
16 supervision pursuant to Title 2.05 (commencing with Section 3450)
17 shall provide any information requested by the department to
18 ensure the availability of accurate information regarding inmates
19 released from state prison. This information may include all records
20 of supervision, the issuance of warrants, revocations, or the
21 termination of postrelease community supervision. On or before
22 August 1, 2011, county agencies designated to supervise inmates
23 released to postrelease community supervision shall notify the
24 department that the county agencies have been designated as the
25 local entity responsible for providing that supervision.

26 (2) Notwithstanding paragraph (1), the Department of Justice
27 shall be the agency primarily responsible for the proper release of
28 information under LEADS that relates to fingerprint cards.

29 (l) In addition to the requirements under subdivision (k), the
30 Department of Corrections and Rehabilitation shall submit to the
31 Department of Justice data to be included in the supervised release
32 file of the California Law Enforcement Telecommunications
33 System (CLETS) so that law enforcement can be advised through
34 CLETS of all persons on postrelease community supervision and
35 the county agency designated to provide supervision. The data
36 required by this subdivision shall be provided via electronic
37 transfer.

38 SEC. 2. Section 3041 of the Penal Code is amended to read:

39 3041. (a) (1) In the case of any inmate sentenced pursuant to
40 any law, other than Chapter 4.5 (commencing with Section 1170)

1 of Title 7 of Part 2, the Board of Parole Hearings shall meet with
2 each inmate during the sixth year before the inmate's minimum
3 eligible parole date for the purposes of reviewing and documenting
4 the inmate's activities and conduct pertinent to parole eligibility.
5 During this consultation, the board shall provide the inmate
6 information about the parole hearing process, legal factors relevant
7 to his or her suitability or unsuitability for parole, and
8 individualized recommendations for the inmate regarding his or
9 her work assignments, rehabilitative programs, and institutional
10 behavior. Within 30 days following the consultation, the board
11 shall issue its positive and negative findings and recommendations
12 to the inmate in writing.

13 (2) One year before the inmate's minimum eligible parole date
14 a panel of two or more commissioners or deputy commissioners
15 shall again meet with the inmate and shall normally grant parole
16 as provided in Section 3041.5. No more than one member of the
17 panel shall be a deputy commissioner.

18 (3) In the event of a tie vote, the matter shall be referred for an
19 en banc review of the record that was before the panel that rendered
20 the tie vote. Upon en banc review, the board shall vote to either
21 grant or deny parole and render a statement of decision. The en
22 banc review shall be conducted pursuant to subdivision (e).

23 (4) Upon a grant of parole, the inmate shall be released subject
24 to all applicable review periods. However, an inmate shall not be
25 released before reaching his or her minimum eligible parole date
26 as set pursuant to Section 3046 unless the inmate is eligible for
27 earlier release pursuant to his or her youth offender parole
28 eligibility date.

29 (5) At least one commissioner of the panel shall have been
30 present at the last preceding meeting, unless it is not feasible to
31 do so or where the last preceding meeting was the initial meeting.
32 Any person on the hearing panel may request review of any
33 decision regarding parole for an en banc hearing by the board. In
34 case of a review, a majority vote in favor of parole by the board
35 members participating in an en banc review is required to grant
36 parole to any inmate.

37 (b) (1) The panel or the board, sitting en banc, shall grant parole
38 to an inmate unless it determines that the gravity of the current
39 convicted offense or offenses, or the timing and gravity of current
40 or past convicted offense or offenses, is such that consideration of

1 the public safety requires a more lengthy period of incarceration
2 for this individual. The panel or the board, sitting en banc, shall
3 consider the entire criminal history of the inmate, including all
4 current or past convicted offenses, in making this determination.

5 (2) After July 30, 2001, any decision of the parole panel finding
6 an inmate suitable for parole shall become final within 120 days
7 of the date of the hearing. During that period, the board may review
8 the panel's decision. The panel's decision shall become final
9 pursuant to this subdivision unless the board finds that the panel
10 made an error of law, or that the panel's decision was based on an
11 error of fact, or that new information should be presented to the
12 board, any of which when corrected or considered by the board
13 has a substantial likelihood of resulting in a substantially different
14 decision upon a rehearing. In making this determination, the board
15 shall consult with the commissioners who conducted the parole
16 consideration hearing.

17 (3) A decision of a panel shall not be disapproved and referred
18 for rehearing except by a majority vote of the board, sitting en
19 banc, following a public meeting.

20 (c) For the purpose of reviewing the suitability for parole of
21 those inmates eligible for parole under prior law at a date earlier
22 than that calculated under Section 1170.2, the board shall appoint
23 panels of at least two persons to meet annually with each inmate
24 until the time the person is released pursuant to proceedings or
25 reaches the expiration of his or her term as calculated under Section
26 1170.2.

27 (d) It is the intent of the Legislature that, during times when
28 there is no backlog of inmates awaiting parole hearings, life parole
29 consideration hearings, or life rescission hearings, hearings will
30 be conducted by a panel of three or more members, the majority
31 of whom shall be commissioners. The board shall report monthly
32 on the number of cases where an inmate has not received a
33 completed initial or subsequent parole consideration hearing within
34 30 days of the hearing date required by subdivision (a) of Section
35 3041.5 or paragraph (2) of subdivision (b) of Section 3041.5, unless
36 the inmate has waived the right to those timeframes. That report
37 shall be considered the backlog of cases for purposes of this
38 section, and shall include information on the progress toward
39 eliminating the backlog, and on the number of inmates who have
40 waived their right to the above timeframes. The report shall be

1 made public at a regularly scheduled meeting of the board and a
2 written report shall be made available to the public and transmitted
3 to the Legislature quarterly.

4 (e) For purposes of this section, an en banc review by the board
5 means a review conducted by a majority of commissioners holding
6 office on the date the matter is heard by the board. An en banc
7 review shall be conducted in compliance with the following:

8 (1) The commissioners conducting the review shall consider
9 the entire record of the hearing that resulted in the tie vote.

10 (2) The review shall be limited to the record of the hearing. The
11 record shall consist of the transcript or audiotape of the hearing,
12 written or electronically recorded statements actually considered
13 by the panel that produced the tie vote, and any other material
14 actually considered by the panel. New evidence or comments shall
15 not be considered in the en banc proceeding.

16 (3) The board shall separately state reasons for its decision to
17 grant or deny parole.

18 (4) A commissioner who was involved in the tie vote shall be
19 recused from consideration of the matter in the en banc review.

20 *SEC. 3. Section 3454 of the Penal Code is amended to read:*

21 3454. (a) Each supervising county agency, as established by
22 the county board of supervisors pursuant to subdivision (a) of
23 Section 3451, shall establish a review process for assessing and
24 refining a person's program of postrelease supervision. Any
25 additional postrelease supervision conditions shall be reasonably
26 related to the underlying offense for which the offender spent time
27 in prison, or to the offender's risk of recidivism, and the offender's
28 criminal history, and be otherwise consistent with law.

29 (b) Each county agency responsible for postrelease supervision,
30 as established by the county board of supervisors pursuant to
31 subdivision (a) of Section 3451, may determine additional
32 appropriate conditions of supervision listed in Section 3453
33 consistent with public safety, including the use of continuous
34 electronic monitoring as defined in Section 1210.7, order the
35 provision of appropriate rehabilitation and treatment services,
36 determine appropriate incentives, and determine and order
37 appropriate responses to alleged violations, which can include, but
38 shall not be limited to, immediate, structured, and intermediate
39 sanctions up to and including referral to a reentry court pursuant
40 to Section 3015, or flash incarceration in a city or county jail.

1 Periods of flash incarceration are encouraged as one method of
2 punishment for violations of an offender's condition of postrelease
3 supervision.

4 (c) As used in this title, "flash incarceration" is a period of
5 detention in a city or county jail due to a violation of an offender's
6 conditions of postrelease supervision. The length of the detention
7 period can range between one and 10 consecutive days. Flash
8 incarceration is a tool that may be used by each county agency
9 responsible for postrelease supervision. Shorter, but if necessary
10 more frequent, periods of detention for violations of an offender's
11 postrelease supervision conditions shall appropriately punish an
12 offender while preventing the disruption in a work or home
13 establishment that typically arises from longer term revocations.

14 (d) *Upon a decision to impose a period of flash incarceration,*
15 *the probation department shall notify the court, public defender,*
16 *district attorney, and sheriff of each imposition of flash*
17 *incarceration.*

18 ~~SEC. 3.~~

19 SEC. 4. Section 3455 of the Penal Code is amended to read:

20 3455. (a) If the supervising county agency has determined,
21 following application of its assessment processes, that intermediate
22 sanctions as authorized in subdivision (b) of Section 3454 are not
23 appropriate, or if the supervised person has violated the terms of
24 his or her release for a third time, the supervising county agency
25 shall petition the court pursuant to Section 1203.2 to revoke,
26 modify, or terminate postrelease community supervision. At any
27 point during the process initiated pursuant to this section, a person
28 may waive, in writing, his or her right to counsel, admit the
29 violation of his or her postrelease community supervision, waive
30 a court hearing, and accept the proposed modification of his or her
31 postrelease community supervision. The petition shall include a
32 written report that contains additional information regarding the
33 petition, including the relevant terms and conditions of postrelease
34 community supervision, the circumstances of the alleged
35 underlying violation, the history and background of the violator,
36 and any recommendations. The Judicial Council shall adopt forms
37 and rules of court to establish uniform statewide procedures to
38 implement this subdivision, including the minimum contents of
39 supervision agency reports. Upon a finding that the person has
40 violated the conditions of postrelease community supervision, the

1 revocation hearing officer shall have authority to do all of the
2 following:

3 (1) Return the person to postrelease community supervision
4 with modifications of conditions, if appropriate, including a period
5 of incarceration in a county jail.

6 (2) Revoke and terminate postrelease community supervision
7 and order the person to confinement in a county jail.

8 (3) Refer the person to a reentry court pursuant to Section 3015
9 or other evidence-based program in the court's discretion.

10 (b) (1) At any time during the period of postrelease community
11 supervision, if a peace officer, including a probation officer, has
12 probable cause to believe a person subject to postrelease
13 community supervision is violating any term or condition of his
14 or her release, or has failed to appear at a hearing pursuant to
15 Section 1203.2 to revoke, modify, or terminate postrelease
16 community supervision, the officer may, without a warrant or other
17 process, arrest the person and bring him or her before the
18 supervising county agency established by the county board of
19 supervisors pursuant to subdivision (a) of Section 3451.
20 Additionally, an officer employed by the supervising county agency
21 may seek a warrant and a court or its designated hearing officer
22 appointed pursuant to Section 71622.5 of the Government Code
23 shall have the authority to issue a warrant for that person's arrest.

24 (2) The court or its designated hearing officer shall have the
25 authority to issue a warrant for a person who is the subject of a
26 petition filed under this section who has failed to appear for a
27 hearing on the petition or for any reason in the interests of justice,
28 or to remand to custody a person who does appear at a hearing on
29 the petition for any reason in the interests of justice.

30 (3) Unless a person subject to postrelease community
31 supervision is otherwise serving a period of flash incarceration,
32 whenever a person who is subject to this section is arrested, with
33 or without a warrant or the filing of a petition for revocation, the
34 court may order the release of the person under supervision from
35 custody under any terms and conditions the court deems
36 appropriate.

37 (c) The revocation hearing shall be held within a reasonable
38 time after the filing of the revocation petition. Except as provided
39 in paragraph (3) of subdivision (b), based upon a showing of a
40 preponderance of the evidence that a person under supervision

1 poses an unreasonable risk to public safety, or that the person may
2 not appear if released from custody, or for any reason in the
3 interests of justice, the supervising county agency shall have the
4 authority to make a determination whether the person should
5 remain in custody pending the first court appearance on a petition
6 to revoke postrelease community supervision, and upon that
7 determination, may order the person confined pending his or her
8 first court appearance.

9 (d) Confinement pursuant to paragraphs (1) and (2) of
10 subdivision (a) shall not exceed a period of 180 days in a county
11 jail for each custodial sanction.

12 (e) A person shall not remain under supervision or in custody
13 pursuant to this title on or after three years from the date of the
14 person's initial entry onto postrelease community supervision,
15 except when his or her supervision is tolled pursuant to Section
16 1203.2 or subdivision (b) of Section 3456.

