

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. B.***

Assembly Bill No. 3034

CHAPTER 267

An act to add Sections 185033, 185035, and 185037 to the Public Utilities Code, to add Chapter 20 (commencing with Section 2704) to Division 3 of the Streets and Highways Code, and to repeal Sections 1, 2, 3, and 4 of Chapter 697 of the Statutes of 2002, relating to financing a high-speed passenger train system by providing the funds necessary therefor through the issuance and sale of bonds of the State of California and by providing for the handling and disposition of those funds, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 26, 2008. Filed with
Secretary of State August 26, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 3034, Galgiani. Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century.

Existing law, Chapter 697 of the Statutes of 2002, as amended by Chapter 71 of the Statutes of 2004 and Chapter 44 of the Statutes of 2006, provides for submission of the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century to the voters for approval at the November 4, 2008, general election. Subject to voter approval, the act would provide for the issuance of \$9.95 billion of general obligation bonds, \$9 billion of which would be available in conjunction with any available federal funds for planning and construction of a high-speed train system pursuant to the business plan of the High-Speed Rail Authority, and \$950 million of which would be available for capital projects on other passenger rail lines to provide connectivity to the high-speed train system and for capacity enhancements and safety improvements to those lines.

This bill would repeal the above-referenced provisions and enact new provisions submitting a \$9.95 billion general obligation bond act to the voters for approval at the November 4, 2008, general election for the same purposes. The bill would revise and recast the previously proposed bond act. The bill would refer to construction of a high-speed train system consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008, rather than with the final business plan of June 2000. The bill would revise the descriptions of route corridors of the proposed high-speed train system. The bill would require excess revenues from operation of the high-speed train system beyond the amount needed for operating and maintenance costs and financing obligations, as determined by the authority, to be used for construction, expansion, improvement, replacement, and rehabilitation of the high-speed train system. The bill would require that not more than 10% of high-speed rail bond proceeds be

used for environmental studies, planning, and preliminary engineering activities and that not more than 2.5% of high-speed rail bond proceeds be used for administrative expenses, except as specified. The bill would generally require the authority to complete various funding plans and financial analyses, as specified, prior to submitting a request for appropriation of bond funds for eligible capital costs and prior to committing bond proceeds for expenditure for construction and real property and equipment acquisition, but would also provide that up to 7.5% of high-speed rail bond proceeds may be used for specified expenditures outside of those requirements. The bill would require the authority to give priority in selecting corridors for construction to those corridors that are expected to require the least amount of bond funds as a percentage of total cost of construction, among other considerations. The bill would provide for the bonds to have a final maturity of not more than 40 years.

This bill would require the bond measure to appear first on the November 4, 2008, general election ballot and to be designated as Proposition 1A. The bill would specify the ballot label and title and summary to be used for the measure.

Existing law creates the High-Speed Rail Authority with specified powers and duties relative to the development and implementation of a high-speed train system. Existing law makes the Department of Transportation responsible for improving and maintaining the state highway system.

This bill would require the authority to revise its business plan by September 1, 2008, as specified, and to submit the revised plan to the Legislature. The bill would also require the authority to establish an independent peer review group for the purpose of reviewing the planning, engineering, financing, and other elements of the authority's plans and issuing an analysis of appropriateness and accuracy of the authority's assumptions and an analysis of the viability of the authority's funding plan for each corridor. This bill would, for any project along the high-speed rail network, authorize the authority to contract with the department to perform project design and engineering services, including construction inspection services, as defined.

Existing law authorizes the authority to, among other things, enter into contracts for the design, construction, and operation of high-speed trains upon approval by the voters of a specified financial plan.

This bill would provide that approval by the voters of the Safe, Reliable High-Speed Passenger Train Bond Act constitutes approval of a financial plan for purposes of that provision.

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

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

SECTION 1. Section 185033 is added to the Public Utilities Code, to read:

185033. The authority shall prepare, publish, and submit to the Legislature, not later than September 1, 2008, a revised business plan that identifies all of the following: the type of service it anticipates it will develop, such as local, express, commuter, regional, or interregional; a description of the primary benefits the system will provide; a forecast of the anticipated patronage, operating costs, and capital costs for the system; an estimate and description of the total anticipated federal, state, local, and other funds the authority intends to access to fund the construction and operation of the system; and the proposed chronology for the construction of the eligible corridors of the statewide high-speed train system. The revised business plan shall also include a discussion of all reasonably foreseeable risks the project may encounter, including, but not limited to, risks associated with the project's finances, patronage, construction, equipment, and technology, and other risks associated with the project's development. The plan shall describe the authority's strategies, processes, or other actions it intends to utilize to manage those risks.

SEC. 2. Section 185035 is added to the Public Utilities Code, to read:

185035. (a) The authority shall establish an independent peer review group for the purpose of reviewing the planning, engineering, financing, and other elements of the authority's plans and issuing an analysis of appropriateness and accuracy of the authority's assumptions and an analysis of the viability of the authority's financing plan, including the funding plan for each corridor required pursuant to subdivision (b) of Section 2704.08 of the Streets and Highways Code.

(b) The peer review group shall include all of the following:

(1) Two individuals with experience in the construction or operation of high-speed trains in Europe, Asia, or both, designated by the Treasurer.

(2) Two individuals, one with experience in engineering and construction of high-speed trains and one with experience in project finance, designated by the Controller.

(3) One representative from a financial services or financial consulting firm who shall not have been a contractor or subcontractor of the authority for the previous three years, designated by the Director of Finance.

(4) One representative with experience in environmental planning, designated by the Secretary of Business, Transportation and Housing.

(5) Two expert representatives from agencies providing intercity or commuter passenger train services in California, designated by the Secretary of Business, Transportation and Housing.

(c) The peer review group shall evaluate the authority's funding plans and prepare its independent judgment as to the feasibility and reasonableness of the plans, appropriateness of assumptions, analyses, and estimates, and any other observations or evaluations it deems necessary.

(d) The authority shall provide the peer review group any and all information that the peer review group may request to carry out its responsibilities.

(e) The peer review group shall report its findings and conclusions to the Legislature no later than 60 days after receiving the plans.

SEC. 3. Section 185037 is added to the Public Utilities Code, to read:

185037. (a) Notwithstanding any other provision of law, for any project along the high-speed rail network, the authority may contract with the department to perform project design and engineering services, including construction inspection services.

(b) For purposes of this section, "project design and engineering services, including construction inspection services" means preliminary engineering, planning, prebid services, right-of-way acquisition, preparation of environmental documents, preparation of plans, specifications, and estimates, construction inspection including surveying and materials testing, quality control inspection including highway and utility relocation, and grade separations.

SEC. 4. Section 1 of Chapter 697 of the Statutes of 2002, as amended by Section 1 of Chapter 71 of the Statutes of 2004, is repealed.

SEC. 5. Section 2 of Chapter 697 of the Statutes of 2002, as amended by Sections 1 and 2 of Chapter 44 of the Statutes of 2006, is repealed.

SEC. 6. Section 3 of Chapter 697 of the Statutes of 2002, as amended by Section 3 of Chapter 44 of the Statutes of 2006, is repealed.

SEC. 7. Section 4 of Chapter 697 of the Statutes of 2002, as amended by Section 4 of Chapter 44 of the Statutes of 2006, is repealed.

SEC. 8. (a) The continuing growth in California's population and the resulting increase in traffic congestion, air pollution, greenhouse gas emissions, and the continuation of urban sprawl make it imperative that the state proceed quickly to construct a state-of-the-art high-speed passenger train system to serve major metropolitan areas.

(b) The High-Speed Rail Authority, after extensive studies and analysis, proposes the construction of a high-speed train system that serves major population centers in the state and that links regional and local transit systems to form an integrated transportation system throughout the state. The system will link all of the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego.

(c) The high-speed train system proposed by the authority will cost about one-third of what it would cost to provide the same level of mobility and service with highway and airport improvements and will contribute significantly toward a reduction in air pollution and global warming.

(d) The high-speed train system, once it is completed and becomes operational, will contribute significantly toward the goal of reducing greenhouse gas emissions and other air pollutants and will help reduce California's dependence on foreign energy sources.

(e) The high-speed passenger train bond funds are intended to encourage the federal government and the private sector to make a significant contribution toward the construction of the high-speed train system.

(f) It is the intent of the Legislature that the entire high-speed train system shall be constructed as quickly as possible in order to maximize ridership and the mobility of Californians, and that it be completed no later than 2020,

and that all phases shall be built in a manner that yields maximum benefit consistent with available revenues.

SEC. 9. Chapter 20 (commencing with Section 2704) is added to Division 3 of the Streets and Highways Code, to read:

CHAPTER 20. SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND
ACT FOR THE 21ST CENTURY

Article 1. General Provisions

2704. This chapter shall be known and may be cited as the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century.

2704.01. As used in this chapter, the following terms have the following meanings:

(a) "Committee" means the High-Speed Passenger Train Finance Committee created pursuant to Section 2704.12.

(b) "Authority" means the High-Speed Rail Authority created pursuant to Section 185020 of the Public Utilities Code, or its successor.

(c) "Fund" means the High-Speed Passenger Train Bond Fund created pursuant to Section 2704.05.

(d) "High-speed train" means a passenger train capable of sustained revenue operating speeds of at least 200 miles per hour where conditions permit those speeds.

(e) "High-speed train system" means a system with high-speed trains and includes, but is not limited to, the following components: right-of-way, track, power system, rolling stock, stations, and associated facilities.

(f) "Corridor" means a portion of the high-speed train system as described in Section 2704.04.

(g) "Usable segment" means a portion of a corridor that includes at least two stations.

Article 2. High-Speed Passenger Train Financing Program

2704.04. (a) It is the intent of the Legislature by enacting this chapter and of the people of California by approving the bond measure pursuant to this chapter to initiate the construction of a high-speed train system that connects the San Francisco Transbay Terminal to Los Angeles Union Station and Anaheim, and links the state's major population centers, including Sacramento, the San Francisco Bay Area, the Central Valley, Los Angeles, the Inland Empire, Orange County, and San Diego consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008.

(b) (1) Net proceeds received from the sale of nine billion dollars (\$9,000,000,000) principal amount of bonds authorized pursuant to this chapter, upon appropriation by the Legislature in the annual Budget Act,

shall be used for (A) planning and engineering for the high-speed train system and (B) capital costs, as described in subdivision (c).

(2) As adopted by the authority in May 2007, Phase 1 of the high-speed train project is the corridor of the high-speed train system between San Francisco Transbay Terminal and Los Angeles Union Station and Anaheim.

(3) Upon a finding by the authority that expenditure of bond proceeds for capital costs in corridors other than the corridor described in paragraph (2) would advance the construction of the system, would be consistent with the criteria described in subdivision (f) of Section 2704.08, and would not have an adverse impact on the construction of Phase 1 of the high-speed train project, the authority may request funding for capital costs, and the Legislature may appropriate funds described in paragraph (1) in the annual Budget Act, to be expended for any of the following high-speed train corridors:

- (A) Sacramento to Stockton to Fresno.
- (B) San Francisco Transbay Terminal to San Jose to Fresno.
- (C) Oakland to San Jose.
- (D) Fresno to Bakersfield to Palmdale to Los Angeles Union Station.
- (E) Los Angeles Union Station to Riverside to San Diego.
- (F) Los Angeles Union Station to Anaheim to Irvine.
- (G) Merced to Stockton to Oakland and San Francisco via the Altamont Corridor.

(4) Nothing in this section shall prejudice the authority's determination and selection of the alignment from the Central Valley to the San Francisco Bay Area and its certification of the environmental impact report.

(5) Revenues of the authority, generated by operations of the high-speed train system above and beyond operating and maintenance costs and financing obligations, including, but not limited to, support of revenue bonds, as determined by the authority, shall be used for construction, expansion, improvement, replacement, and rehabilitation of the high-speed train system.

(c) Capital costs payable or reimbursable from proceeds of bonds described in paragraph (1) of subdivision (b) include, with respect to the high-speed train system or any portion thereof, all activities necessary for acquisition of interests in real property and rights-of-way and improvement thereof; acquisition and construction of tracks, structures, power systems, and stations; acquisition of rolling stock and related equipment; mitigation of any direct or indirect environmental impacts of activities authorized by this chapter; relocation assistance for displaced property owners and occupants; other related capital facilities and equipment; and such other purposes related to the foregoing, for the procurement thereof, and for the financing or refinancing thereof, as may be set forth in a statute hereafter enacted. The method of acquisition of any of the foregoing may also be set forth in a statute hereafter enacted.

(d) Proceeds of bonds authorized pursuant to this chapter shall not be used for any operating or maintenance costs of trains or facilities.

(e) The State Auditor shall perform periodic audits of the authority's use of proceeds of bonds authorized pursuant to this chapter for consistency with the requirements of this chapter.

2704.05. Subject to Section 2704.18, the proceeds of bonds issued and sold pursuant to this chapter shall be deposited in the High-Speed Passenger Train Bond Fund, which is hereby created.

2704.06. The net proceeds received from the sale of nine billion dollars (\$9,000,000,000) principal amount of bonds authorized pursuant to this chapter, upon appropriation by the Legislature in the annual Budget Act, shall be available, and subject to those conditions and criteria that the Legislature may provide by statute, for (a) planning the high-speed train system and (b) capital costs set forth in subdivision (c) of Section 2704.04, consistent with the authority's certified environmental impact reports of November 2005 and July 9, 2008, as subsequently modified pursuant to environmental studies conducted by the authority.

2704.07. The authority shall pursue and obtain other private and public funds, including, but not limited to, federal funds, funds from revenue bonds, and local funds, to augment the proceeds of this chapter.

2704.08. (a) Proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 shall not be used for more than 50 percent of the total cost of construction of each corridor or usable segment thereof of the high-speed train system, except for bond proceeds used for the purposes of subdivision (g).

(b) Not more than 10 percent of the proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 shall be used for environmental studies, planning, and preliminary engineering activities.

(c) (1) No later than 90 days prior to the submittal to the Legislature and the Governor of the initial request for appropriation of proceeds of bonds authorized by this chapter for any eligible capital costs on each corridor, or usable segment thereof, identified in subdivision (b) of Section 2704.04, other than costs described in subdivision (g), the authority shall have approved and submitted to the Director of Finance, the peer review group established pursuant to Section 185035 of the Public Utilities Code, and the policy committees with jurisdiction over transportation matters and the fiscal committees in both houses of the Legislature, a detailed funding plan for that corridor or a usable segment thereof.

(2) The plan shall include, identify, or certify to all of the following:

(A) The corridor, or usable segment thereof, in which the authority is proposing to invest bond proceeds.

(B) A description of the expected terms and conditions associated with any lease agreement or franchise agreement proposed to be entered into by the authority and any other party for the construction or operation of passenger train service along the corridor or usable segment thereof.

(C) The estimated full cost of constructing the corridor or usable segment thereof, including an estimate of cost escalation during construction and appropriate reserves for contingencies.

(D) The sources of all funds to be invested in the corridor, or usable segment thereof, and the anticipated time of receipt of those funds based on expected commitments, authorizations, agreements, allocations, or other means.

(E) The projected ridership and operating revenue estimate based on projected high-speed passenger train operations on the corridor or usable segment.

(F) All known or foreseeable risks associated with the construction and operation of high-speed passenger train service along the corridor or usable segment thereof and the process and actions the authority will undertake to manage those risks.

(G) Construction of the corridor or usable segment thereof can be completed as proposed in the plan.

(H) The corridor or usable segment thereof would be suitable and ready for high-speed train operation.

(I) One or more passenger service providers can begin using the tracks or stations for passenger train service.

(J) The planned passenger service by the authority in the corridor or usable segment thereof will not require a local, state, or federal operating subsidy.

(K) The authority has completed all necessary project level environmental clearances necessary to proceed to construction.

(d) Prior to committing any proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 for expenditure for construction and real property and equipment acquisition on each corridor, or usable segment thereof, other than for costs described in subdivision (g), the authority shall have approved and concurrently submitted to the Director of Finance and the Chairperson of the Joint Legislative Budget Committee the following: (1) a detailed funding plan for that corridor or usable segment thereof that (A) identifies the corridor or usable segment thereof, and the estimated full cost of constructing the corridor or usable segment thereof, (B) identifies the sources of all funds to be used and anticipates time of receipt thereof based on offered commitments by private parties, and authorizations, allocations, or other assurances received from governmental agencies, (C) includes a projected ridership and operating revenue report, (D) includes a construction cost projection including estimates of cost escalation during construction and appropriate reserves for contingencies, (E) includes a report describing any material changes from the plan submitted pursuant to subdivision (c) for this corridor or usable segment thereof, and (F) describes the terms and conditions associated with any agreement proposed to be entered into by the authority and any other party for the construction or operation of passenger train service along the corridor or usable segment thereof; and (2) a report or reports, prepared by one or more financial services firms, financial consulting firms, or other consultants, independent of any parties, other than the authority, involved in funding or constructing the high-speed train system, indicating that (A) construction of the corridor or usable segment thereof can be completed as proposed in

the plan submitted pursuant to paragraph (1), (B) if so completed, the corridor or usable segment thereof would be suitable and ready for high-speed train operation, (C) upon completion, one or more passenger service providers can begin using the tracks or stations for passenger train service, (D) the planned passenger train service to be provided by the authority, or pursuant to its authority, will not require operating subsidy, and (E) an assessment of risk and the risk mitigation strategies proposed to be employed. The Director of Finance shall review the plan within 60 days of its submission by the authority and, after receiving any communication from the Joint Legislative Budget Committee, if the director finds that the plan is likely to be successfully implemented as proposed, the authority may enter into commitments to expend bond funds that are subject to this subdivision and accept offered commitments from private parties.

(e) Subsequent to approval of the detailed funding plan required under subdivision (d), the authority shall promptly inform the Governor and the Legislature of any material changes in plans or project conditions that would jeopardize completion of the corridor as previously planned and shall identify means of remedying the conditions to allow completion and operation of the corridor.

(f) In selecting corridors or usable segments thereof for construction, the authority shall give priority to those corridors or usable segments thereof that are expected to require the least amount of bond funds as a percentage of total cost of construction. Among other criteria it may use for establishing priorities for initiating construction on corridors or usable segments thereof, the authority shall include the following: (1) projected ridership and revenue, (2) the need to test and certify trains operating at speeds of 220 miles per hour, (3) the utility of those corridors or usable segments thereof for passenger train services other than the high-speed train service that will not result in any unreimbursed operating or maintenance cost to the authority, and (4) the extent to which the corridors include facilities contained therein to enhance the connectivity of the high-speed train network to other modes of transit, including, but not limited to, conventional rail (intercity rail, commuter rail, light rail, or other rail transit), bus, or air transit.

(g) Nothing in this section shall limit use or expenditure of proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 up to an amount equal to 7.5 percent of the aggregate principal amount of bonds described in that paragraph for environmental studies, planning, and preliminary engineering activities, and for (1) acquisition of interests in real property and right-of-way and improvement thereof (A) for preservation for high-speed rail uses, (B) to add to third-party improvements to make them compatible with high-speed rail uses, or (C) to avoid or to mitigate incompatible improvements or uses; (2) mitigation of any direct or indirect environmental impacts resulting from the foregoing; and (3) relocation assistance for property owners and occupants who are displaced as a result of the foregoing.

(h) Not more than 2.5 percent of the proceeds of bonds described in paragraph (1) of subdivision (b) of Section 2704.04 shall be used for

administrative purposes. The amount of bond proceeds available for administrative purposes shall be appropriated in the annual Budget Act. The Legislature may, by statute, adjust the percentage set forth in this subdivision, except that the Legislature shall not increase that percentage to more than 5 percent.

(i) No failure to comply with this section shall affect the validity of the bonds issued under this chapter.

2704.09. The high-speed train system to be constructed pursuant to this chapter shall be designed to achieve the following characteristics:

(a) Electric trains that are capable of sustained maximum revenue operating speeds of no less than 200 miles per hour.

(b) Maximum nonstop service travel times for each corridor that shall not exceed the following:

(1) San Francisco-Los Angeles Union Station: two hours, 40 minutes.

(2) Oakland-Los Angeles Union Station: two hours, 40 minutes.

(3) San Francisco-San Jose: 30 minutes.

(4) San Jose-Los Angeles: two hours, 10 minutes.

(5) San Diego-Los Angeles: one hour, 20 minutes.

(6) Inland Empire-Los Angeles: 30 minutes.

(7) Sacramento-Los Angeles: two hours, 20 minutes.

(c) Achievable operating headway (time between successive trains) shall be five minutes or less.