17 ~~SEC. 4.~~

18 *SEC. 5.* To the extent that this act has an overall effect of
19 increasing the costs already borne by a local agency for programs
20 or levels of service mandated by the 2011 Realignment Legislation
21 within the meaning of Section 36 of Article XIII of the California
22 Constitution, it shall apply to local agencies only to the extent that
23 the state provides annual funding for the cost increase. Any new
24 program or higher level of service provided by a local agency
25 pursuant to this act above the level for which funding has been
26 provided shall not require a subvention of funds by the state or
27 otherwise be subject to Section 6 of Article XIII B of the California
28 Constitution.

O

ASSEMBLY THIRD READING
 AB 1408 (Calderon)
 As Amended April 6, 2017
 Majority vote

Committee	Votes	Ayes	Noes
Public Safety	6-0	Jones-Sawyer, Lackey, Cunningham, Gonzalez Fletcher, Rubio, Santiago	
Appropriations	16-0	Gonzalez Fletcher, Bigelow, Bloom, Bocanegra, Bonta, Brough, Calderon, McCarty, Fong, Friedman, Gallagher, Eduardo Garcia, Gray, Muratsuchi, Obernolte, Reyes	

SUMMARY: Limits the number of intermediate sanctions which the probation department may impose against a person on post-release community supervision (PRCS). Specifically, **this bill:**

- 1) Requires the California Department of Corrections and Rehabilitation (CDCR) to provide a local law enforcement agency with copies of an inmate's record of supervision during any period of parole.
- 2) Includes records of supervision in the Law Enforcement Automated Data System (LEADS).
- 3) Specifies that the parole board must consider an inmate's entire criminal history, including all current and past convictions, in determining whether to grant parole.
- 4) Requires notice to the court, sheriff, district attorney and public defender if the probation department chooses to use flash incarceration.
- 5) Prohibits the use of intermediate sanctions for person released on post-release community supervision (PRCS) if the person has violated the terms of his or her release for a third time. In this case, the supervising agency must file a petition to modify or revoke PRCS.
- 6) Permits a peace officer, including a probation officer, to arrest a person on PRCS if he or she has failed to appear at a hearing on a motion to revoke or modify PRCS.

EXISTING LAW:

- 1) Requires the parole board to set a release date unless it determines that the gravity of the current offense or offenses, or the timing and gravity of current or past offense or offenses, is such that consideration of the public safety requires a lengthier period of incarceration for the inmate.
- 2) Requires the following persons released from prison prior to, or on or after July 1, 2013, be subject to parole under the supervision of the CDCR:

- a) A person who committed a serious felony listed in Penal Code Section 1192.7(c);
 - b) A person who committed a violent felony listed in Penal Code Section 667.5(c);
 - c) A person serving a Three-Strikes sentence;
 - d) A high risk sex offender;
 - e) A mentally disordered offender;
 - f) A person required to register as a sex offender and subject to a parole term exceeding three years at the time of the commission of the offense for which he or she is being released; and,
 - g) A person subject to lifetime parole at the time of the commission of the offense for which he or she is being released.
- 3) Requires all other offenders released from prison to be placed on post-release community supervision (PRCS) under the supervision of a county agency, such as a probation department.
 - 4) Requires all persons paroled before October 1, 2011 to remain under the supervision of the CDCR until jurisdiction is terminated by operation of law or until parole is discharged.
 - 5) Requires CDCR to provide local law enforcement agencies with specified information about an inmate released on parole or PRCS.
 - 6) Authorizes intermediate sanctions, including flash incarceration, to be imposed on inmates released from prison and subject to parole.
 - 7) Authorizes intermediate sanctions, including flash incarceration, for violating the terms of PRCS.
 - 8) Defines "flash incarceration" as a period of detention in a city or county jail due to a violation of a person's conditions of parole or PRCS. The length of the detention period can range between one and 10 consecutive days in a county jail.
 - 9) Specifies that if parole is revoked, the offender may be incarcerated in the county jail for a period not to exceed 180 days for each custodial sanction.
 - 10) Specifies that if PRCS is revoked, the offender may be incarcerated in the county jail for a period not to exceed 180 days for each custodial sanction.

FISCAL EFFECT: According to the Assembly Appropriations Committee:

- 1) Costs in excess of \$1 million (General Fund (GF)) to CDCR to upload the current paper records into the Strategic Offender Management Systems (SOMS), the Parole (LEADS), and the Electronic Records Management Systems (ERMS) in order to grant local law enforcement agencies access to the Record of Supervision. CDCR will need to modify these databases so that local law enforcement agencies can read the entries therein. In addition,

CDCR will need to develop a method for keeping confidential information (e.g., health care information) from being viewed absent a specific need by local law enforcement.

- 2) Unknown reimbursable state-mandated costs (GF) to require probation to notify several agencies that an offender on PRCS has been detained. However, Pursuant to Proposition 30 (November 2012) any legislation enacted after September 30, 2012, that has an overall effect of increasing the costs already borne by a local agency for programs or levels of service mandated by realignment only applies to local agencies to the extent that the state provides annual funding for the cost increase.
- 3) No cost to the Board of Parole Hearings (BPH). BPH is already required to consider all relevant, reliable information, including an inmate's past criminal history, criminal misconduct before, during, and after the commitment offense, and previous record of violence.

COMMENTS: According to the author, "Since the federal court order to reduce California's prison population came down in 2010, there have been several criminal justice reforms undertaken with this goal in mind. It is still fairly early in the implementation of these policies to determine whether they have been successful in ways beyond prison population reduction. However, as real world events reveal the need for adjustments to these reforms, the Legislature must react accordingly. AB 1408 is a necessary modification as we balance the rights and rehabilitation of the formerly incarcerated population, with the need to ensure that our communities are safe from dangerous criminals. The bill will accomplish this by:

- 1) Requiring the Board of Parole Hearings (BPH) to consider the entire criminal history of an inmate, not just the most recent commitment offense;
- 2) Ensuring that upon a third Post Release Community Supervision (PRCS) violation, there be a mandatory PRCS revocation hearing;
- 3) Improving information sharing between the Division of Adult Parole Operations (DAPO) and the county probation departments.

"The above adjustments are important in ensuring that the criminal justice reforms of the past seven years operate as intended and with limited unintended consequences. Recent tragic events, including the murder of a Whittier police officer at the hands of a dangerous felon who had violated the terms of his PRCS a whopping five times in the seven months since his release, have highlighted the need for adjustments to these reforms. An individual being supervised under PRCS who repeatedly violates the terms of his or her supervision, and is undeterred by punishments like flash incarceration, is demonstrating a blatant disregard for these rules and is not likely to respect the laws that govern society. After three such violations, the terms of supervision need to be revisited in a more serious, deliberate manner. AB 1408 does not undo the steps the state has taken to address its prison overcrowding problem, but it does endeavor to set some practical ground rules and enhance the tools available to law enforcement operating under these recent reforms."

Analysis Prepared by: Sandy Uribe / PUB. S. /

FN: 0000581



City of Whittier

13230 Penn Street, Whittier, California 90602-1772
(562) 567-9999 www.cityofwhittier.org



Joe Vinatieri
Mayor

Bob Henderson
Mayor Pro Tem

Cathy Warner
Council Member

Josué Alvarado
Council Member

Fernando Dutra
Council Member

Jeffrey W. Collier
City Manager

April 17, 2017

Cynthia Sternquist
President, San Gabriel Valley COG
1000 S. Fremont Avenue, Unit 42
Alhambra, CA 91803

Dear President Sternquist:

On March 28, 2017 the Whittier City Council adopted a resolution supporting AB 1408 (Calderon) and a second resolution supporting further crime legislation reform (both enclosed). We ask that the San Gabriel Valley COG support these reforms and ask your member cities to support.

Whittier continues to mourn the February 20, 2017 fatal shooting of Whittier Police Officer Keith Boyer and wounding of Whittier Police Officer Patrick Hazell. This tragic incident could have been avoided if state law had allowed the offender's appropriate incarceration for multiple probation violations and review of the offender's history of violent crime. The City Council also noted widespread increases in property crime and decreases in offender participation in rehabilitative mental health and drug programs that may also have resulted from State legislation and propositions, and considered measures that could reduce the potential negative impacts from existing criminal law.

Assembly Bill 1408

Assembly Majority Leader Ian Calderon amended Assembly Bill 1408 on March 22, 2017 in response to the shooting of the two Whittier officers. AB 1408 would require revocation of probation if the offender has violated probation terms for a third time. The League of California Cities has analyzed the bill language as follows:

Existing law requires the Department of Corrections and Rehabilitation to provide specified information to local law enforcement agencies regarding an inmate released by the department to the agency's jurisdiction on parole or post-release community supervision, including a record of the offense for which the inmate was convicted that resulted in parole or post-

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Cynthia Sternquist
April 17, 2017

release community supervision. This bill would require the department to also provide the local law enforcement agency with copies of the record of supervision during any prior period of parole.

Existing law provides the procedure by which the Board of Parole Hearings considers an indeterminately sentenced inmate's suitability for parole and generally requires a panel of the board, or the board, sitting en banc, to grant parole on the inmate's minimum eligible parole date unless it determines that the gravity of the current convicted offense or offenses, or the timing and gravity of current or past convicted offense or offenses, is such that consideration of the public safety requires a more lengthy period of incarceration. This bill would require the panel or board, sitting en banc, to consider the entire criminal history of the inmate, including all current or past convicted offenses, in making this determination.

Existing law requires the county agency supervising the release of a person on post-release community supervision to petition a court to revoke, modify, or terminate post-release community supervision if the agency determines, following application of its assessment processes, that intermediate sanctions are not appropriate. This bill would require the county agency supervising the release of a person on post-release community supervision to also petition a court to revoke, modify, or terminate post-release community supervision if the person has violated the terms of his or her release for a third time. The bill would allow a peace officer to arrest a person without warrant who fails to appear at a hearing to revoke, modify, or terminate post-release community supervision. By imposing additional duties on county agencies administering post-release community supervision, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement. This bill would provide that no reimbursement is required by this act for a specified reason.

Additional Legislative Reforms

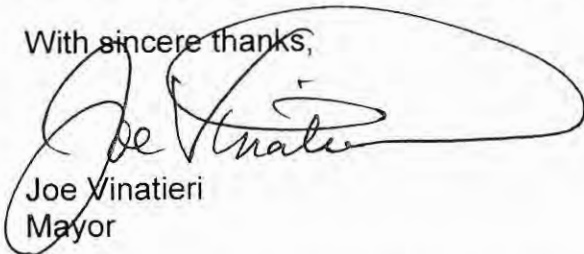
The City of Whittier is also interested in exploring additional strategies for reducing the unintended negative impacts of existing criminal law. For example, there is some interest in seeing parole hearings televised on the CAL channel so the public can watch. Another concept is to require enhanced sentencing if the violator is a member of a criminal gang. Also, Proposition 47 reduced all thefts to misdemeanors if they involve \$950 or less worth of cash or goods; one suggestion has been to find a way to drop the misdemeanor level to a lower level such as the previous \$450. Other potential measures might include the following strategies:

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- Enable the courts to consider the totality of an offender's history when sentencing, rather than the most recent offense, to identify patterns of violence and escalating criminal behavior.
- Redefine violent crime to include resisting arrest and other crimes that involve force that are now classified as non-violent.
- Use County probation and State parole in such ways as to enable the oversight authority to return individuals to State prison for multiple violations.
- Mandate the use of State parole rather than County probation for suspects convicted of prior violent crimes.
- Redefine recidivism as incarceration, release, and return rather than requiring a prior offender to commit a new crime resulting in arrest, trial, conviction and incarceration.
- Encourage the timely release of Prop 47 funds as promised to invest in evidence-based rehabilitation and treatment programs.
- Seek increased State funding for AB109 sweeps by local law enforcement to assure compliance with the terms of release.
- Establish ineligibility for early release on violations of parole and probation sentences for those with violations of parole and probation that return them to custody.

We appreciate your thoughtful consideration of potential criminal law reform and solicit your support for AB 1408 and additional measures. We would be pleased to know if your City Council determines to adopt these resolutions or take other definitive actions toward this goal. We ask that upon adoption, you communicate your action to your state assembly member and state senator. Please contact City Manager Jeff Collier at jcollier@cityofwhittier.org or 562-567-9301 for further information.

With sincere thanks,



Joe Vinatieri
Mayor

Thanks!