(d) The total number of stations to be served by high-speed trains for all of the corridors described in subdivision (b) of Section 2704.04 shall not exceed 24. There shall be no station between the Gilroy station and the Merced station.

(e) Trains shall have the capability to transition intermediate stations, or to bypass those stations, at mainline operating speed.

(f) For each corridor described in subdivision (b), passengers shall have the capability of traveling from any station on that corridor to any other station on that corridor without being required to change trains.

(g) In order to reduce impacts on communities and the environment, the alignment for the high-speed train system shall follow existing transportation or utility corridors to the extent feasible and shall be financially viable, as determined by the authority.

(h) Stations shall be located in areas with good access to local mass transit or other modes of transportation.

(i) The high-speed train system shall be planned and constructed in a manner that minimizes urban sprawl and impacts on the natural environment.

(j) Preserving wildlife corridors and mitigating impacts to wildlife movement, where feasible as determined by the authority, in order to limit the extent to which the system may present an additional barrier to wildlife's natural movement.

2704.095. (a) (1) Net proceeds received from the sale of nine hundred fifty million dollars (\$950,000,000) principal amount of bonds authorized by this chapter shall be allocated to eligible recipients for capital improvements to intercity and commuter rail lines and urban rail systems

that provide direct connectivity to the high-speed train system and its facilities, or that are part of the construction of the high-speed train system as that system is described in subdivision (b) of Section 2704.04, or that provide capacity enhancements and safety improvements. Funds under this section shall be available upon appropriation by the Legislature in the annual Budget Act for the eligible purposes described in subdivision (d).

(2) Twenty percent (one hundred ninety million dollars (\$190,000,000)) of the amount authorized by this section shall be allocated for intercity rail to the Department of Transportation, for state-supported intercity rail lines that provide regularly scheduled service and use public funds to operate and maintain rail facilities, rights-of-way, and equipment. A minimum of 25 percent of the amount available under this paragraph (forty-seven million five hundred thousand dollars (\$47,500,000)) shall be allocated to each of the state's three intercity rail corridors.

The California Transportation Commission shall allocate the available funds to eligible recipients consistent with this section and shall develop guidelines, in consultation with the authority, to implement the requirements of this section. The guidelines shall include provisions for the administration of funds, including, but not limited to, the authority of the intercity corridor operators to loan these funds by mutual agreement between intercity rail corridors.

(3) Eighty percent (seven hundred sixty million dollars (\$760,000,000)) of the amount authorized by this section shall be allocated upon appropriation as set forth in this section to eligible recipients, except intercity rail, as described in subdivision (c) based upon a percentage amount calculated to incorporate all of the following:

(A) One-third of the eligible recipient's percentage share of statewide track miles.

(B) One-third of the eligible recipient's percentage share of statewide annual vehicle miles.

(C) One-third of the eligible recipient's percentage share of statewide annual passenger trips.

The California Transportation Commission shall allocate the available funds to eligible recipients consistent with this section and shall develop guidelines to implement the requirements of this section.

(b) For the purposes of this section, the following terms have the following meanings:

(1) "Track miles" means the miles of track used by a public agency or joint powers authority for regular passenger rail service.

(2) "Vehicle miles" means the total miles traveled, commencing with pullout from the maintenance depot, by all locomotives and cars operated in a train consist for passenger rail service by a public agency or joint powers authority.

(3) "Passenger trips" means the annual unlinked passenger boardings reported by a public agency or joint powers authority for regular passenger rail service.

(4) "Statewide" when used to modify the terms in subparagraphs (A), (B), and (C) of paragraph (3) of subdivision (a) means the combined total in the state of those amounts for all eligible recipients.

(c) Eligible recipients for funding under paragraph (3) of subdivision (a) shall be public agencies and joint powers authorities that operate regularly scheduled passenger rail service in the following categories:

- (1) Commuter rail.
- (2) Light rail.
- (3) Heavy rail.
- (4) Cable car.

(d) Funds allocated pursuant to this section shall be used to pay or reimburse the costs of projects to provide or improve connectivity with the high-speed train system or for the rehabilitation or modernization of, or safety improvements to, tracks utilized for public passenger rail service, signals, structures, facilities, and rolling stock.

(e) Eligible recipients may use the funds for any eligible rail element set forth in subdivision (d).

(f) In order to be eligible for funding under this section, an eligible recipient under paragraph (3) of subdivision (a) shall provide matching funds in an amount not less than the total amount allocated to the recipient under this section.

(g) An eligible recipient of funding under paragraph (3) of subdivision (a) shall certify that it has met its matching funds requirement, and all other requirements of this section, by resolution of its governing board, subject to verification by the California Transportation Commission.

(h) Funds made available to an eligible recipient under paragraph (3) of subdivision (a) shall supplement existing local, state, or federal revenues being used for maintenance or rehabilitation of the passenger rail system. Eligible recipients of funding under paragraph (3) of subdivision (a) shall maintain their existing commitment of local, state, or federal funds for these purposes in order to remain eligible for allocation and expenditure of the additional funding made available by this section.

(i) In order to receive any allocation under this section, an eligible recipient under paragraph (3) of subdivision (a) shall annually expend from existing local, state, or federal revenues being used for the maintenance or rehabilitation of the passenger rail system in an amount not less than the annual average of its expenditures from local revenues for those purposes during the 1998–99, 1999–2000, and 2000–01 fiscal years.

(j) Funds allocated pursuant to this section to the Southern California Regional Rail Authority for eligible projects within its service area shall be apportioned each fiscal year in accordance with memorandums of understanding to be executed between the Southern California Regional Rail Authority and its member agencies. The memorandum or memorandums of understanding shall take into account the passenger service needs of the Southern California Regional Rail Authority and of the member agencies, revenue attributable to member agencies, and separate contributions to the Southern California Regional Rail Authority from the member agencies.

Article 3. Fiscal Provisions

2704.10. (a) Bonds in the total amount of nine billion nine hundred fifty million dollars (\$9,950,000,000), exclusive of refunding bonds issued in accordance with Section 2704.19, or so much thereof as is necessary, may be issued and sold to provide a fund to be used for carrying out the purposes expressed in this chapter and to be used to reimburse the General Obligation Bond Expense Revolving Fund pursuant to Section 16724.5 of the Government Code. The bonds, when sold, shall be and constitute a valid and binding obligation of the State of California, and the full faith and credit of the State of California is hereby pledged for the punctual payment of both principal of, and interest on, the bonds as the principal and interest become due and payable.

(b) The Treasurer shall sell the bonds authorized by the committee pursuant to this section. The bonds shall be sold upon the terms and conditions specified in a resolution to be adopted by the committee pursuant to Section 16731 of the Government Code.

2704.11. (a) Except as provided in subdivision (b), the bonds authorized by this chapter shall be prepared, executed, issued, sold, paid, and redeemed as provided in the State General Obligation Bond Law, Chapter 4 (commencing with Section 16720) of Part 3 of Division 4 of Title 2 of the Government Code, and all of the provisions of that law apply to the bonds and to this chapter and are hereby incorporated in this chapter as though set forth in full in this chapter.

(b) Notwithstanding any provision of the State General Obligation Bond Law, each issue of bonds authorized by the committee shall have a final maturity of not more than 40 years from the date of original issuance thereof.

2704.12. (a) Solely for the purpose of authorizing the issuance and sale of the bonds authorized by this chapter and the making of those determinations and the taking of other actions as are authorized by this chapter, pursuant to the State General Obligation Bond Law, the High-Speed Passenger Train Finance Committee is hereby created. For purposes of this chapter, the High-Speed Passenger Train Finance Committee is "the committee" as that term is used in the State General Obligation Bond Law. The committee consists of the Treasurer, the Director of Finance, the Controller, the Secretary of Business, Transportation and Housing, and the chairperson of the authority. Notwithstanding any other provision of law, any member of the committee may designate a representative to act as that member in his or her place and stead for all purposes, as though the member were personally present. The Treasurer shall serve as chairperson of the committee. A majority of the committee shall constitute a quorum of the committee, and may act for the committee.

(b) For purposes of the State General Obligation Bond Law, the authority is designated the "board."

2704.13. The committee shall determine whether or not it is necessary or desirable to issue bonds authorized pursuant to this chapter in order to carry out the actions specified in Sections 2704.06 and 2704.095 and, if so,

the amount of bonds to be issued and sold. Successive issues of bonds may be issued and sold to carry out those actions progressively, and it is not necessary that all of the bonds authorized be issued and sold at any one time. The committee shall consider program funding needs, revenue projections, financial market conditions, and other necessary factors in determining the term for the bonds to be issued. In addition to all other powers specifically granted in this chapter and the State General Obligation Bond Law, the committee may do all things necessary or convenient to carry out the powers and purposes of this article, including the approval of any indenture relating to the bonds, and the delegation of necessary duties to the chairperson and to the Treasurer as agent for the sale of the bonds. Any terms of any bonds issued under this chapter may be provided under an indenture instead of under a resolution, as determined by the committee.

2704.14. There shall be collected each year and in the same manner and at the same time as other state revenue is collected, in addition to the ordinary revenues of the state, a sum in an amount required to pay the principal of, and interest on, the bonds each year. It is the duty of all officers charged by law with any duty in regard to the collection of the revenue to do and perform each and every act which is necessary to collect that additional sum.

2704.15. Notwithstanding Section 13340 of the Government Code, there is hereby appropriated from the General Fund in the State Treasury, for the purposes of this chapter, an amount equal to the total of the following: (a) that sum annually necessary to pay the principal of, and interest on, bonds issued and sold pursuant to this chapter, as the principal and interest become due and payable, and (b) the sum necessary to carry out Section 2704.17, appropriated without regard to fiscal years.

2704.16. The board may request the Pooled Money Investment Board to make a loan from the Pooled Money Investment Account, in accordance with Section 16312 of the Government Code, for purposes of this chapter. The amount of the request shall not exceed the amount of the unsold bonds which the committee has, by resolution, authorized to be sold for the purpose of this chapter, less any amount borrowed pursuant to Section 2701.17. The board shall execute such documents as required by the Pooled Money Investment Board to obtain and repay the loan. Any amount loaned shall be deposited in the fund to be allocated by the board in accordance with this chapter.