Enclosures: City of Whittier Resolutions

RESOLUTION 17-19

**A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL
VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”)
SUPPORTING AB 1408 (Calderon).**

WHEREAS, existing law requires all persons paroled before October 1, 2011 to remain under the supervision of the Department of Corrections and Rehabilitation until jurisdiction is terminated by operation of law or until parole is discharged,

WHEREAS, Assembly Majority Leader Ian Calderon has introduced AB 1408, which would require revocation of probation if the offender violates probation terms for a third time,

WHEREAS, AB 1408 would require the Department of Corrections and Rehabilitation to provide the local law enforcement agency with copies of the record of supervision during any prior period of parole,

WHEREAS, AB 1408 would require the panel or Board of Parole Hearings, sitting en bane, to consider the entire criminal history of the inmate, including all current or past convicted offenses, in making the determination to grant parole,

WHEREAS, AB 1408 would require the county agency supervising the release of a person on post-release community supervision to also petition a court to revoke, modify, or terminate post-release community supervision if the person has violated the terms of his or her release for a third time, and

WHEREAS, AB 1408 would allow a peace officer to arrest a person without warrant who fails to appear at a hearing to revoke, modify, or terminate post-release community supervision.

NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE SGVCOG SUPPORTS AB 1408 (CALDERON).

PASSED, APPROVED, and ADOPTED this 15th day of June, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-19 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

DATE: June 15, 2017

TO: SGVCOG Governing Board Delegates and Alternates

FROM: Phil Hawkey, Executive Director

RE: **AB 1132 (GARCIA)**

RECOMMENDED ACTION

Adopt Resolution 17-20 supporting AB 1132 (Garcia).

AB 1132 (GARCIA) BACKGROUND

Under current state law, an Air Pollution Control Officer (APCO) discovering an air pollution violation may seek an Order of Abatement (OFA) to prevent further violations from the source of pollution. Prior to issuing the order, the matter must be heard by either the air district's governing board or hearing board, following 10 days' notice, including publication in a daily newspaper.

This legislation (Attachment A) would authorize an APCO to issue an OFA, pending a hearing of the district board, if the APCO determines that a person is in violation, either by operating without a permit or exceeding a district permit or rule, and the violation presents an imminent and substantial endangerment to the public health or welfare or the environment. This would also require the OFA to remain in effect until the hearing is completed and the hearing board.

On May 17th, this bill was reviewed by the EENR Committee and recommended it for support.

SUPPORT AND OPPOSITION

Supporters believe this legislation AB 1132 would speed up the process of protecting the public, and would bring air districts into compliance with federal clean air regulations, AB 1132 retains due process and other legal protections. The bill is being supported by the following groups:

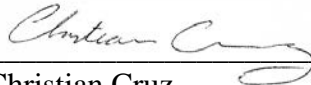
- American Lung Association of California
- Bay Area Air Quality Management District
- California Air Pollution Control Officers Association
- California Safe Schools
- Center for Community Action and Environmental Justice
- Center on Race, Poverty & the Environment
- Coalition for Clean Air
- Esperanza Community Housing
- Families Lobbying Against Refinery Exposures (FLARE)
- From Lot to Spot
- Healthy African American Families II
- IVAN Statewide Network
- Leadership Counsel for Justice & Accountability

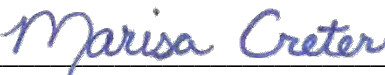
REPORT

- Natural Resources Defense Council
- Pacific Asian Consortium in Employment
- Paramount Community Coalition Against Toxins
- Physicians for Social Responsibility – Los Angeles
- Sacramento Metropolitan Air Quality Management District
- San Francisco Bay Area Physicians for Social Responsibility
- Save Porter Ranch
- Sierra Club California
- South Coast Air Quality Management District
- Torrance Refinery Action Alliance
- City of Compton
- City of Duarte
- City of Paramount
- City of Pasadena
- 31 Individuals

Those who oppose AB 1132 believe it goes directly against the basic tenet of due process that is expansive within California law and regulatory structure. They argue that there is currently a process to quickly assess and address or order abatement for permit violations within many air districts. The bill is being opposed by the following groups:

- California Business Properties Association
- California Construction and Industrial Materials Association
- California League of Food Processors
- California Manufacturers & Technology Association
- Metal Finishing Association of Northern California
- Metal Finishing Association of Southern California
- West Coast Chapter of the Institute of Scrap Recycling Industries
- Western Growers

Prepared by: 
Christian Cruz
Management Analyst

Approved by: 
Marisa Creter
Assistant Executive Director

ATTACHMENTS

- Attachment A – AB 1132 (Garcia)
- Attachment B – AB 1132 (Garcia) Bill Analysis
- Attachment C – AB 1132 (Garcia) Resolution

AMENDED IN ASSEMBLY APRIL 24, 2017

CALIFORNIA LEGISLATURE—2017–18 REGULAR SESSION

ASSEMBLY BILL**No. 1132****Introduced by Assembly Member Cristina Garcia**

February 17, 2017

An act to add Section 42451.5 to the Health and Safety Code, relating to nonvehicular air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 1132, as amended, Cristina Garcia. Nonvehicular air pollution: order-of *for* abatement.

Existing law regulates the emission of air pollutants by stationary sources and authorizes the regional air quality management districts and air pollution control districts (air districts) to enforce those requirements. Existing law authorizes the governing boards and the hearing boards of air districts to issue an order for abatement, after notice and a hearing, whenever they find a violation of those requirements.

This bill would authorize the air pollution control officer, if he or she ~~determines that a person has violated those requirements and the violation presents an imminent and substantial endangerment to the public health or welfare, or the environment,~~ *finds that any person is causing an imminent and substantial endangerment to the public health or welfare, or the environment, by violating those requirements,* to issue an *interim* order for abatement pending a hearing before the hearing board of the air district. The bill would require the air pollution control officer to notify the alleged violator of the order and would establish a procedure for a postorder hearing.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 42451.5 is added to the Health and Safety
2 Code, to read:
3 42451.5. (a) ~~If the air pollution control officer determines that~~
4 ~~a person is~~ *The air pollution control officer may issue an interim*
5 *order for abatement, pending a hearing pursuant to Section 42451,*
6 *if the air pollution control officer finds that any person is causing*
7 *an imminent and substantial endangerment to the public health*
8 *or welfare, or the environment, by constructing or operating any*
9 *article, machine, equipment, or other contrivance without a permit*
10 *required by this part, or is in violation of by violating Section 41700*
11 *or 41701 or of any order, rule, or regulation prohibiting or limiting*
12 *the discharge of air contaminants into the air and that the violation*
13 ~~presents an imminent and substantial endangerment to the public~~
14 ~~health or welfare, or the environment, the air pollution control~~
15 ~~officer may issue an order for abatement to the person pending a~~
16 ~~hearing pursuant to Section 42450.~~ *air.* The order shall be effective
17 upon the notification of the person of the *issuance of the* order. In
18 notifying the person, the air pollution control officer shall also
19 provide that person with an accusation specifying the grounds on
20 which the order is issued and procedures by which the person may
21 challenge the order.
22 (b) Upon receipt by the ~~air~~ district of a notice of defense to the
23 accusation from the person, the ~~air~~ district shall, within 15 days,
24 set the matter for a hearing pursuant to this article, which shall be
25 held as soon as possible, but not later than 30 days after the receipt
26 of the notice.
27 (c) The order shall remain in effect until the hearing is completed
28 and the hearing board has made a final determination on the merits,
29 which shall be made within 60 days after the completion of the
30 hearing. If the determination is not transmitted within this period,
31 the order shall be of no further effect.

O

ASSEMBLY THIRD READING

AB 1132 (Cristina Garcia)

As Amended April 24, 2017

Majority vote

Committee	Votes	Ayes	Noes
Natural Resources	7-3	Cristina Garcia, Chau, Eggman, Limón, McCarty, Muratsuchi, Mark Stone	Acosta, Travis Allen, Harper

SUMMARY: Authorizes an air pollution control officer (APCO) to issue an interim order for abatement (OFA), pending hearing by the air district hearing board, for violations that present an imminent and substantial endangerment to the public health or welfare, or the environment.

EXISTING LAW:

- 1) Establishes the Air Resources Board (ARB) to regulate motor vehicle emissions, coordinate activities of air districts for the purposes of the federal Clean Air Act, and implement the California Global Warming Solutions Act.
- 2) Subject to the powers of the ARB, requires air districts to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by non-vehicular emission sources under their jurisdiction.
- 3) Generally prohibits a person, except as specified, from discharging air contaminants or other material that cause injury, detriment, nuisance, or annoyance or endanger the comfort, repose, health or safety to any considerable number of persons, or to the public, or that cause, or have a tendency to cause, injury or damage to a business or property.
- 4) Authorizes the governing board or the hearing board of an air district, after notice and a hearing, to issue an order for abatement whenever it finds that any person is constructing or operating any article, machine, equipment, or other contrivance without a required permit, or is in violation of any order, rule, or regulation prohibiting or limiting the discharge of air contaminants into the air.

THIS BILL:

- 1) Authorizes an APCO to issue an interim OFA, pending a hearing of the district hearing board, if the APCO determines that a person is in violation, either by operating without a permit or exceeding a district permit or rule, *and* the violation presents an imminent and substantial endangerment to the public health or welfare, or the environment.
- 2) Provides the OFA is effective upon notification, and require the APCO's notification to include an accusation specifying the grounds for the OFA and procedures for challenging the OFA.
- 3) Requires the air district to set the matter for hearing within 15 days of receiving a notice of defense and hold the hearing as soon as possible, but not later than 30 days after receiving the notice.

- 4) Requires the OFA to remain in effect until the hearing is completed and the hearing board has made a final determination. Provides that the OFA expires if the final determination is not made within 60 days of the hearing.

FISCAL EFFECT: This bill is keyed non-fiscal by the Legislative Counsel.

COMMENTS: Under current state law, an APCO discovering an air pollution violation may seek an OFA to prevent further violations from the source. Prior to issuing the order, the matter must be heard by either the air district's governing board or hearing board, following 10 days' notice, including publication in a daily newspaper.

Under Section 303 of the federal Clean Air Act, the Administrator of the Environmental Protection Agency is authorized to issue an emergency order, when the Administrator finds evidence that a pollution source is presenting an imminent and substantial endangerment to public health or welfare, or the environment, to immediately restrain any person causing or contributing to the alleged pollution to stop the emission of air pollutants causing or contributing to such pollution or to take such other action as may be necessary.

The State Water Resources Control Board and the Department of Toxic Substances Control have similar authority to issue cease and desist orders, pending a hearing.

Proponents point to several recent incidents where air districts were aware of hazardous emissions being released into the air that directly impacted local communities, but were unable to act in a timely fashion to stop the emissions. Examples include Hixson, a chrome plater in Newport Beach, and Anaplex, a chrome anodizer in Paramount, each of which continued to emit dangerous levels of hexavalent chromium even after the air district informed them that emissions were endangering public health. In addition, Exide, a lead-acid battery recycler in Vernon, continued to operate for months after the air district identified excessive emissions of lead and arsenic.

According to the author, under current law, once an imminent and substantial danger to the public has been identified, an air district must first receive permission from its board before it can proceed with an order for abatement. The petition for order for abatement may not be heard unless there has been 10 days of notice to the public (and facility) which in practice works out usually to closer to 15 days to allow for publication in the newspaper. Theoretically, a case could be heard within 1-5 days approximately 15 days after the order is issued, and the hearing board could issue its decision at that time meaning the process would be 15-20 days. Technically, however, hearings can and do drag on for weeks or months because facilities can postpone and make procedural moves that delay the final decision by the board.

Analysis Prepared by: Lawrence Lingbloom / NAT. RES. / (916) 319-2092 FN: 0000222

RESOLUTION 17-20

A RESOLUTION OF THE GOVERNING BOARD OF THE SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS (“SGVCOG”) SUPPORTING AB 1132 (Garcia).