2704.17. For the purpose of carrying out this chapter, the Director of Finance may authorize the withdrawal from the General Fund of an amount or amounts not to exceed the amount of unsold bonds which have been authorized by the committee to be sold for the purpose of carrying out this chapter, less any amount borrowed pursuant to Section 2704.16. Any amount withdrawn shall be deposited in the fund. Any money made available under this section shall be returned to the General Fund, plus the interest that the amounts would have earned in the Pooled Money Investment Account, from the sale of bonds for the purpose of carrying out this chapter.

2704.18. All money deposited in the fund which is derived from premium on bonds sold shall be available to pay costs of issuing the bonds, and to

the extent not so needed, together with accrued interest derived from sale of the bonds, shall be available for transfer to the General Fund as a credit to expenditures for bond interest.

2704.19. The bonds may be refunded in accordance with Article 6 (commencing with Section 16780) of the State General Obligation Bond Law. Approval by the electors of the state for the issuance of bonds shall include approval of the issuance of any bonds issued to refund any bonds originally issued or any previously issued refunding bonds.

2704.20. The Legislature hereby finds and declares that, inasmuch as the proceeds from the sale of bonds authorized by this chapter are not "proceeds of taxes" as that term is used in Article XIII B of the California Constitution, the disbursement of these proceeds is not subject to the limitations imposed by that article.

2704.21. Notwithstanding any provision of this chapter or the State General Obligation Bond Law, if the Treasurer sells bonds pursuant to this chapter that include a bond counsel opinion to the effect that the interest on the bonds is excluded from gross income for federal tax purposes under designated conditions, the Treasurer may maintain separate accounts for the bond proceeds invested and the investment earnings on those proceeds, and may use or direct the use of those proceeds or earnings to pay any rebate, penalty, or other payment required under federal law, or take any other action with respect to the investment and use of those bond proceeds, as may be required or desirable under federal law in order to maintain the tax-exempt status of those bonds and to obtain any other advantage under federal law on behalf of the funds of this state.

SEC. 10. Section 9 of this act shall take effect upon the adoption by the voters of the Safe, Reliable High-Speed Passenger Train Bond Act for the 21st Century, as set forth in Section 9 of this act.

SEC. 11. (a) Section 9 of this act shall be submitted by the Secretary of State to the voters at the November 4, 2008, general election, notwithstanding the requirements of Sections 9040, 9043, 9044, and 9061 of the Elections Code or any other provision of law.

(b) Notwithstanding Sections 13115 and 13117 of the Elections Code, the bond measure described in subdivision (a) shall be placed as the first ballot measure on the November 4, 2008, general election ballot and shall be designated as Proposition 1A.

(c) Notwithstanding any other provision of law, all ballots of the November 4, 2008, general election shall have printed thereon as the ballot label for Proposition 1A the following:

"SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT.
To provide Californians a safe, convenient, affordable, and reliable alternative to driving and high gas prices; to provide good-paying jobs and improve California's economy while reducing air pollution, global warming greenhouse gases, and our dependence on foreign oil, shall \$9.95 billion in bonds be issued to establish a clean, efficient high-speed train service linking Southern California, the Sacramento/San Joaquin Valley, and the San

Francisco Bay Area, with at least 90 percent of bond funds spent for specific projects, with federal and private matching funds required, and all bond funds subject to independent audits?”

At the appropriate location on the ballot, in the manner prescribed by law, there shall be provided the opportunity for voters to indicate whether they vote for or against the measure.

(d) Notwithstanding Sections 13247 and 13281 of the Elections Code, the language in subdivision (c) shall be the only language included in the ballot label for the condensed statement of the ballot title, and the Attorney General shall not supplement, subtract from, or revise that language, except that the Attorney General shall include the financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code. The ballot label is the condensed statement of the ballot title and summary and the financial impact summary.

(e) Where the voting in the election is done by means of voting machines used pursuant to law in the manner that carries out the intent of this section, the use of the voting machines and the expression of the voters' choice by means thereof are in compliance with this section.

(f) (1) Notwithstanding any other provision of law, the Secretary of State shall use the following as the ballot title and summary for Proposition 1A:

“SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT.

Provides long-distance commuters with a safe, convenient, affordable, and reliable alternative to driving and high gas prices.

Reduces traffic congestion on the state's highways and at the state's airports.

Reduces California's dependence on foreign oil.

Reduces air pollution and global warming greenhouse gases.

Establishes a clean, efficient 220 MPH transportation system.

Improves existing passenger rail lines serving the state's major population centers.

Provides for California's growing population.

Provides for a bond issue of \$9.95 billion to establish high-speed train service linking Southern California counties, the Sacramento/San Joaquin Valley, and the San Francisco Bay Area.

Provides that at least 90% of these bond funds shall be spent for specific construction projects, with federal and private sector matching funds required.

Requires that use of all bond funds is subject to independent audits.

Appropriates money from the General Fund to pay bond principal and interest.”

(2) Notwithstanding any other provision of law, the language in paragraph (1) shall be the only language included in the ballot title and summary, and the Attorney General shall not supplement, subtract from, or otherwise revise that language, except that the Attorney General shall include the

financial impact summary prepared pursuant to Section 9087 of the Elections Code and Section 88003 of the Government Code.

(g) The Secretary of State shall include, in the ballot pamphlets mailed pursuant to Section 9094 of the Elections Code, the information specified in Section 9084 of the Elections Code regarding the bond act described in subdivision (a). If that inclusion is not possible, the Secretary of State shall publish a supplemental ballot pamphlet regarding the bond act described in subdivision (a), to be mailed with the ballot pamphlet. If the supplemental ballot pamphlet cannot be mailed with the ballot pamphlet, the supplemental ballot pamphlet shall be mailed separately.

(h) Notwithstanding Section 9054 of the Elections Code or any other provision of law, the translations of the ballot title and the condensed statement of the ballot title required pursuant to Section 9054 may be made available for public examination at a later date than the start of the public examination period for the ballot pamphlet, provided that the translations of the ballot title and the condensed statement of the ballot title must remain available for public examination for eight days.

(i) Notwithstanding Section 13282 of the Elections Code or any other provision of law, the public shall be permitted to examine the condensed statement of the ballot title for not more than eight days. Any voter may seek a writ of mandate for the purpose of requiring any statement of the ballot title, or portion thereof, to be amended or deleted only within that eight-day period.

SEC. 12. Notwithstanding any other provision of law, the bond act proposed by Section 2 of Chapter 697 of the Statutes of 2002, as amended by Sections 2 and 3 of Chapter 71 of the Statutes of 2004 and Sections 1 and 2 of Chapter 44 of the Statutes of 2006, shall not be placed by the Secretary of State on the November 4, 2008, general election ballot, or, if already on the ballot, shall be removed therefrom.

SEC. 13. Approval by the voters of the Safe, Reliable High-Speed Passenger Train Bond Act shall constitute approval of a financial plan for purposes of Section 185036 of the Public Utilities Code.

SEC. 14. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to replace the provisions of a general obligation bond measure on the November 4, 2008, general election ballot that would authorize the issuance and sale of bonds for the financing of a high-speed passenger train system and for other related purposes with a new measure for similar purposes, it is necessary that this act take effect immediately.

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. D.***



2035 Tulare Street, Suite 201
Fresno, California 93721

Telephone (559) 233-4148 ♦ FAX: (559) 233-9645
Website Address: www.fresnocog.org

May 15, 2008 (revised per conversation with PAC)

MEMORANDUM

TO: Fresno COG Policy Board
Fresno COG Policy Advisory Committee
One Voice Participants and Partners

FROM: Barbara Goodwin, Executive Director

SUBJECT: *Specific "One Voice" Recommendations for the Future*

OBSERVATIONS:

"One Voice" has proven to be a wonderful effort at Fresno COG with very tangible results and some unexpected but very powerful long-term benefits.

- \$13,151,000 in appropriations for "One Voice" sponsored projects – we've received \$104 for every dollar Fresno COG has spent on our previous five trips.
(would have been a \$119/\$1 ratio had the 2007 appropriations bill retained our \$1.95 million in earmarks for a total of \$15 million, but this was the year all requested earmark appropriations were eliminated at the national level).
- Stronger partnership with many Fresno County community organizations, the result of which has been a better communication network and enhanced relationships with specific individuals, all of whom are among the leadership of Fresno County. This enhanced network has served well not only for Fresno COG, but also among and between our "One Voice" trip participants.
- Heightened recognition that Fresno COG is acting regionally, and is an excellent collaborative partner.
- Improved communication with our congressional/senate representatives and their capable and helpful staff. We have also become a better resource for our representatives.
- Wonderful financial sponsors in the community who have enabled One Voice to provide an excellent trip experience complete with professional presentation packages for both our trip participants and for our representatives -- a level of materials beyond what our budget would have allowed.

"One Voice" should continue and also evolve to remain current, strong, and relevant to changing circumstances. I offer the following recommendations, based on my observations, comments from participants, and comments from our lobbyist.

Member Agencies: The cities of Clovis, Coalinga, Firebaugh, Fowler, Fresno, Huron, Kerman, Kingsburg, Mendota, Orange Cove, Parlier, Reedley, San Joaquin, Sanger, Selma & Fresno County

RECOMMENDATIONS:

REFINE AND EVOLVE "ONE VOICE":

- 1) The original goal to seek additional funding for needed projects of regional significance, those that also contribute to an improved quality of life, should remain.
- 2) We should ask our members and community partners where regulatory reform might be needed in formulas or language that keeps our region from either applying or being competitive, and then develop a strategy for presenting the issue, and seek to implement reform. Address one or two each year.
- 3) We should additionally concentrate on relevant policy issues or projects (*past example: immigration, completion of Mendota prison*) that would benefit from our valuable input and advocacy. We have great expertise in many areas that are underutilized in these instances, simply because a strategic, coordinated and comprehensive effort is not launched. Address one such issue each year.
- 4) Staff should initiate discussions with congressional/senate staff very early on upcoming bills or specific efforts our representatives will be shepherding in the next session. One or more may resonate strongly with our region's goals. While back in Washington D.C., if our community partners and COG Policy Board have previously endorsed one of these specific efforts, we can break into groups to help our representatives advocate for their bill. As an example, if a bill is meeting resistance from a Midwest or Southern Senator or Congressman, our D.C. representative could ask for an appointment where Fresno COG "One Voice" members would advocate on behalf of the mutually beneficial issue.