WHEREAS, existing law establishes the Air Resources Board (ARB) to regulate motor vehicle emissions, coordinate activities of air districts for the purposes of the federal Clean Air Act, and implement the California Global Warming Solutions Act,

WHEREAS, existing law is subject to the powers of the ARB, requires air districts to adopt and enforce rules and regulations to achieve and maintain the state and federal ambient air quality standards in all areas affected by non-vehicular emission sources under their jurisdiction,

WHEREAS, under existing law, a petition for an order of abatement (OFA) may not be heard unless there has been a minimum of 10 days of notice to the public and to the facility,

WHEREAS, AB 1132 would authorize an air pollution control officer (APCO) to issue an interim OFA, pending a hearing of the district hearing board, if the APCO determines that a person is in violation, either by operating without a permit or exceeding a district permit or rule, and the violation presents an imminent and substantial endangerment to the public health or welfare, or the environment,

WHEREAS, AB 1132 would require the air district to set the matter for hearing within 15 days of receiving a notice of defense and hold the hearing as soon as possible, but not later than 30 days after receiving the notice,

WHEREAS, AB 1132 would require the OFA to remain in effect until the hearing is completed and the hearing board has made a final determination, and

WHEREAS, AB 1132 would require that the OFA expires if the final determination is not made within 60 days of the hearing.

NOW, THEREFORE BE IT RESOLVED THAT THE GOVERNING BOARD OF THE SGVCOG SUPPORTS AB 1132 (GARCIA).

PASSED, APPROVED, and ADOPTED this 15th day of June, 2017.

SAN GABRIEL VALLEY COUNCIL OF GOVERNMENTS

By: _____

Cynthia Sternquist, President

Attest:

I, Philip A. Hawkey, Executive Director and Secretary of the Board of Directors of the San Gabriel Valley Council of Governments, do hereby certify that Resolution 17-20 was adopted at a regular meeting of the Governing Board held on the 15th day of June, 2017, by the following roll call vote:

AYES:	
NOES:	
ABSTAIN:	
ABSENT:	

Philip A. Hawkey, Secretary

REPORT

DATE: June 15, 2017
TO: SGVCOG Governing Board
FROM: Phil Hawkey, Executive Director
RE: **ACE/LARGE CAPITAL PROJECTS AD HOC COMMITTEE FINAL REPORT**

RECOMMENDED ACTION:

Discuss and provide direction to staff.

BACKGROUND:

The attached report represents the consensus recommendation of the ACE/Large Capital Projects Ad Hoc Committee. It is being presented initially for information and discussion at the June 15 Governing Board meeting and to give direction to staff on preparation of the final report and recommendations that will be considered at the July 20 Governing Board meeting. Staff will present an updated report for possible action at the July 20 Governing Board meeting reflecting the direction given at the June meeting.

This report is an outcome that emanated from the SGVCOG Strategic Planning process in early 2016, where the SGVCOG Governing Board identified the need to assess of the role of ACE and the SGVCOG in planning, funding, and constructing large capital projects. These discussions prompted the SGVCOG President, Gene Murabito to form an ad hoc committee to study and explore these issues. The Ad Hoc ACE/Large Capital Projects Committee was tasked with assessing the future of the SGVCOG and whether it should be primarily a planning agency or should it also have the internal capacity to implement and build large capital projects. Related to this, it was also tasked with providing recommendations as to whether ACE should dissolve upon completion of its mission in six years or should be restructured as a division of the SGVCOG that would be responsible for the construction of large capital projects in the San Gabriel Valley.

With the passage of Measure M, San Gabriel Valley transportation projects and programs will receive more than \$2 billion in local sales tax funds over the coming decades, in addition to the \$1 billion being allocated to the Foothill Gold Line project. Significant Measure M funding will be passed through eight programs established by the SGVCOG. Over the course of the Ad Hoc Committee's work, it became apparent that whatever organizational form emerged from the effort, it must include added capacity for the SGVCOG to manage the Measure M funding.

The Ad Hoc Committee reports represents a significant restructuring of SGVCOG/ACE, and is designed to strengthen the ability of the SGVCOG to serve the needs and provide leadership to the San Gabriel Valley.

ATTACHMENTS:

Attachment A – ACE Ad Hoc Committee Final Report, including organization charts recommended by the ACE Ad Hoc Committee, as well as a second option discussed by the committee

Report of the Ad Hoc ACE/ Large Capital Projects Committee

EXECUTIVE SUMMARY:

The Ad Hoc ACE/Large Capital Projects Committee was appointed in June 2016 by SGVCOG President Gene Murabito to study the relationship between SGVCOG and ACE (Alameda Corridor-East Construction Authority) and to explore combining the COG and ACE into one organization that could both plan and implement capital projects. The Ad Hoc Committee undertook the following activities:

- Studied the history of the SGVCOG and ACE;
- Evaluated the issues of risks and liability involved with construction;
- Examined the liabilities of PERS for both ACE and SGVCOG;
- Explored four case studies of major projects that might benefit from a more active role by the SGVCOG in construction;
- Compared how other COGs operate; and
- Developed guiding principles to identify core issues that should influence any decision about the future of the SGVCOG.

With the passage of Measure M in November 2016, the San Gabriel Valley region is now guaranteed to receive over \$2 billion in funding over the next 40 years, including hundreds of millions of dollars for transportation programs to be administered through the SGVCOG. In addition, the Foothill Gold Line will receive over \$1 billion to complete the Gold Line to Claremont. It is important to note that the Measure M funds are intended to be leveraged in securing matching state, federal or other funds. These matching funds will be needed to complete most, if not all, of the SGVCOG's priority projects.

In its interim report issued in January 2017, the Ad Hoc Committee recommended to the Governing Board that the SGVCOG expand its organizational capacity by creating a transportation planning division and hire a transportation planner/program manager to coordinate the implementation of Measure M transportation programs in the San Gabriel Valley. The Ad Hoc Committee also recommended that the SGVCOG develop a plan for integrating ACE as an integral part of the COG to allow for the potential of the newly configured ACE to construct capital projects throughout the San Gabriel Valley as may be specifically approved by the Governing Board. The Ad Hoc Committee was directed by the Governing Board to further study the integration of SGVCOG and ACE and to report back to the Governing Board within six months.

At its meeting on May 1, 2017, the Ad Hoc Committee approved the following recommendations:

1. Keep ACE.
2. Expand ACE's jurisdiction so it can undertake projects throughout the SGV, with the requirement that the Governing Board must approve each project undertaken by ACE with a majority vote of the total membership of SGVCOG.
3. Modify the existing ACE Board to include one representative from each of five districts in the SGV (the same districts as used by City Manager TAC), the President of the COG and one county supervisor. Existing ACE Board members will continue serving on the ACE Board as long as ACE projects are under construction in their cities.
4. The new ACE Board will have similar responsibilities as the previous ACE Board for approval of contracts, change orders, eminent domain, compensation for ACE employees. The sole change in authority would be that under the new structure, inter-agency

agreements, which are currently approved by the ACE Board, would be approved by the SGVCOG Governing Board.

5. The new ACE Board will report to the Governing Board, with communication to the Executive Committee.
6. ACE will be maintained as a separate management unit under the authority of a Chief Executive Officer (CEO), who would report to the ACE Board. The ACE organization would only employ staff working directly on ACE projects. Those staff would report to the ACE CEO. All non-project staff that currently work for ACE would be transferred to the SGVCOG and report to the SGVCOG Executive Director.
7. All non-project staff, including administrative staff, that currently work for ACE would be transferred to the SGVCOG and report to the SGVCOG Executive Director.
8. Review the organizational structure and responsibilities in 18 months

BACKGROUND:

ACE was created by the SGVCOG in 1998 as a subsidiary of the SGVCOG, with a narrow mission to address the traffic congestion caused by the expansion of freight rail traffic from the Ports of Los Angeles and Long Beach. For the past 18 years, ACE has had great success in securing more than \$1.6 billion in funding to construct grade separations to facilitate freight railroad movement through the southern portion of the San Gabriel Valley.

The mission of the ACE project is approaching completion in the next few years, and the SGVCOG must determine next steps. The expertise and excellent reputation of the ACE organization presents an opportunity to address an expanded and new scope of projects, but there are inherent risks and costs with this type of new endeavor.

In addition, with the passage of Measure M in Los Angeles County in November 2016, the SGVCOG will be responsible for guiding the allocation and implementation of over \$2 billion in capital projects and programs. The SGVCOG will either need to expand its capacity to handle these funds, or allow Metro to manage the funds in a manner guided by the advice of the SGVCOG.

As part of its Strategic Planning process in early 2016, the SGVCOG Governing Board identified the need to conduct an assessment about the future of ACE and the role of the SGVCOG in planning, funding, and constructing large capital projects. As a result, SGVCOG President Gene Murabito, formed an ad hoc committee with the purpose of studying and fully exploring these issues.

Existing Structure

ACE is a subsidiary unit of the SGVCOG, operating under the Joint Powers Authority (JPA) that created the SGVCOG. However, ACE operates as a quasi-independent agency reporting to the ACE Board of Directors. ACE has a separate Chief Executive Officer, who reports to the ACE Board, and all ACE employees report to the Chief Executive Officer. As specified in the SGVCOG JPA and bylaws, the SGVCOG Governing Board is responsible for approving ACE's scope of projects and annual budget but all other functions are delegated to the ACE Board of Directors, including approving contracts, property acquisition, hiring of staff, and setting compensation of ACE employees. The ACE Board of Directors is comprised of the following members (all of which have, or did have, at least one ACE project within their jurisdiction):

- LA County

- El Monte
- Industry
- Montebello
- Pomona
- San Gabriel

Additionally, the SGVCOG President or his/her designee serves on the Board as a voting member.

The SGVCOG also has a memorandum of understanding (MOU) with ACE to have ACE staff provide technical assistance related to transportation planning. Under this MOU, the CEO of ACE is compensated by SGVCOG to periodically perform the functions of the Transportation Director for the SGVCOG. This role was most active in the development of the mobility matrix, as well in the communications with Metro and Caltrans on behalf of the SGVCOG. This work by the CEO of ACE as the Transportation Director of SGVCOG entails only a few hours a month and compensation from the SGVCOG is paid to ACE, which offsets the compensation that the CEO receives from ACE.

Two additional MOUs were approved by the SGVCOG Governing Board in early 2016 to allow ACE staff to provide administrative/HR, IT and financial management support services. ACE is fully reimbursed for these labor costs.

COMMITTEE PURPOSE, MEMBERS, AND PROCESS:

The Ad Hoc Committee was comprised of the following members:

- John Fasana, Councilmember, City of Duarte, Chair
- Gene Murabito, former Mayor of Glendora and SGVCOG President
- Terry Tornek, Mayor, City of Pasadena
- Victoria Martinez, Vice Mayor, City of El Monte
- Jack Hadjinian, Councilmember, City of Montebello
- Cynthia Sternquist, Mayor, City of Temple City and SGVCOG President
- Cruz Baca, Councilmember, City of Baldwin Park
- Sam Pedroza, Councilmember, City of Claremont
- Linda Lowry, City Manager, City of Pomona
- David Liu, Public Works Director, City of Diamond Bar
- Javier Hernandez, Transportation Deputy, LA County District #1
- Dave Perry, Transportation Deputy, LA County District #5

Phil Hawkey, Executive Director of SGVCOG and Mark Christoffels, CEO of ACE, were advisory to the Ad Hoc Committee. SGVCOG staff Marisa Creter, Eric Wolf and Christian Cruz also assisted the work of the Ad Hoc Committee.

The ACE/ Large Capital Projects Ad Hoc Committee was tasked with assessing the future of the SGVCOG and whether it should be primarily a planning agency or should it also have the internal capacity to implement and build large capital projects. A key issue concerned the future of ACE and whether it should dissolve upon completion of its mission or be restructured as a division of the SGVCOG that would be responsible for the construction of large capital projects in the San Gabriel Valley.

Two alternative future roles considered were as follows:

1. The SGVCOG should focus on being a planning agency that concentrates on assessing the needs of the San Gabriel Valley, developing proposals and plans that address those needs, pursuing grants and funding sources to pay for programs and capital projects, including transportation and capital improvements, and collaborating with appropriate agencies to construct the large capital improvements;
OR
2. The SGVCOG should expand its organizational capacity from strictly a policy and planning agency, to become a construction agency as well. In addition to planning for transportation and large capital projects, the SGVCOG might take responsibility for managing the implementation of, and even constructing, these projects. These projects might include new highway construction, bridges, freeway interchanges, and bicycle paths, as well as non-transportation projects (e.g. stormwater facilities). The Committee considered several variations of each alternative.