CONSIDER HIRING A YEAR ROUND FEDERAL LOBBYIST:

I realize that the current economy would make this a challenge for most of our members since general fund budgets are constrained. I also want to point out we have been happy with the efforts made by our existing part-time federal Lobbyist, but their efforts are somewhat limited to our trip purposes and relevant issues, identifying upcoming appropriations bills for projects we select and filing the appropriation requests (no small effort). However the reality is that other Valley COGs have hired Lobbyists on an annual contract basis: San Joaquin COG, Merced County Association of Governments, and Tulare County Association of Governments. They pay between \$1,600 - \$7,000 per month and are receiving additional services including earlier and more definitive consultations about the upcoming year, and setting the stage for the types of requests or grant issues that might be selected and competitive. They also then receive year-round follow-up, federal legislative information, and project/issue advocacy from their lobbyists. Fresno COG followed San Joaquin COG's initial "One Voice" effort, but the other COGs have realized the benefits of such an effort and are attempting to be equally competitive. The Kern COG is also exploring their own "One Voice" effort, and Stanislaus COG also makes an annual trip. We should consider this next step, but structure the effort so that broader benefits (as outlined above) can be realized on an annual basis. A survey to see the amount of dollars the other COGs are bringing in annually may be helpful.

In concert with this recommendation we should also consider differentiating the manner in which we pay our Lobbyist. We currently have the budget included with our dues, but we might be better served to call it a "special assessment" so that timely payments on an increased level of service never becomes an issue on COG member voting rights. As with the state lobbyist's contract, perhaps a provision to allow members to negotiate and contract with the federal lobbyist for a project-by-project add-on basis, paid for by the COG member. Perhaps, if there is consensus, a portion of the COG's planning funds could be used to support the effort as long as there is an annual commitment to pursue funding for Measure C projects.

NEW TRANSPORTATION BILL AND ANNUAL APPROPRIATION BILLS:

We do need to separate out projects for the new transportation bill from projects we may seek from the more normal appropriation bills. This will also affect, for the 2009 year, the number of projects we select.

For the annual appropriation bills, there should be a project per bill. Multiple projects in one bill may face being competitive with each other, although the major programs within the appropriations bills should be examined to see if there is a solid basis to seek no more than 2 within a single appropriations bill. Our current federal lobbyist is still concerned about how many (i.e. too many) projects are requested. We also need to be realistic on the amounts being requested.

MARKETPLACE FORMAT:

With the exception of those meetings that need to be conducted elsewhere due to circumstances, the format of securing a room in one of the congressional buildings for our visit works very well and is efficient for time management. We will heed the desire to have water/caffeine/drinks available each day.

I appreciate and concur with Simon and Company's recommendation to secure appointments in 2008 with White House and other new presidential appointees. I also highly recommend we reach beyond our own congressional members and seek briefings with congressional leadership and key committee members and staff. I was pleased to see these elements in Simon and Company's comments, because we at staff level have been asking and desired to reach beyond our representatives – we need committee leaders and staff to be aware and positively receiving our projects and issues for it is these votes or recommendations that will aid in our success.

OUR PARTICIPANT BINDERS:

These need to become thinner for easier manipulation during the trip (much like the size we used in Sacramento). A couple of years ago we put punched back-up project information in separate packets so that participants could choose whether or not they wished to add any pieces to their binder. Also we have provided sightseeing and other helpful information that does not necessarily need to be in everyone's binder, but could be in a separate packet.

Our main project sheets should become two-sided: the type of project information we've had on one side, with the other side being the Fresno County map with the project located and an inset with a more thorough presentation of all funding sources (state, federal, local, other).

DAILY BRIEFINGS AND DEBRIEFINGS:

We need to once again conduct daily briefings and debriefings in the a.m. at the hotel. We did not specifically ask for this on the 2008 schedule, but should have since our lobbyists did not include it. We will rectify this oversight.

MEALS:

This answer to our survey is always mixed. What we may try is to pass out in the morning a "RSVP" for a planned dinner that night, with a deadline of 1 p.m. for a reply. The planned dinner would be described, but always optional in attendance. We would simply make reservations for the number of "yes" returns at 1 p.m. Generally it is the planned and well attended joint dinners for which the Fresno COG will help subsidize with sponsor donations since non-COG planned dinners are hard to control in potential costs or type of event.

SPONSORSHIP RECOGNITIONS:

We will elevate this effort at home (we began this increased effort recently with an annual presentation and formal recognition by the Fresno COG Policy Board). We will also continue to monitor the subject in D.C. which has been challenging of late due to the heightened awareness and "hands-off" approach of sponsored events for elected officials and their staff. The Fresno COG has always been very careful to identify how and in what manner we may recognize the sponsors because of fair political practices and the statements of economic interest. There is proposed regulatory change at the state level which may affect how we need to report our sponsorships (sponsoring an agency effort vs. sponsoring individuals). We will provide further updates as this issue progresses.

SIMON AND COMPANY

INCORPORATED

Intergovernmental Relations and Federal Affairs

1660 L Street, NW • Suite 501 • Washington, D.C. 20036

(202) 659-2229 • Fax (202) 659-5234 • e-mail: len.simon@simoncompany.com

MEMORANDUM

TO: Barbara Goodwin

FROM: Len Simon
Shannon Long

SUBJECT: 2008 Fresno COG "One Voice": *Observations and Recommendations*

DATE: April 21, 2008

Thank you again for the opportunity to work with the 2008 Fresno COG "One Voice" delegation. As with previous "One Voice" efforts, 2008 was very productive and the caliber of projects, presentations and meetings continue to improve each year.

In preparation of next year's "One Voice" meetings in Washington, we wanted to provide recommendations that you may wish to incorporate into the 2009 visit.

2009 "One Voice" Recommendations

1. **Format** - While we chose only to invite congressional officials as speakers for the 2008 events, we would recommend that the "One Voice" effort once again include White House officials and new presidential administration appointees. A newly elected president and his or her staff will present an excellent opportunity for the "One Voice" delegation to learn about new and exciting policy initiatives that will have the greatest impact at the local level.

In addition to a new administration, there will certainly be some turnover in Congress and we would suggest briefings with the congressional leadership and key committee members and staff. As with past years, the joint congressional briefing worked well and as you will recall, the congressional staff were thoroughly engaged in the discussion of projects, which continued among them subsequent to the "One Voice" visit.

Although logistical issues prevented us from having the congressional lunch, we recommend that we replicate that format where the "One Voice" group can honor all four House members and congressional staff. We are happy to work with the congressional offices to reserve an on site congressional banquet facility. As you know, there are great demands on the schedules of **Senators Feinstein** and **Boxer** and we suggest individual

meetings with each office. We believe the meetings this year with both senators were excellent and we will work to repeat similar meetings next year.

We will try to end each day's events around 3:00 p.m., although scheduling with key members of Congress does require us to extend meeting times beyond that targeted time. We would also be pleased to work with you on arranging group dinners each night if the delegation chooses to have arranged dinners each evening.

2. **Discussion of Policy Issues** – Similar to past years, we will structure the time with members and their staff to allow discussions of both appropriations and policy. We should take advantage of the time with the members of the delegation and congressional committee staff to discuss both appropriations and policy, which very often have a larger impact at the local level.
3. **Materials** - The materials that the COG staff provided each member of the delegation and their staffs was quite impressive and we would advise that same general package be used next year. The materials should also include the details of both federal and non-federal funding sources for all projects.
4. **Presentations** – We recommend that the COG revive its use of PowerPoint backdrops when discussing the “One Voice” projects, as the slides made it easier for the congressional staff to understand the funding requests and other unique factors which can be presented visually. The slides may also be adapted to reflect policy positions of the group. We may obtain a projector within the next year, which would prevent your staff from having to transport a projector from Fresno.
5. **Grants** - As we have previously suggested, the COG should continue to look for grant opportunities that could be applicable to the “One Voice” funding requests. Beyond the “One Voice” requests, COG members may find that there are funding opportunities available for a number of projects in their respective jurisdictions for which they may wish to seek funding.
6. **Project Selection** – As you know, the appropriations process continues to be controversial following a ban on earmarks in Fiscal Year 2007 and repeated attempts to pass a one-year moratorium on earmarks in appropriations bills. There has been significant discussion in Congress of delaying the Fiscal Year 2009 appropriations process until a new president has been elected, which will certainly have a tremendous impact on earmarks. You are also very familiar with the policy adopted by Congressman Devin Nunes and the number and size of earmarks are becoming increasingly unpopular.

With these factors in mind, we would urge you once again to carefully choose projects that are regional in scope, but remain within the \$2 – 3 million request range. We would also urge you to consider only four appropriations projects for the 2009 program, with a special emphasis on the reauthorization of SAFETEA-LU, which is discussed further below for your review.

7. **SAFETEA-LU II** – The current surface transportation reauthorization bill expires next year and the 2009 “One Voice” trip will coincide with congressional consideration of a new bill. We urge the “One Voice” group to begin thinking now about both projects and policy provisions that the delegation members would like to see included in the reauthorization measure to ensure those proposals can be part of the “One Voice” discussion in 2009. We also urge you to start and continue dialogue throughout the summer and fall as projects will be officially submitted during the 2009 “One Voice” trip. It is important to note that during project selection, if the “One Voice” delegation designates a project as a SAFETEA-LU reauthorization project, it should not be included as an appropriations project as well. We would certainly be pleased to provide assistance during the project selection phase to ensure that projects are properly designated for authorization as compared to appropriations.

8. **Voices of Fresno County** – The distinction between “regional” projects and those submitted individually continues to be an issue addressed by the congressional staff. The “One Voice” delegation will need to reiterate its message that the “One Voice” projects are regional in nature and have been agreed upon by the local governments represented by the COG. However, as we have mentioned, the same entities that support the “One Voice” projects will also be presenting their own list of projects to the congressional delegation, which often must decide which projects truly are a priority for the region.

We hope that you find this information helpful as you begin to think about your future “One Voice” efforts.

Please let us know if you have any questions or if we may be of further assistance. We look forward to talking with you soon.

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. E.***

FALL POLICY CONFERENCE REGISTRATION FORM

INDIVIDUAL INFORMATION

Name:

Agency Name:

Occupation:

Street Address:

City:

ZIP Code:

Phone Number:

Email:

Please send a check in the amount of **\$99.00** to register for the conference.

For the earlybirds, we will be going over to Lindsay's McDermont Recreation Center (<http://www.mcdermontfieldhouse.com/home.htm>) Wednesday night (Oct 1). Transportation will be provided and attendees can receive an evening of entertainment for an additional **\$10.00**.