In the early months of the Ad Hoc Committee work, the committee discussed four case studies (SR-57/SR-60 Interchange, Greenway Network, SR-71 Completion, and I-605 Hot Spots) as a means of considering the role the SGVCOG and the ACE could play in construction planning and management. Considerable attention was paid to the issues of liability and risk management involved with construction. The experience of ACE demonstrated that prudent management with comprehensive insurance can protect the organization. The legal structure of the Joint Powers Authority makes it a stand-alone legal entity for which the member cities of the JPA are protected from legal liability.

The issue of CalPERS liability for the ACE organization was studied by the Ad Hoc Committee, especially in recognition that ACE may terminate when its mission is completed in 6 years. A review of audit reports concluded that more than adequate funds have been set aside at ACE to adequately cover its CalPERS obligations.

The committee also reviewed other Council of Government structures in California and determined that there are a wide variety of different COG organizational and governance models, with each organized to meet specific regional needs, as well as funding and partnership opportunities.

CONTEXT: OPPORTUNITIES AND CHALLENGES:

Measure M funding

With the passage of Measure M, the L.A County transportation tax measure, San Gabriel Valley transportation projects and programs identified and prioritized by SGVCOG will receive more than \$2 billion in local sales tax funds over the coming decades, in addition to the \$1 billion that is allocated for the completion of the Foothill Gold Line.

Significant Measure M funding will be passed through eight programs established by the SGVCOG expressly for San Gabriel Valley projects:

- (1) Active Transportation (\$231 million)
- (2) Bus System Improvement (\$55 million)
- (3) First/Last Mile and Complete Streets (\$198 million)
- (4) Highway Demand Management (\$231 million)
- (5) Goods Movement (\$33 million)
- (6) Highway Efficiency (\$534 million)

- (7) ITS/Technology (\$66 million)
- (8) Subregional Equity (\$199 million)

Over the course of the ad hoc committee's work, it became apparent that whatever organizational form emerges from the effort, it must include added capacity for the SGVCOG to manage the Measure M funding assigned to the San Gabriel Valley and to secure matching funds, as needed to complete project budgets. Thus, the recommendation to create a position of Transportation Planner/Program Manager was approved by the Governing Board in February 2017, with the expectation that the position will be funded from Measure M funds.

Partner Agencies

Representatives from the Ad Hoc Committee met with key staff from L.A. Metro, including CEO Phil Washington. During that meeting, Metro staff referenced the Measure M Program Management Plan (PMP) that was presented to the Metro Board in October 2016. Metro indicated that the SGVCOG's proposal to take a more active role in planning, programming, and constructing projects and programs was consistent with the PMP, and Metro was supportive of subregional efforts that would facilitate projects being completed on-time and within budget.

A separate meeting was held with lead staff at Caltrans Region 7 on January 31, 2017, to identify possible roles for SGVCOG regarding constructing Caltrans transportation projects. The Caltrans leadership expressed their support for the expanded role of the SGVCOG, through a restructured ACE, that would do major capital projects throughout the San Gabriel Valley. Caltrans encouraged the development of a MOU between Caltrans and SGVCOG that would facilitate ACE and Caltrans working together on planning, designing and building improvements to state highways and related facilities.

GUIDING PRINCIPLES:

The Ad Hoc Committee gave time to establish some overriding principles that should guide any future actions of the SGVCOG in addressing the needs of the San Gabriel Valley. Guiding Principles were created and approved by the Ad Hoc Committee, against which the committee's recommended future SGVCOG structure was evaluated.

The Ad Hoc Committee developed Guiding Principles intended to define the core elements of the organizational structure and operating requirements of any new agency or division within the SGVCOG that would take on planning, programming, and construction projects. The following guiding principles were approved by the Committee:

Threshold Criteria & Member Benefit

- SGVCOG action will result in a measurable benefit to the region and member cities and/or non-action will result in a measurable disadvantage or loss to the San Gabriel Valley region.
- Collaborative relationships with impacted communities, LA Metro, Caltrans, LA County and/or other entities are explored before SGVCOG acts to plan or implement a program or project.
- Majority support from SGVCOG members is secured before a major program or project is undertaken.

Liability & Risk

- Structures are in place, including proper insurance and indemnification, to ensure there is no financial exposure or increased legal liability to member cities as a result of SGVCOG taking action.
- Prior to a project getting underway, agreements have been defined for long term ownership and maintenance of the completed project. by a responsible entity.

Financial Impact

- SGVCOG may pursue funding for planning activities that may, or may not, result in programs or capital projects, but could fund staff costs.
- SGVCOG will not proceed to implement a program or project without securing all funding sources necessary to complete each distinct phase of a project.
- Member agencies may volunteer to fund a program, project, or study through an assessment in which only the participating members benefit from the work.
- SGVCOG may secure short term financing to fund start-up costs or accelerate a program or project with approval of a majority of SGVCOG members.

Legal Authority & Project Oversight

- Action will conform to SGVCOG's existing legal authority. If it does not, all legal risks and changes to authority will be identified before taking action.
- Project oversight may be performed by a new organization (such as a separate JPA) created by SGVCOG that could plan, program, or implement projects in the San Gabriel Valley, and the SGVCOG might enter into agreements with this organization for the completion of those programs or projects.

AD HOC COMMITTEE RECOMMENDATIONS:

The key recommendations of the Ad Hoc Committee are:

- 1. Keep ACE:** The Ad Hoc Committee recognizes the success of ACE over the past 18 years in planning, funding and constructing over \$1.6 billion in grade separation improvements. With the passage of Measure M, and the availability of new state transportation funds, there will be resources for many projects in the San Gabriel Valley. If the SGVCOG can demonstrate the capacity to plan as well as to implement projects, the San Gabriel Valley will be able to accelerate the construction of projects that are important to our region.
- 2. Expand ACE's jurisdiction so it can undertake projects throughout the SGV:** Any new project would require the approval of the majority of the Governing Board (currently there are 35 members of SGVCOG). The process for determining projects will be:
 - A potential program of projects will be developed through a collaborative planning process that will include a SGVCOG Technical Advisory Committee, LA County, Caltrans, and Metro, and other cities or agencies that might be affected by a project. This program of projects will be reviewed by the SGVCOG's Transportation Committee and submitted to the Governing Board for approval.
 - The Governing Board shall have the sole authority to consider, approve, and assign funding to future projects to be undertaken by ACE, and the ACE Board shall not have the authority to act on a project until the project is assigned to them by the Governing Board. SGVCOG staff will have the authority to spend time and money to plan projects in anticipation of presentation to the Governing Board for approval.

- 3. Modify the existing ACE Board:** The new ACE Board would include one representative from each of five districts in the SGV (the same districts as used by the City Manager TAC), the president of the SGVCOG and one county supervisor. Existing Board members will continue on the ACE Board as long as ACE grade separation projects are under construction in their cities.

The structure of the new ACE Board will be as follows:

- The ACE Board shall include one member from each of the five districts as used by the City Manager Steering Committee as follows:
 - Northeast: Azusa, Claremont, Glendora, La Verne, San Dimas
 - Southeast: Covina, Diamond Bar, Industry, La Puente, Pomona, Walnut
 - Central: Baldwin Park, El Monte, Rosemead, South El Monte, Irwindale, West Covina
 - Southwest: Alhambra, Montebello, Monterey Park, San Gabriel, South Pasadena, Temple City
 - Northwest: Arcadia, Bradbury, Duarte, La Canada Flintridge, Monrovia, Pasadena, San Marino, Sierra Madre
 - The members shall be appointed by the Governing Board through a nomination process and serve for two years. Members may be re-appointed for up to three terms.
 - The ACE Board shall also include the SGVCOG Governing Board President or a designee, and a County Supervisor who represents all or a portion of the San Gabriel Valley (i.e. District 1, 4 or 5)
 - Current ACE Board members will remain as voting members of the ACE Board until the ACE grade separation projects within their respective cities have been completed.
 - With the exception of the County Supervisor, ACE Board appointees must be current SGVCOG delegates.
- 4. The new ACE Board will have similar responsibilities as the previous ACE Board:** The ACE Board will be delegated the authority to approve of contracts, change orders, eminent domain, and compensation for ACE employees. Inter-agency agreements will be approved by the Governing Board.
- 5. The new ACE Board will report to the Governing Board:** As is current practice, the ACE Board would report regularly to the SGVCOG Governing Board and communicate its activities to the Executive Committee.
- 6. ACE construction management will be maintained as a separate management unit:** ACE would operate under the authority of a Chief Executive Officer, who would report to the ACE Board. The ACE organization will include only the project related ACE staff, under the Chief Executive Officer, with the non-project related ACE employees being transferred under the COG.
- 7. Transfer the all non-project staff (i.e. administrative staff) of ACE to become SGVCOG staff:** All current ACE staff that are not directly involved with project management will transfer to be employees of the COG and report to the COG Executive Director. This includes the employees who work in human resources, finance, purchasing, records management, information technology, marketing and government relations, totaling about two-thirds of the employees of ACE, out of a total of 24 employees. Since the ACE compensation plan is structured differently than the COG compensation plan, extensive work will need to be done to integrate the two organizations. The remaining ACE employees who are directly involved in project

management will continue as employees of ACE, reporting to the Chief Executive Officer of ACE. The employees of ACE that are transferred to become COG employees will continue to provide support services to ACE through a MOU whereby ACE will pay COG for the services provided for the administrative, financial, IT, HR, purchasing support of ACE.

8. **Review the organizational structure and responsibilities in 18 months:** After operating for 18 months with a split administration of COG and ACE, the Governing Board will review the organizational structure and determine if ACE and COG should be combined into one organization with a single Executive Director.

ORGANIZATIONAL STRUCTURE:

The recommended organizational structure, with the split administration between ACE and COG, is shown on Attachment A as the Recommended Option. The alternative structure that might be considered by the Governing Board at the end of 18 months is shown on Attachment B as Future Option.

TIMETABLE:

- **July 20, 2017:** Governing Board approval of the agenda report describing the restructuring of COG/ACE and other recommendations in the report.
- **March 1, 2018:** Approval of JPA amendments by at least 50% plus one of the legislative bodies of the members, followed by approval amendments to the SGVCOG bylaws by the Governing Board, which requires 50% plus one approval of the total membership of the COG (35 members).
- **July 1, 2018:** New ACE Board takes effect as defined in the approved report with the structure and responsibilities as described in the amended JPA and bylaws.
- **July 1, 2018:** ACE administrative staff are fully transitioned to become SGVCOG employees.
- **December 2018:** Governing Board approval of initial list of projects that may be undertaken by ACE in the San Gabriel Valley.
- **January 1, 2020:** Governing Board reviews organizational structure and decides whether to combine ACE and COG into one organization under the Executive Director.

IMPLEMENTATION:

The process to implement the recommendations included in this report will involve several steps, including:

- **Joint Powers Authority (JPA) amendment.** Amendments to the JPA requires approval of 50% plus one of the legislative bodies of the total membership of the SGVCOG. Currently there are 35 members of the SGVCOG. Necessary changes to the JPA include the following:
 - Section 4(b) (common powers), subsection (15) will need to be amended with respect to borrowing and incurring indebtedness/issuing bonds, as this power is restricted solely to fund the ACE project.
 - Section 27 of the JPA deals with the ACE Board structure and authority, as well as the authority of ACE to hire employees, enter into contracts, purchase property,

utilize eminent domain and other powers. Language will need to be added that expands the jurisdiction of ACE to serve the entire San Gabriel Valley.

Amendments to the JPA will be required in the first phase of implementation of this report to modify the structure and jurisdiction of the ACE Board. A subsequent amendment to the JPA will be required to fully integrate the ACE/COG organizations.

- **By-Laws Amendments.** Amending the bylaws requires a vote of 50% plus one of the total voting membership of the SGVCOG Governing Board. Necessary changes to the SGVCOG bylaws include the following:
 - Article IV, regarding the Executive Director, will need to be amended, when appropriate, to clarify Article IV B which indicates that the Executive Director shall supervise employees, “except for those employees and consultants working for the ACE Construction Authority.”
 - The Finance Committee (Article VI C) will require revision as it refers to the selection of auditor with ACE assistance.
 - Article IX, dealing with ACE, will need to be revised to conform to the new structure approved by the Board. This involves scope of responsibility, powers, make-up of the Board, meeting and voting process, and the role of the Chief Executive Officer in managing the work of ACE and the employees.
 - Article IX, dealing with ACE, will need to be amended to reflect that the SGVCOG Governing Board will have the authority to approve inter-agency agreements.