The conference fee covers:

- Conference Event
- Continental Breakfast on October 2nd
- Lunch on October 2nd
- Dinner on October 2nd
- Continental Breakfast on October 3rd
- Lunch on October 3rd

All checks should be made out to the Tulare County Association of Governments.

This registration form and check should be sent to:

**TCAG
Attn: Ramon Lara
5961 S. Mooney Blvd.
Visalia, CA 93277**

Total amount enclosed with this form: \$_____

☐

Please type/put an "x" in the box if a vegetarian meal is requested.

Please contact Jason Waters (JWaters@co.tulare.ca.us) at 559-733-6653 ext. 4215 with any questions.

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. F.***

SENATE RULES COMMITTEE	SB 375
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520	Fax: (916)
327-4478	

UNFINISHED BUSINESS

Bill No: SB 375
 Author: Steinberg (D)
 Amended: 8/22/08
 Vote: 21

SENATE ENV. QUALITY COMMITTEE : 5-2, 4/23/07
 AYES: Simitian, Florez, Kuehl, Lowenthal, Steinberg
 NOES: Runner, Aanestad

SENATE APPROPRIATIONS COMMITTEE : 10-6, 5/31/07
 AYES: Torlakson, Cedillo, Corbett, Florez, Kuehl, Oropeza,
 Ridley-Thomas, Simitian, Steinberg, Yee
 NOES: Cox, Aanestad, Ashburn, Dutton, Runner, Wyland
 NO VOTE RECORDED: Battin

SENATE FLOOR : 21-15, 6/7/07
 AYES: Alquist, Calderon, Cedillo, Corbett, Correa, Kehoe,
 Kuehl, Lowenthal, Migden, Oropeza, Padilla, Perata,
 Ridley-Thomas, Romero, Scott, Simitian, Steinberg,
 Torlakson, Vincent, Wiggins, Yee
 NOES: Aanestad, Ackerman, Ashburn, Battin, Cogdill, Cox,
 Denham, Dutton, Harman, Hollingsworth, Maldonado,
 Margett, McClintock, Runner, Wyland
 NO VOTE RECORDED: Ducheny, Florez, Machado, Negrete McLeod

ASSEMBLY FLOOR : 49-22, 8/25/08 - See last page for vote

SUBJECT : Transportation planning: travel demand models:
 sustainable
 communities strategy

CONTINUED

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SB 375

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SOURCE : California League of Conservation Voters
Natural Resources Defense Council

DIGEST : This bill requires metropolitan planning organizations to include sustainable communities strategies, as defined, in their regional transportation plans for the purpose of reducing greenhouse gas emissions, aligns planning for transportation and housing, and creates specified incentives for the implementation of the strategies.

Assembly Amendments made substantive changes to the Senate version. The intent of the bill remains the same as it passed out of the Senate. (See Analysis section for specifics of the bill.) This bill is a compromise between the building industry, environmental groups, and local governments.

ANALYSIS : According to the author's office, this bill provides a mechanism for reducing greenhouse gases from the single largest sector of emissions, cars and light trucks. The environmental organizations sponsoring this bill maintain that changes in land use and transportation policy must be made to achieve the goals of AB 32 (Nunez and Pavley), Chapter 488, Statutes of 2006. Although greenhouse gas emissions can be reduced by producing more fuel efficient cars and using low carbon fuel, reductions in vehicle miles traveled will also be necessary. Thus, the travel demand models used by metropolitan planning organizations (MPOs) to develop regional transportation plans (RTPs) must assess the effects of land use decisions, transit service, and economic incentives. According to the author's office, this bill will help implement AB 32 by amending programs that are beyond the current authority of the Air Resources Board (ARB). This bill integrates and aligns planning for housing, land use, transportation and greenhouse gas emissions for the 17 MPOs in the state through amendments to provisions in existing law in three major areas.

Existing law (1) requires certain transportation planning activities by the Department of Transportation (Caltrans) and by designated regional transportation planning

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agencies, including development of an RTP, (2) authorizes the California Transportation Commission (CTC), in

cooperation with the regional agencies, to prescribe study areas for analysis and evaluation, (3) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect, and (4) requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill:

1. Makes findings and declarations concerning the need to make significant changes in land use and transportation policy in order to meet the greenhouse gas reduction goals established by AB 32 (Nunez and Pavley), Chapter 488, Statutes of 2006.
2. Requires the CTC, in consultation with the ARB and Caltrans, to maintain travel demand models used in the development of RTPs by federally designated MPOs.
3. Requires ARB, no later than January 31, 2009, to appoint a Regional Targets Advisory Committee (Committee) to recommend factors to be considered and methodologies to be used for setting greenhouse gas emission reduction targets for the affected regions, and specifies the composition of the Committee, including, but not limited to, local transportation agencies.
4. Requires the Committee to transmit a report with its recommendations to ARB no later than December 31, 2009, and requires ARB to consider the report prior to setting targets.
5. Provides that, in recommending factors to be considered and methodologies to be used, the Committee may consider

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any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and greenhouse gas emissions, economic and demographic trends, the magnitude of greenhouse gas reduction benefits from a variety of land use and transportation strategies, and appropriate

methods to describe regional targets and to monitor performance in attaining those targets.

6. Requires that, prior to setting the targets for a region, ARB exchange technical information with Caltrans, the MPO, and the affected air district, which may include a recommendation for a target for the region.
7. Requires the MPO to hold at least one public workshop within the region after receipt of the report from the Committee.
8. Requires ARB to update the regional greenhouse gas emission reduction targets every eight years consistent with each MPO's timeframe for updating its RTP under federal law until 2050.
9. Authorizes ARB to revise the targets every four years based on changes in specified factors, and requires ARB to exchange technical information with the MPOs, local governments, and affected air districts and engage in a consultative process with public and private stakeholders prior to updating these targets.
10. Requires the RTP for specified regions to include an SCS, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks in a region.
11. Specifies how the Metropolitan Transportation Commission and the Association of Bay Area Governments are to collaborate in the preparation of the SCS.
12. Specifies how the sub-regional councils of governments within the Southern California Association of Governments will be involved in the preparation of an

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SCS.

13. Requires each MPO to conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the SCS and alternative planning strategy (APS), if any, subject to specified conditions and exceptions.
14. Requires each MPO to adopt a public participation plan for development of the SCS and an APS, as specified.
15. Requires an MPO to quantify the reduction in greenhouse

gas emissions projected to be achieved by the SCS and set forth the difference, if any, between the amount of that reduction and the target for the region established by ARB.

- 16.Requires that, if an SCS is unable to reach the ARB target, the MPO prepare an APS to the SCS, as a separate document from the RTP, showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies, as specified.
- 17.Requires that, prior to starting the public participation process, the MPO submit a description to ARB of the technical methodology it intends to use to estimate the greenhouse gas emissions from its SCS and, if appropriate, its APS, and requires ARB to respond to the MPO in a timely manner with written comments about the technical methodology, including specifically describing any aspects of the methodology that will not yield accurate estimates of greenhouse gas emissions, and suggested remedies.
- 18.Requires that, after adoption, an MPO submit an SCS or an APS, if one has been adopted, to ARB for review, including the quantification of the greenhouse gas emission reductions the plan would achieve and a description of the technical methodology used to obtain that result.
- 19.Limits ARB review to acceptance or rejection of the MPO's determination that the strategy submitted would,

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if implemented, achieve the greenhouse gas emission reduction targets, and requires ARB to complete its review within 60 days.

- 20.Requires that, if ARB determines that the strategy submitted would not, if implemented, achieve the greenhouse gas emission reduction targets, the MPO revise its strategy or adopt an APS, if not previously adopted, and submit the strategy for review.
- 21.Requires, at a minimum, that the MPO must obtain ARB acceptance that an APS would, if implemented, achieve the greenhouse gas emission reduction targets established for that region.
- 22.States that:

- A. An SCS or APS does not regulate the use of land, nor shall it be subject to any state approval other than the ARB action referred to above.
- B. Nothing in an SCS or APS shall be interpreted as superseding or interfering with the exercise of the land use authority of cities and counties within the region.
- C. Nothing in this bill shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law.
- D. Nothing in this bill shall be interpreted to limit ARB's authority under any other provision of law.
- E. Nothing in this bill requires a city or county's land use policies and regulations, including its general plan, to be consistent with the RTP or an APS.
- F. Nothing in this bill requires an MPO to approve an SCS or APS that would be inconsistent with specified federal regulations.
- G. Nothing in this bill relieves a public or private entity or any person from compliance with any other

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local, state, or federal law.

- H. Nothing in this bill requires a transportation sales tax authority, as defined, to change the funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31, 2010.
- 23.Requires certain transportation planning and programming activities to be consistent with the SCS in order to obtain funding, but states that certain transportation projects programmed for funding on or before December 31, 2011, are not required to be consistent with the SCS.
- 24.Creates a mechanism by which an MPO, or regional transportation agency not within an MPO, that is currently on a five-year RTP cycle may elect to adopt an RTP on a four-year cycle in order to conform with the other provisions of this bill.
- 25.Authorizes MPOs in specified Central Valley counties to

work together to develop and adopt multi-regional goals and prepare multi-regional SCS.

26. Adds areas designated for agricultural uses and agricultural elements of general plans to the definition of "resource areas."
27. Defines "consistent" as having the same meaning as in a specified provision of federal law, and defines "internally consistent" as meaning that the elements of the RTP must be consistent with one another.
28. Requires that, prior to and after the adoption of specified forms, the housing element portion of the annual progress report of a planning agency on implementation of its general plans must include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element.
29. Changes the regional housing needs allocation (RHNA)

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cycle from five years to eight years.

30. Requires that rezoning of sites needed to meet RHNA requirements, including adoption of minimum density and development standards, shall be completed no later than three years after either the date the housing element is adopted or the date that is 90 days after receipt of comments from the Department of Housing and Community Development (HCD), whichever is earlier, unless this deadline is extended, as specified.
31. Requires a local government that has failed to adopt a housing element within 120 days of the statutory deadline for doing so to complete the rezoning of sufficient RHNA sites no later than three years and 120 days from the deadline to adopt its housing element.
32. Allows the deadline for completing required rezoning to be extended by one year if the local government has completed rezoning at densities sufficient to accommodate at least 75 percent of the sites for each income group and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, makes specified findings.
33. Prohibits a local government that fails to complete the rezoning by the deadline, as it may be extended, from

disapproving a housing development project, or requiring a conditional use permit, planned unit development permit, or other locally imposed discretionary permit or condition that renders the project infeasible, if the housing development project is proposed to be located on a site required to be rezoned pursuant to the program required by that subparagraph and complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program required by that subparagraph.

34. Provides that any such subdivision of sites shall be subject to the Subdivision Map Act but shall not constitute a "project" for purposes of CEQA.
35. Provides that a local government that fails to complete its rezoning may disapprove a housing development only

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if it makes written findings supported by substantial evidence on the record that the housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density, and that there is no feasible method to satisfactorily mitigate or avoid the adverse impact other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

36. Permits the applicant or any interested person to bring an action to enforce these provisions, and specifies that if a court finds that the local agency disapproved a project or conditioned its approval in violation of these provisions, the court shall issue an order or judgment compelling compliance within 60 days, retain jurisdiction to ensure that its order or judgment is carried out, and, if it determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this paragraph are fulfilled.
37. Provides that, in an action brought against a local government for failing to complete rezoning, the burden of proof shall be borne by the local government.
38. Defines "housing development project" as a project to construct residential units if the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and

use of at least 49 percent of the housing units for very low-, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined, for the period required by the applicable financing.

- 39.Specifies that rental units shall be affordable for at least 55 years, and that ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.
- 40.Requires that a council of governments provide HCD with

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data assumptions about the relationship between jobs and housing in the region, if available, to assist HCD in determining the region's RHNA.

41.States legislative intent that:

- A. Housing planning be coordinated and integrated with the RTP.
- B. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the SCS.
- C. The final allocation plan shall ensure that the total regional housing need, by income category, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low-income households.
- D. The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the SCS in the RTP.

42.Directs a court that finds that a city, county, or city and county has failed to complete the required rezoning, as that deadline may be extended, to issue an order or judgment compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in place at the time the action was filed and the overall equities of the circumstances as presented by all parties, to retain jurisdiction to ensure that its order or judgment is carried out, and, if the court determines that its order or judgment is not carried out, to issue further orders, including ordering that any required rezoning be completed within 60 days or the earliest time consistent with public hearing notice requirements, and may impose

sanctions on the city, county, or city and county, taking into account the overall equities of the circumstances presented by all parties.

43. Permits any interested person to bring an action to compel compliance with the specified deadlines and requirements, and specify that in any such action, the

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city, county, or city and county shall bear the burden of proof.

44. Requires a local government that does not adopt a housing element within 120 days of the statutory deadline for the adoption of the housing element to revise its housing element as appropriate, but not less than every four years, rather than eight years.
45. Requires all local governments within an MPO in a non-attainment region, other than those within the jurisdiction of the San Diego Association of Governments (SANDAG), to adopt the fifth revision of their housing elements no later than 18 months after the adoption of the first RTP to be adopted after September 30, 2010.
46. Requires local governments within SANDAG to adopt their fifth revision no later than five years from the fourth revision, and their sixth revision no later than 18 months after the adoption of the first RTP to be adopted after the fifth revision due date.
47. Requires local governments within an MPO that has elected to move from a five-year to a four-year RTP cycle to adopt an eight-year RHNA cycle and to adopt their next housing elements 18 months after the adoption of the first RTP after the election.
48. Defines "planning period" as the time period for
49. Specifies that, with one exception, the Implementation of the Sustainable Communities Strategy chapter of CEQA applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either an SCS or an APS, for which ARB has accepted an MPO's determination that the SCS or APS would, if implemented, achieve the greenhouse gas emission reduction targets.
50. Requires a transit priority project to (a) contain at

least 50 percent residential use, based on total building square footage and, if the project contains

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between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75, (b) provide a minimum net density of at least 20 dwelling units per acre, and (c) be within one-half mile of an existing or planned major transit stop, as defined, or high-quality transit corridor, as defined, as set forth in the applicable RTP.

51. Specifies that, for purposes of defining a transit priority project, all parcels within the project have no more than 25 percent of their area farther than one-half mile from a transit stop or corridor and that no more than 10 percent or 100 residential units, whichever is less, are less than one-half mile from a transit stop or corridor.
52. Provides that no additional review is required pursuant to CEQA for a transit priority project if the legislative body of a local jurisdiction finds, after conducting a public hearing, that the project meets specified criteria and is declared to be a sustainable community's project.
53. Requires that in the initial study for a sustainable communities environmental assessment or EIR for a transit priority project that has met specified criteria, the lead agency shall determine whether cumulative impacts have been both adequately addressed and adequately mitigated in prior certified EIRs.
54. Authorizes the legislative body of a local jurisdiction to adopt traffic mitigation measures for future residential projects that meet specified criteria, and exempts such a residential project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction has adopted those traffic mitigation measures.
55. Specifies that, if a residential or mixed-use residential project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either an SCS or an APS, for which ARB has accepted the MPO's determination that the SCS or the APS would, if

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implemented, achieve the greenhouse gas emission reduction targets and if the project incorporates the mitigation measures required by an applicable prior environmental document, any findings or other determinations for an exemption, a negative declaration, a mitigated negative declaration, an EIR, or addenda prepared or adopted for the project pursuant to CEQA shall not be required to reference, describe, or discuss growth inducing impacts or any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.

56. Specifies that any EIR prepared for a project described above shall not be required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.
57. Defines "regional transportation network" as all existing and proposed transportation improvements, including the state transportation system, that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final RTP adopted by the MPO, but shall not include local streets and roads.
58. Specifies that nothing in the foregoing relieves any project from a requirement to comply with any conditions, exactions, or fees for the mitigation of the project's impacts on the regional transportation network or local streets and roads.
59. Defines a "residential or mixed-use residential project" as a project where at least 75 percent of the total building square footage of the project consists of residential use or a project that is a transit priority project.
60. States that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to applicable sections of the Government Code.

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

According to the Assembly Appropriations Committee:

1. Substantial costs to MPOs to incorporate sustainable community strategies into their RTPs. MPOs have authority to use federal funds to cover planning costs, as well as to charge member local governments to cover costs, but total costs and composition of funding sources are unspecified.
2. Unknown net cost impact on cities. Aside from potential charges from MPOs, cities would also face higher costs related to (a) the increased complexity of general plan housing elements, (b) the requirement that cities rezone land within three years after the housing element is adopted, and (c) the likelihood that they will receive additional requests for amendments to their general plans to accommodate developments consistent with sustainable communities strategies (costs for granting these requests can be charged to the developer). Offsetting these costs is the shift from a five-year to an eight-year regional housing needs planning cycle, which implies less frequent updates to housing elements. The bill states that if the Commission on State Mandates determines that the bill contains local costs mandated by the state, reimbursements will be provided.
3. Preliminary estimates from ARB indicate that it will incur one-time costs of \$740,000 and ongoing costs of approximately \$440,000 relating to setting regional greenhouse gas emission reduction targets for the auto and light truck sector, and reviewing MPO's sustainable communities strategies. Costs are for two new positions (\$340,000 annually) and contracts with the University of California for technical assistance (\$400,000 one-time and \$100,000 ongoing).
4. CTC would incur one-time costs of approximately \$200,000 for the adoption of modeling guidelines, and potential minor ongoing costs associated with updating guidelines and reviewing regional models.

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5. The Office of Planning and Research would incur one-time

costs of approximately \$86,000 to update general plan and CEQA guidelines.

6. HCD, which is responsible for reviewing housing elements of local general plans, would face both costs and savings under the bill, which it believes would be largely offsetting. Increased complexity of local housing elements would result in added time and expense associated with each plan review. However, this will be offset by less-frequent revisions (from once every five years to once every eight years) of local general plans' housing elements, and a consequent reduction in the number of reviews that it must perform each year.

SUPPORT : (Verified 8/25/08)

California League of Conservation Voters (co-source)
Natural Resources Defense Council (co-source)

Business

Alpine Meadows
Bay Area Council (in concept)
California Building Industry Association
California Major Builders Council
Chrysler Corporation
Douglas Emmett, Inc.
Environmental Entrepreneurs (197 business leaders)
Ford Motor Company
Fulcrum Properties
General Motors
Homewood Mountain Resort
JMA Ventures
Moller International
New Voice of Business
PG&E
Sacramento Metro Chamber
Silicon Valley Leadership Group
Toyota Motor Corporation (in concept)

Labor

California Professional Firefighters
Sacramento Area Fire Fighters Local 522

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State Association of Electrical Workers
State Building and Construction Trades Council
State Pipe Trades Council
Western States Council of Sheet Metal Workers

Government

Association of Bay Area Governments

Bay Area Air Quality Management District
 Bay Area Rapid Transit
 California Association of Local Area Formation Commissions
 California State Association of Counties
 Cities of Citrus Heights, Folsom, Huntington Beach,
 Roseville and Sacramento
 Counties of Los Angeles, Napa (with amendments) and
 Sacramento
 League of California Cities
 Los Angeles Mayor Antonio Villaraigosa
 Metropolitan Transportation Commission of San Francisco Bay
 Area
 Sacramento Area Council of Governments
 Sacramento Regional Transit District
 San Diego Association of Governments
 San Francisco Mayor Gavin Newsom
 Santa Cruz County Regional Transportation Commission
 South Coast Air Quality Management District

Affordable Housing

California Rural Legal Assistance Foundation
 Housing California
 Non Profit Housing Association of Northern California

Health

American Lung Association of California
 Breathe California
 California Nurses Association
 Health Officers Association of California
 Merced/Mariposa County Asthma Coalition

Environmental

American Farmland Trust
 Audubon California
 California Council of Land Trusts
 California League of Conservation Voters
 Coalition for Clean Air

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Defenders of Wildlife
 Endangered Habitats League
 Environment California
 Environmental Defense Fund
 Natural Resources Defense Council
 Planning and Conservation League
 Transportation and Land Use Coalition
 Trust for Public Land

Planning

California Association of Environmental Professionals (if
 amended)

California Chapter, American Planning Association
Congress for a New Urbanism

Miscellaneous

California Interfaith Power and Light
League of Women Voters

OPPOSITION : (Verified 8/25/08)