Amendments to the By-Laws will be required in the first phase of implementation of this report, and additional amendments will be needed to the By-Laws to fully implement a subsequent full integration of ACE/COG organizations.

- **Budget Amendments and MOUs.** These amendments require approval of the Governing Board. Budget amendments will be needed to reflect the transfer of costs from ACE to COG when non-construction employees of ACE are transferred to be employees of the COG. Other operating costs will need to be adjusted to reflect the expanded operation of the COG. New MOUs will need to be developed between COG and ACE, since under the new structure the administrative and finance employees will be employed by COG but most of their work will be done to support ACE.
- **Staff integration of ACE administrative staff to become COG employees.** This includes the transition of nearly two-thirds of ACE employees to become COG employees. It will require careful attention to address the anxiety of employees in dealing with relationship and cultural changes. Since the ACE compensation plan and work schedule is structured differently than the COG compensation plan and work schedule, extensive work will need to be done to blend the two organizations into a shared culture. If a second phase of organizational change is implemented between ACE and COG after 18 months, then a subsequent change management support program will also be needed.
- **Development of short and long range programs and projects.** With the approval of the SGVCOG Governing Board to expand the jurisdiction of ACE to serve the San Gabriel Valley, it will be appropriate for the ACE staff to develop a list of construction projects that might be undertaken by ACE. This list of potential projects would be reviewed by the ACE Board and submitted to the Governing Board for approval. In addition, each individual construction project, along with its funding plan, will be presented to the Governing Board for approval prior to proceeding with construction. Undertaking work to do preliminary construction concepts, and securing financing sources, is considered part of the operating responsibilities of ACE. Attachment C is a flow chart which summarizes the proposed process.

- **Project/Program agreements with LA Metro and Caltrans.** Interagency agreements require the approval of the SGVCOG Governing Board. These agreements will define the ongoing working relationships between SGVCOG/ACE and LA Metro and Caltrans. Additional individual agreements will be developed for specific projects that are done in collaboration with LA Metro, Caltrans, as well as any local government or agency that might be involved with a project.

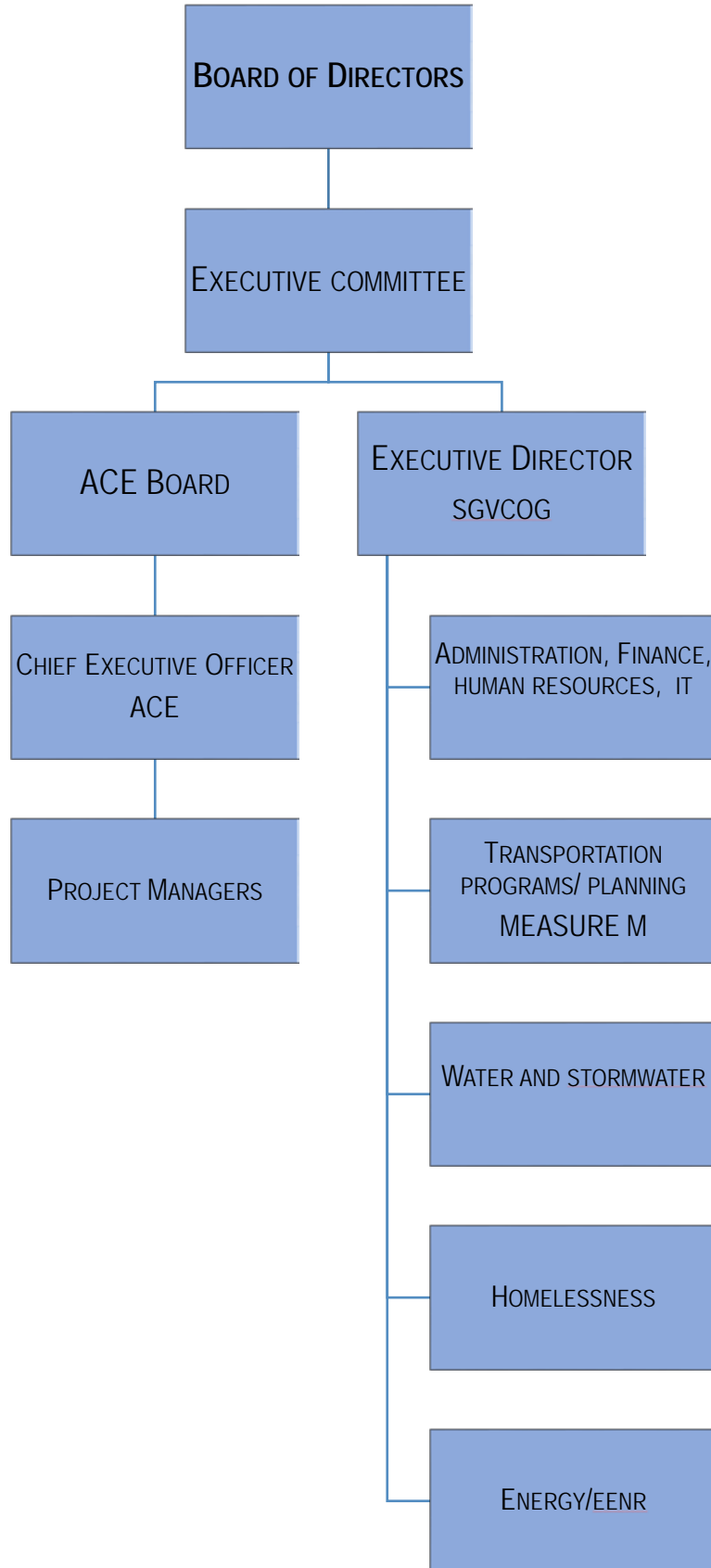
CONCLUSION:

This report is being presented with the endorsement of the Ad Hoc ACE/Large Capital Projects Committee and presented for information and discussion at the June 15 Governing Board meeting. A decision and vote on these recommendations, or as they may be modified, will be made at the Governing Board meeting on July 20, 2017.

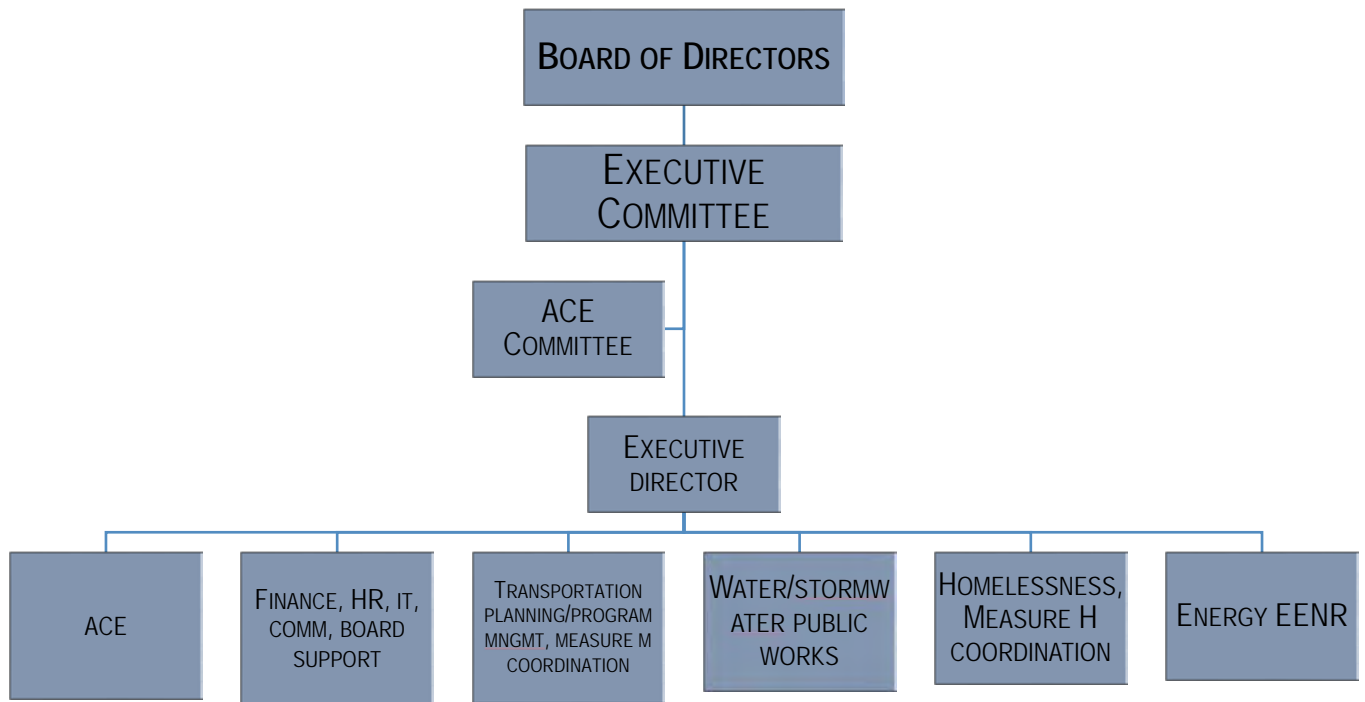
To the extent that the action taken by the Governing Board on July 20 requires changes in the Joint Powers Authority (JPA) and the By-Laws, it is anticipated that the new language will be submitted to the Governing Board at its meeting on September 21. The effective date of many of the changes in this report approved by the Governing Board will not take effect until the JPA and By-Laws are changed.

- John Fasana, Councilmember, City of Duarte Chair
- Gene Murabito, former Mayor of Glendora and President SGVCOG
- Terry Tornek, Mayor, City of Pasadena
- Victoria Martinez, Vice Mayor, City of El Monte
- Jack Hadjinian, Councilmember, City of Montebello
- Cynthia Sternquist, Mayor, City of Temple City and President SGVCOG
- Sam Pedroza, Councilmember, City of Claremont
- Cruz Baca, Councilmember, City of Baldwin Park
- Linda Lowry, City Manager, City of Pomona
- David Liu, Public Works Director, City of Diamond Bar
- Javier Hernandez, Transportation Deputy, LA County District #1
- Dave Perry, Transportation Deputy, LA County District #5

Recommended by Ad Hoc Committee



Future Option



REPORT

DATE: June 15, 2017
TO: SGVCOG Governing Board
FROM: Phil Hawkey, Executive Director
RE: **Executive Committee Recommendation regarding COG/ACE organizational structure**

RECOMMENDED ACTION:

Approve the alternative recommendation to immediately proceed with the merging of COG/ACE into an integrated SGVCOG.

EXECUTIVE SUMMARY:

After an extensive strategic planning process for the SGVCOG in February, 2016, the future of the Alameda Corridor East Construction Authority (ACE), (which is a subsidiary of the SGVCOG) was identified as a top priority issue, since ACE is scheduled to expire in about six years when its current mission is completed. The Ad Hoc ACE/Large Capital Projects Committee was appointed in June 2016 by SGVCOG President Gene Murabito to study the relationship between SGVCOG and ACE and to explore combining the COG and ACE into an integrated organization that could both plan and implement capital projects.

In its interim report issued in January 2017, the Ad Hoc Committee recommended that the SGVCOG develop a plan for integrating ACE as an integral part of the COG to allow for the potential of the newly configured ACE to construct capital projects throughout the San Gabriel Valley as may be specifically approved by the Governing Board. The decision was made by the Governing Board in January to merge ACE fully into COG. The following language was approved:

- *Develop a multi-year plan to integrate ACE, as an ongoing integral part of the SGVCOG, to allow for potential future capacity to construct capital projects in the San Gabriel Valley pending future specific direction from the Governing Board. Report back within six months;*
- *Direct ACE and SGVCOG staff to further integrate administrative functions; and*
- *Consult with legal counsel of ACE and SGVCOG to identify necessary changes to SGVCOG JPA and Bylaws.*

The Ad Hoc Committee was directed by the Governing Board in January to further study the integration of SGVCOG and ACE and to report back to the Governing Board within six months.

The Ad Hoc Committee has been working since January and has now made its final recommendations, as follows:

1. Keep ACE, and do not allow it to expire upon completion of its mission in six years.
2. Expand ACE's jurisdiction so it can undertake projects throughout the SGV.

3. Modify the existing ACE Board to include representatives from five districts in the SGV, the president of the SGVCOG, and a county supervisor who represents a part of the SGV. In addition, the current ACE Board members will remain as voting members of the ACE Board until the ACE projects within their respective cities have been completed.
4. The new ACE Board will have similar responsibilities as the previous ACE Board.
5. The new ACE Board will report to the Governing Board, with communication to the Executive Committee.
6. ACE construction management staff will be maintained as a separate management unit.
7. Transfer all non-project staff (i.e. administrative staff) of ACE to become SGVCOG staff.
8. Review the organizational structure and responsibilities in 18 months.

The Executive Committee, at its meeting on June 5, directed by a unanimous motion (with one member absent), that an alternative proposal be submitted to the Governing Board that would modify the recommendation of the Ad Hoc Committee, as follows:

1. Keep ACE, and do not allow it to expire upon completion of its mission in six years.
Executive Committee: Agrees
2. Expand ACE's jurisdiction so it can undertake projects throughout the SGV.
Executive Committee: Agrees
3. Modify the existing ACE Board to include representatives from five districts in the SGV, the president of the SGVCOG, and a county supervisor who represents a part of the SGV. In addition, the current ACE Board members will remain as voting members of the ACE Board until the ACE projects within their respective cities have been completed.
Executive Committee: Agrees, with the modification that the ACE Board be re-named the ACE Committee to reflect the equivalent organizational alignment with other Committees of the SGVOCOG.
4. The new ACE Board will have similar responsibilities as the previous ACE Board.
Executive Committee: Agrees, except that the new ACE Committee will not have management or personnel responsibilities.
5. The new ACE Board will report to the Governing Board, with communication to the Executive Committee.
Executive Committee: Agrees, except that the ACE Committee will communicate through the Executive Committee while reporting to the Governing Board.
6. ACE construction management staff will be maintained as a separate management unit.
Executive Committee: Disagrees, recommending instead that the COG and ACE be combined into one organization with one Executive Director, and that ACE will be a SGVCOG division reporting to the Executive Director.
7. Transfer all non-project staff (i.e. administrative staff) of ACE to become SGVCOG staff.

Executive Committee: Disagrees, and instead recommends that all ACE staff become SGVCOG employees, reporting to the SGVCOG Executive Director.

8. Review the organizational structure and responsibilities in 18 months.

Executive Committee: Disagrees, and instead recommends that the Governing Board approve the merger of COG and ACE into one organization, with full implementation of staff integration to occur no later than July 1, 2018.

This recommendation should be discussed by the Governing Board as part of the discussion of the Recommendation from the Ad Hoc Committee. These recommendations are being presented to the Governing Board for discussion on June 15 so that the Board can direct staff on the action item that will be brought to the July 20 Governing Board meeting for approval.

ATTACHMENTS:

Attachment A – Executive Committee alternative report presenting modifications of the Ad Hoc Committee Final Report

Attachment B – the Executive Committee recommended organizational chart

Executive Committee Alternative Recommendation as a modification of the Report of the Ad Hoc ACE/ Large Capital Projects Committee

BACKGROUND:

ACE was created by the SGVCOG in 1998 as a subsidiary of the SGVCOG, with a narrow mission to address the traffic congestion caused by the expansion of freight rail traffic from the Ports of Los Angeles and Long Beach. For the past 18 years, ACE has had great success in securing more than \$1.6 billion in funding to construct grade separations to facilitate freight railroad movement through the southern portion of the San Gabriel Valley.

The mission of the ACE project is approaching completion in the next few years, and the SGVCOG must determine next steps. The expertise and excellent reputation of the ACE organization presents an opportunity to address an expanded and new scope of projects, but there are inherent risks and costs with this type of new endeavor.

In addition, with the passage of Measure M in Los Angeles County in November 2016, the SGVCOG will be responsible for guiding the allocation and implementation of over \$2 billion in capital projects and programs. The SGVCOG will either need to expand its capacity to handle these funds, or allow Metro to manage the funds in a manner guided by the advice of the SGVCOG.

As part of its Strategic Planning process in early 2016, the SGVCOG Governing Board identified the need to conduct an assessment about the future of ACE and the role of the SGVCOG in planning, funding, and constructing large capital projects. As a result, SGVCOG President Gene Murabito formed an ad hoc committee with the purpose of studying and fully exploring these issues.

Existing Structure

ACE is a subsidiary unit of the SGVCOG, operating under the Joint Powers Authority (JPA) that created the SGVCOG. However, ACE operates as a quasi-independent agency reporting to the ACE Board of Directors. ACE has a separate Chief Executive Officer, who reports to the ACE Board, and all ACE employees report to the Chief Executive Officer. As specified in the SGVCOG JPA and bylaws, the SGVCOG Governing Board is responsible for approving ACE's scope of projects and annual budget but all other functions are delegated to the ACE Board of Directors, including approving contracts, property acquisition, hiring of staff, and setting compensation of ACE employees. The ACE Board of Directors is comprised of the following members (all of which have, or did have, at least one ACE project within their jurisdiction):

- LA County
- El Monte
- Industry
- Montebello
- Pomona
- San Gabriel

Additionally, the SGVCOG President or his/her designee serves on the Board as a voting member.

The SGVCOG also has a memorandum of understanding (MOU) with ACE to have ACE staff provide technical assistance related to transportation planning. Under this MOU, the CEO of ACE is compensated by SGVCOG to periodically perform the functions of the Transportation Director for the SGVCOG. This role was most active in the development of the mobility matrix, as well in the communications with Metro and Caltrans on behalf of the SGVCOG. This work by the CEO of ACE as the Transportation Director of SGVCOG entails only a few hours a month and compensation from the SGVCOG is paid to ACE, which offsets the compensation that the CEO receives from ACE.

Two additional MOUs were approved by the SGVCOG Governing Board in early 2016 to allow ACE staff to provide administrative/HR, IT and financial management support services. ACE is fully reimbursed for these labor costs.

AD HOC COMMITTEE PURPOSE, MEMBERS, AND PROCESS:

The Ad Hoc Committee was comprised of the following members:

- John Fasana, Councilmember, City of Duarte, Chair
- Gene Murabito, former Mayor of Glendora and SGVCOG President
- Terry Tornek, Mayor, City of Pasadena
- Victoria Martinez, Vice Mayor, City of El Monte
- Jack Hadjinian, Councilmember, City of Montebello
- Cynthia Sternquist, Mayor, City of Temple City and SGVCOG President
- Cruz Baca, Councilmember, City of Baldwin Park
- Sam Pedroza, Councilmember, City of Claremont
- Linda Lowry, City Manager, City of Pomona
- David Liu, Public Works Director, City of Diamond Bar
- Javier Hernandez, Transportation Deputy, LA County District #1
- Dave Perry, Transportation Deputy, LA County District #5

Phil Hawkey, Executive Director of SGVCOG and Mark Christoffels, CEO of ACE, were advisory to the Ad Hoc Committee. SGVCOG staff Marisa Creter, Eric Wolf and Christian Cruz also assisted the work of the Ad Hoc Committee.

The ACE/ Large Capital Projects Ad Hoc Committee was tasked with assessing the future of the SGVCOG and whether it should be primarily a planning agency or should it also have the internal capacity to implement and build large capital projects. A key issue concerned the future of ACE and whether it should dissolve upon completion of its mission or be restructured as a division of the SGVCOG that would be responsible for the construction of large capital projects in the San Gabriel Valley.

Two alternative future roles considered were as follows:

1. The SGVCOG should focus on being a planning agency that concentrates on assessing the needs of the San Gabriel Valley, developing proposals and plans that address those needs, pursuing grants and funding sources to pay for programs and capital projects, including transportation and capital improvements, and collaborating with appropriate agencies to construct the large capital improvements;

OR

2. The SGVCOG should expand its organizational capacity from strictly a policy and planning agency, to become a construction agency as well. In addition to planning for transportation and large capital projects, the SGVCOG might take responsibility for managing the implementation of, and even constructing, these projects. These projects might include new highway construction, bridges, freeway interchanges, and bicycle paths, as well as non-transportation projects (e.g. storm water facilities). The Committee considered several variations of each alternative.

In the early months of the Ad Hoc Committee work, the committee discussed four case studies (SR-57/SR-60 Interchange, Greenway Network, SR-71 Completion, and I-605 Hot Spots) as a means of considering the role the SGVCOG and the ACE could play in construction planning and management. Considerable attention was paid to the issues of liability and risk management involved with construction. The experience of ACE demonstrated that prudent management with comprehensive insurance can protect the organization. The legal structure of the Joint Powers Authority makes it a stand-alone legal entity for which the member cities of the JPA are protected from legal liability.

The issue of CalPERS liability for the ACE organization was studied by the Ad Hoc Committee, especially in recognition that ACE may terminate when its mission is completed in 6 years. A review of audit reports concluded that more than adequate funds have been set aside at ACE to adequately cover its CalPERS obligations.

The committee also reviewed other Council of Government structures in California and determined that there are a wide variety of different COG organizational and governance models, with each organized to meet specific regional needs, as well as funding and partnership opportunities.

CONTEXT: OPPORTUNITIES AND CHALLENGES:

Measure M funding

With the passage of Measure M, the L.A County transportation tax measure, San Gabriel Valley transportation projects and programs identified and prioritized by SGVCOG will receive more than \$2 billion in local sales tax funds over the coming decades, in addition to the \$1 billion that is allocated for the completion of the Foothill Gold Line.

Significant Measure M funding will be passed through eight programs established by the SGVCOG expressly for San Gabriel Valley projects:

- (1) Active Transportation (\$231 million)
- (2) Bus System Improvement (\$55 million)
- (3) First/Last Mile and Complete Streets (\$198 million)
- (4) Highway Demand Management (\$231 million)
- (5) Goods Movement (\$33 million)
- (6) Highway Efficiency (\$534 million)
- (7) ITS/Technology (\$66 million)
- (8) Subregional Equity (\$199 million)

Over the course of the ad hoc committee's work, it became apparent that whatever organizational form emerges from the effort, it must include added capacity for the SGVCOG to manage the Measure M funding assigned to the San Gabriel Valley and to secure matching funds, as needed to complete project budgets. Thus, the recommendation to create a position of Transportation Planner/Program Manager was approved by the Governing Board in February 2017, with the expectation that the position will be funded from Measure M funds.

Partner Agencies

Representatives from the Ad Hoc Committee met with key staff from L.A. Metro, including CEO Phil Washington. During that meeting, Metro staff referenced the Measure M Program Management Plan (PMP) that was presented to the Metro Board in October 2016. Metro indicated that the SGVCOG's proposal to take a more active role in planning, programming, and constructing projects and programs was consistent with the PMP, and Metro was supportive of subregional efforts that would facilitate projects being completed on-time and within budget.

A separate meeting was held with lead staff at Caltrans Region 7 on January 31, 2017 to identify possible roles for SGVCOG regarding constructing Caltrans transportation projects. The Caltrans leadership expressed their support for the expanded role of the SGVCOG, through a restructured ACE, that would do major capital projects throughout the San Gabriel Valley. Caltrans encouraged the development of a MOU between Caltrans and SGVCOG that would facilitate ACE and Caltrans working together on planning, designing and building improvements to state highways and related facilities.

GUIDING PRINCIPLES:

The Ad Hoc Committee gave time to establish some overriding principles that should guide any future actions of the SGVCOG in addressing the needs of the San Gabriel Valley. Guiding Principles were created and approved by the Ad Hoc Committee, against which the committee's recommended future SGVCOG structure was evaluated.

The Ad Hoc Committee developed Guiding Principles intended to define the core elements of the organizational structure and operating requirements of any new agency or division within the SGVCOG that would take on planning, programming, and construction projects. The following guiding principles were approved by the Committee:

Threshold Criteria & Member Benefit

- SGVCOG action will result in a measurable benefit to the region and member cities and/or non-action will result in a measurable disadvantage or loss to the San Gabriel Valley region.
- Collaborative relationships with impacted communities, LA Metro, Caltrans, LA County and/or other entities are explored before SGVCOG acts to plan or implement a program or project.
- Majority support from SGVCOG members is secured before a major program or project is undertaken.

Liability & Risk

- Structures are in place, including proper insurance and indemnification, to ensure there is no financial exposure or increased legal liability to member cities as a result of SGVCOG taking action.
- Prior to a project getting underway, agreements have been defined for long term ownership and maintenance of the completed project. by a responsible entity.

Financial Impact

- SGVCOG may pursue funding for planning activities that may, or may not, result in programs or capital projects, but could fund staff costs.
- SGVCOG will not proceed to implement a program or project without securing all funding sources necessary to complete each distinct phase of a project.
- Member agencies may volunteer to fund a program, project, or study through an assessment in which only the participating members benefit from the work.
- SGVCOG may secure short term financing to fund start-up costs or accelerate a program or project with approval of a majority of SGVCOG members.

Legal Authority & Project Oversight

- Action will conform to SGVCOG's existing legal authority. If it does not, all legal risks and changes to authority will be identified before taking action.
- Project oversight may be performed by a new organization (such as a separate JPA) created by SGVCOG that could plan, program, or implement projects in the San Gabriel Valley, and the SGVCOG might enter into agreements with this organization for the completion of those programs or projects.

EXECUTIVE COMMITTEE MODIFICATION OF AD HOC COMMITTEE RECOMMENDATIONS:

The key recommendations of the Executive Committee, as modifications of the recommendations of the Ad Hoc Committee are:

- 1. Keep ACE: (Executive Committee Approves):** The Ad Hoc Committee recognizes the success of ACE over the past 18 years in planning, funding and constructing over \$1.6 billion in grade separation improvements. With the passage of Measure M, and the availability of new state transportation funds, there will be resources for many projects in the San Gabriel Valley. If the SGVCOG can demonstrate the capacity to plan as well as to implement projects, the San Gabriel Valley will be able to accelerate the construction of projects that are important to our region.
- 2. Expand ACE's jurisdiction so it can undertake projects throughout the SGV: (Executive Committee Approves):** Any new project would require the approval of the majority of the Governing Board (currently there are 35 members of SGVCOG). The process for determining projects will be:
 - A potential program of projects will be developed through a collaborative planning process that will include a SGVCOG Technical Advisory Committee, LA County, Caltrans, and Metro, and other cities or agencies that might be affected by a project. This program of projects will be reviewed by the SGVCOG's Transportation Committee and submitted to the Governing Board for approval.

- The Governing Board shall have the sole authority to consider, approve, and assign funding to future projects to be undertaken by ACE, and the ACE Board shall not have the authority to act on a project until the project is assigned to them by the Governing Board. SGVCOG staff will have the authority to spend time and money to plan projects in anticipation of presentation to the Governing Board for approval.
3. **Modify the existing ACE Board: (Executive Committee Approves, except the name will be ACE Committee).** The new ACE Committee would include one representative from each of five districts in the SGV (the same districts as used by the City Manager TAC), the president of the SGVCOG and one county supervisor. Existing Board members will continue on the ACE Board as long as ACE projects are under construction in their cities.

The structure of the new ACE Committee will be as follows:

- The ACE Committee shall include one member from each of the five districts as used by the City Manager Steering Committee as follows:
 - Northeast: Azusa, Claremont, Glendora, La Verne, San Dimas
 - Southeast: Covina, Diamond Bar, Industry, La Puente, Pomona, Walnut
 - Central: Baldwin Park, El Monte, Rosemead, South El Monte, Irwindale, West Covina
 - Southwest: Alhambra, Montebello, Monterey Park, San Gabriel, South Pasadena, Temple City
 - Northwest: Arcadia, Bradbury, Duarte, La Canada Flintridge, Monrovia, Pasadena, San Marino, Sierra Madre
 - The members shall be appointed by the Governing Board through a nomination process and serve for two years. Members may be re-appointed for up to three terms.
 - The ACE Committee shall also include the SGVCOG Governing Board President or a designee, and a County Supervisor who represents all or a portion of the San Gabriel Valley (i.e. District 1, 4 or 5)
 - Current ACE Board members will remain as voting members of the ACE Committee until the ACE projects within their respective cities have been completed.
 - With the exception of the County Supervisor, ACE Committee appointees must be current SGVCOG delegates.
4. **The new ACE Committee will have similar responsibilities as the previous ACE Board:** The ACE Committee will be designated the authority to approve of contracts, change orders, and eminent domain. ~~(Delete: “and compensation for ACE employees.”)~~ The other change from their current authority is that that inter-agency agreements will be approved by the Governing Board.
5. **The new ACE Committee will communicate with the Executive Committee while reporting (delete: “report”) to the Governing Board:** As is current practice, the ACE Committee would report regularly to the SGVCOG Governing Board and communicate its activities to the Executive Committee.
6. ~~(Delete the entire following paragraph: “ACE construction management will be maintained as a separate management unit: ACE would operate under the authority of a Chief Executive Officer, who would report to the ACE Board. The ACE organization~~

will include only the project related ACE staff, under the Chief Executive Officer, with the non-project related ACE employees being transferred under the COG.”)

New Paragraph: **The COG and ACE will be combined into one organization with one Executive Director, and ACE will be a SGVCOG division reporting to the Executive Director.**

7. (Delete the entire following paragraph: **“Transfer the all non-project staff (i.e. administrative staff) of ACE to become SGVCOG staff:** All current ACE staff that is not directly involved with project management will transfer to be employees of the COG and report to the COG Executive Director. This includes the employees who work in human resources, finance, purchasing, records management, information technology, marketing and government relations, totaling about two-thirds of the employees of ACE, out of a total of 24 employees. Since the ACE compensation plan is structured differently than the COG compensation plan, extensive work will need to be done to integrate the two organizations. The remaining ACE employees who are directly involved in project management will continue as employees of ACE, reporting to the Chief Executive Officer of ACE. The employees of ACE that are transferred to become COG employees will continue to provides support services to ACE through a MOU whereby ACE will pay COG for the services provides for the administrative, financial, IT, HR, purchasing support of ACE.”) (Add New paragraph: **All ACE staff become SGVCOG employees, reporting to the SGVCOG Executive Director.**

8. (Delete the entire following paragraph: **Review the organizational structure and responsibilities in 18 months:** After operating for 18 months with a split administration of COG and ACE, the Governing Board will review the organizational structure and determine if ACE and COG should be combined into one organization with a single Executive Director.) New paragraph: **The Governing Board should approve the merger of COG and ACE into one organization, with full implementation of staff integration to occur no later than July 1, 2018.**

ORGANIZATIONAL STRUCTURE:

The recommended organizational structure, (Delete: “split administration between ACE and COG”), is shown on Attachment A as the **Executive Committee Recommended Option**.

(Delete the following sentence: “The alternative structure that might be considered by the Governing Board at the end of 18 months is shown on Attachment B as Future Option.”)

TIMETABLE:

- **July 20, 2017:** Governing Board approval of the agenda report describing the restructuring of COG/ACE and other recommendations in the report.
- **March 1, 2018:** Approval of JPA amendments by at least 50% plus one of the legislative bodies of the members, followed by approval amendments to the SGVCOG bylaws by the

Governing Board, which requires 50% plus one approval of the total membership of the COG (35 members).

- **July 1, 2018:** New ACE **Committee** takes effect as defined in the approved report with the structure and responsibilities as described in the amended JPA and bylaws.
- **July 1, 2018:** **All** ACE administrative staff are fully transitioned to become SGVCOG employees.
- **December 2018:** Governing Board approval of initial list of projects that may be undertaken by ACE in the San Gabriel Valley.
- **(Delete the following sentence: “January 1, 2020: Governing Board reviews organizational structure and decides whether to combine ACE and COG into one organization under the Executive Director.”)**

IMPLEMENTATION:

The process to implement the recommendations included in this report will involve several steps, including:

- **Joint Powers Authority (JPA) amendment: Amendments to the JPA** requires approval of 50% plus one of the legislative bodies of the total membership of the SGVCOG. Currently there are 35 members of the SGVCOG. Necessary changes to the JPA include the following:
 - Section 4(b) (common powers), subsection (15) will need to be amended with respect to borrowing and incurring indebtedness/issuing bonds, as this power is restricted solely to fund the ACE project.
 - Section 27 of the JPA deals with the ACE Board structure and authority, as well as the authority of ACE to hire employees, enter into contracts, purchase property, utilize eminent domain and other powers. Language will need to be added that expands the jurisdiction of ACE to serve the entire San Gabriel Valley.

Amendments to the JPA will be required **(Delete: “in the first phase of implementation of this report”)** to modify the structure and jurisdiction of the ACE Committee. **(Delete the following sentence: “A subsequent amendment to the JPA will be required to fully integrate the ACE/COG organizations.”)**

- **By-Laws Amendments:** require a vote of 50% plus one of the total voting membership of the SGVCOG Governing Board. Necessary changes to the SGVCOG bylaws include the following:
 - Article IV, regarding the Executive Director, will need to be amended, when appropriate, to clarify Article IV B which indicates that the Executive Director shall supervise employees, “except for those employees and consultants working for the ACE Construction Authority”.
 - The Finance Committee (Article VI C) will require revision as it refers to the selection of auditor with ACE assistance.
 - Article IX, dealing with ACE, will need to be revised to conform to the new structure approved by the Board. This involves scope of responsibility, powers, make-up of the Board, meeting and voting process, and the role of the Chief Executive Officer in managing the work of ACE and the employees.
 - Article IX, dealing with ACE, will need to be amended to reflect that the SGVCOG Governing Board will have the authority to approve inter-agency agreements.

Amendments to the By-Laws will be required (~~“in the first phase of implementation of this report, and additional amendments will be needed to the By-Laws”~~) to fully implement (~~“subsequent”~~) integration of ACE/COG organizations.

- **Budget Amendments and MOUs:** require approval of the Governing Board. Budget amendments will be needed to reflect the transfer of costs from ACE to COG. (~~“ACE project revenues and costs will continue to be separately accounted for, but within the overall accounting system of the SGVCOG.”~~) (~~“when non-construction employees of ACE are transferred to be employees of the COG. Other operating costs will need to be adjusted to reflect the expanded operation of the COG. New MOUs will need to be developed between COG and ACE, since under the new structure the administrative and finance employees will be employed by COG but most of their work will be done to support ACE.”~~)
- **Staff integration of ACE** (~~“administrative”~~) **staff to become COG employees:** (~~“this includes the transition of nearly two-thirds of ACE employees to become COG employees.”~~) It will require careful attention to address the anxiety of employees in dealing with relationship and cultural changes. Since the ACE compensation plan and work schedule is structured differently than the COG compensation plan and work schedule, extensive work will need to be done to blend the two organizations into a shared culture. (~~“If a second phase of organizational change is implemented between ACE and COG after 18 months, then a subsequent change management support program will also be needed.”~~)
- **Development of short and long range programs and projects:** With the approval of the SGVCOG Governing Board to expand the jurisdiction of ACE to serve the San Gabriel Valley, it will be appropriate for the ACE (~~“and COG”~~) staff to develop a list of construction projects that might be undertaken by ACE. This list of potential projects would be reviewed by the ACE **Committee** and submitted to the Governing Board for approval. In addition, each individual construction project, along with its funding plan, will be presented to the Governing Board for approval prior to proceeding with construction. Undertaking work to do preliminary construction concepts, and securing financing sources, is considered part of the operating responsibilities of (~~“COG”~~) and ACE.
- **Project/Program agreements with LA Metro and Caltrans:** requires approval of the SGVCOG Governing Board. These agreements will define the ongoing working relationships between SGVCOG/ACE and LA Metro and Caltrans. Additional individual agreements will be developed for specific projects that are done in collaboration with LA Metro, Caltrans, as well as any local government or agency that might be involved with a project.

CONCLUSION:

This report is being presented with the (~~“endorsement”~~) **recommendation** of the (~~“Ad Hoc ACE/Large Capital Projects”~~) **Executive** Committee and presented for information and discussion at the June 15 Governing Board meeting. A decision and vote on these recommendations, or as they may be modified, will be made at the Governing Board meeting on July 20, 2017.

To the extent that the action taken by the Governing Board on July 20 requires changes in the Joint Powers Authority (JPA) and the By-Laws, it is anticipated that the new language will be submitted to the Governing Board at its meeting on September 21. The effective date of many of the changes in this report approved by the Governing Board will not take effect until the JPA and By-Laws are changed.

- John Fasana, Councilmember, City of Duarte Chair
- Gene Murabito, former Mayor of Glendora and President SGVCOG
- Terry Tornek, Mayor, City of Pasadena
- Victoria Martinez, Vice Mayor, City of El Monte
- Jack Hadjinian, Councilmember, City of Montebello
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