Associated General Contractors of California
Automobile Club of Southern California
CalCOG (unless amended)
California Business Properties Association
California Chamber of Commerce
California Contract Cities Association
California Hotel & Lodging Association
California Manufacturers & Technology Association
California Retailers Association
Center for Biological Diversity
Consulting Engineers & Land Surveyors of California
Contra Costa Transportation Authority
County of Orange
Department of Finance
Howard Jarvis Taxpayers Association
Inland Empire Transportation Coalition
Kern County Board of Supervisors
Merced County Association of Governments
Orange County Business Council
Orange County Transportation Agency
Resource Landowners Coalition
San Bernardino Local Agency Formation Commission
San Joaquin Valley Regional Policy Council

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Self-Help Counties Coalition
Sonoma County Transportation Authority
Southwest California Legislative Council
Transportation Agency for Monterey County
Ventura Council of Governments
Western Riverside Council of Governments

ASSEMBLY FLOOR :

AYES: Adams, Aghazarian, Arambula, Beall, Berg, Berryhill,
Blakeslee, Brownley, Caballero, Charles Calderon, Carter,
Coto, De La Torre, DeSaulnier, Dymally, Eng, Evans,
Feuer, Fuentes, Furutani, Galgiani, Hancock, Hayashi,
Hernandez, Horton, Houston, Huffman, Jones, Karnette,
Krekorian, Leno, Levine, Lieber, Lieu, Mendoza, Mullin,
Nava, Nunez, Parra, Plescia, Portantino, Price, Ruskin,
Salas, Solorio, Swanson, Torrico, Wolk, Bass

NOES: Anderson, Benoit, Cook, DeVore, Duvall, Emmerson,
Fuller, Gaines, Garrick, Huff, Jeffries, Keene, La Malfa,
Maze, Nakanishi, Niello, Silva, Smyth, Spitzer,
Strickland, Villines, Walters
NO VOTE RECORDED: Davis, De Leon, Garcia, Laird, Ma,
Sharon Runner, Saldana, Soto, Tran

TSM:mw 8/27/08 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

**** END ****

BILL NUMBER: SB 375 ENROLLED
BILL TEXT

PASSED THE SENATE AUGUST 30, 2008
PASSED THE ASSEMBLY AUGUST 25, 2008
AMENDED IN ASSEMBLY AUGUST 22, 2008
AMENDED IN ASSEMBLY AUGUST 20, 2008
AMENDED IN ASSEMBLY AUGUST 18, 2008
AMENDED IN ASSEMBLY AUGUST 13, 2008
AMENDED IN ASSEMBLY MARCH 24, 2008
AMENDED IN ASSEMBLY JANUARY 28, 2008
AMENDED IN ASSEMBLY SEPTEMBER 12, 2007
AMENDED IN ASSEMBLY JULY 17, 2007
AMENDED IN ASSEMBLY JUNE 27, 2007
AMENDED IN SENATE JUNE 4, 2007
AMENDED IN SENATE MAY 2, 2007
AMENDED IN SENATE APRIL 17, 2007

INTRODUCED BY Senator Steinberg
 (Coauthor: Senator Ducheny)
 (Coauthors: Assembly Members Jones and DeSaulnier)

FEBRUARY 21, 2007

An act to amend Sections 65080, 65400, 65583, 65584.01, 65584.02, 65584.04, 65587, and 65588 of, and to add Sections 14522.1, 14522.2, and 65080.01 to, the Government Code, and to amend Section 21061.3 of, to add Section 21159.28 to, and to add Chapter 4.2 (commencing with Section 21155) to Division 13 of, the Public Resources Code, relating to environmental quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 375, Steinberg. Transportation planning: travel demand models: sustainable communities strategy: environmental review.

(1) Existing law requires certain transportation planning activities by the Department of Transportation and by designated regional transportation planning agencies, including development of a regional transportation plan. Certain of these agencies are designated under federal law as metropolitan planning organizations. Existing law authorizes the California Transportation Commission, in cooperation with the regional agencies, to prescribe study areas for analysis and evaluation.

This bill would require the commission to maintain guidelines, as specified, for travel demand models used in the development of regional transportation plans by metropolitan planning organizations. The bill would require the commission to consult with various agencies in this regard, and to form an advisory committee and to hold workshops before amending the guidelines.

This bill would also require the regional transportation plan for regions of the state with a metropolitan planning organization to adopt a sustainable communities strategy, as part of its regional transportation plan, as specified, designed to achieve certain goals for the reduction of greenhouse gas emissions from automobiles and light trucks in a region. The bill would require the State Air Resources Board, working in consultation with the metropolitan planning organizations, to provide each affected region with

greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035 by September 30, 2010, to appoint a Regional Targets Advisory Committee to recommend factors and methodologies for setting those targets, and to update those targets every 8 years. The bill would require certain transportation planning and programming activities by the metropolitan planning organizations to be consistent with the sustainable communities strategy contained in the regional transportation plan, but would state that certain transportation projects programmed for funding on or before December 31, 2011, are not required to be consistent with the sustainable communities strategy process. To the extent the sustainable communities strategy is unable to achieve the greenhouse gas emission reduction targets, the bill would require affected metropolitan planning organizations to prepare an alternative planning strategy to the sustainable communities strategy showing how the targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The bill would require the State Air Resources Board to review each metropolitan planning organization's sustainable communities strategy and alternative planning strategy to determine whether the strategy, if implemented, would achieve the greenhouse gas emission reduction targets. The bill would require a strategy that is found to be insufficient by the state board to be revised by the metropolitan planning organization, with a minimum requirement that the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy, if implemented, would achieve the targets. The bill would state that the adopted strategies do not regulate the use of land and are not subject to state approval, and that city or county land use policies, including the general plan, are not required to be consistent with the regional transportation plan, which would include the sustainable growth strategy, or the alternative planning strategy. The bill would also require the metropolitan planning organization to hold specified informational meetings in this regard with local elected officials and would require a public participation program with workshops and public hearings for the public, among other things. The bill would enact other related provisions.

Because the bill would impose additional duties on local agencies, it would impose a state-mandated local program.

(2) The Planning and Zoning Law requires each city, county, or city and county to prepare and adopt a general plan for its jurisdiction that contains certain mandatory elements, including a housing element. Existing law requires the housing element to identify the existing and projected housing needs of all economic segments of the community.

Existing law requires the housing element, among other things, to contain a program which sets forth a 5-year schedule of actions of the local government to implement the goals and objectives of the housing element. Existing law requires the program to identify actions that will be undertaken to make sites available to accommodate various housing needs, including, in certain cases, the rezoning of sites to accommodate 100% of the need for housing for very low and low-income households.

This bill would instead require the program to set forth a schedule of actions during the planning period, as defined, and require each action to have a timetable for implementation. The bill would generally require rezoning of certain sites to accommodate certain housing needs within specified times, with an opportunity for an extension time in certain cases, and would require the local government to hold a noticed public hearing within 30 days after the

deadline for compliance expires. The bill would, under certain conditions, prohibit a local government that fails to complete a required rezoning within the timeframe required from disapproving a housing development project, as defined, or from taking various other actions that would render the project infeasible, and would allow the project applicant or any interested person to bring an action to enforce these provisions. The bill would also allow a court to compel a local government to complete the rezoning within specified times and to impose sanctions on the local government if the court order or judgment is not carried out, and would provide that in certain cases the local government shall bear the burden of proof relative to actions brought to compel compliance with specified deadlines and requirements.

Existing law requires each local government to review and revise its housing element as frequently as appropriate, but not less than every 5 years.

This bill would extend that time period to 8 years for those local governments that are located within a region covered by a metropolitan planning organization in a nonattainment region or by a metropolitan planning organization or regional transportation planning agency that meets certain requirements. The bill would also provide that, in certain cases, the time period would be reduced to 4 years or other periods, as specified.

The bill would enact other related provisions. Because the bill would impose additional duties on local governments relative to the housing element of the general plan, it would thereby impose a state-mandated local program.

(3) The California Environmental Quality Act (CEQA) requires a lead agency, as defined, to prepare, or cause to be prepared, and certify the completion of, an environmental impact report (EIR) on a project that it proposes to carry out or approve that may have a significant effect on the environment or to adopt a negative declaration if it finds that the project will not have that effect. CEQA also requires a lead agency to prepare a mitigated negative declaration for a project that may have a significant effect on the environment if revisions in the project would avoid or mitigate that effect and there is no substantial evidence that the project, as revised, would have a significant effect on the environment.

This bill would exempt from CEQA a transit priority project, as defined, that meets certain requirements and that is declared by the legislative body of a local jurisdiction to be a sustainable communities project. The transit priority project would need to be consistent with a metropolitan planning organization's sustainable communities strategy or an alternative planning strategy that has been determined by the State Air Resources Board to achieve the greenhouse gas emission reductions targets. The bill would provide for limited CEQA review of various other transit priority projects.

The bill, with respect to other residential or mixed-use residential projects meeting certain requirements, would exempt the environmental documents for those projects from being required to include certain information regarding growth inducing impacts or impacts from certain vehicle trips.

The bill would also authorize the legislative body of a local jurisdiction to adopt traffic mitigation measures for transit priority projects. The bill would exempt a transit priority project seeking a land use approval from compliance with additional measures for traffic impacts, if the local jurisdiction has adopted those traffic mitigation measures.

(4) 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 these statutory provisions.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares all of the following:

(a) The transportation sector contributes over 40 percent of the greenhouse gas emissions in the State of California; automobiles and light trucks alone contribute almost 30 percent. The transportation sector is the single largest contributor of greenhouse gases of any sector.

(b) In 2006, the Legislature passed and the Governor signed Assembly Bill 32 (Chapter 488 of the Statutes of 2006; hereafter AB 32), which requires the State of California to reduce its greenhouse gas emissions to 1990 levels no later than 2020. According to the State Air Resources Board, in 1990 greenhouse gas emissions from automobiles and light trucks were 108 million metric tons, but by 2004 these emissions had increased to 135 million metric tons.

(c) Greenhouse gas emissions from automobiles and light trucks can be substantially reduced by new vehicle technology and by the increased use of low carbon fuel. However, even taking these measures into account, it will be necessary to achieve significant additional greenhouse gas reductions from changed land use patterns and improved transportation. Without improved land use and transportation policy, California will not be able to achieve the goals of AB 32.

(d) In addition, automobiles and light trucks account for 50 percent of air pollution in California and 70 percent of its consumption of petroleum. Changes in land use and transportation policy, based upon established modeling methodology, will provide significant assistance to California's goals to implement the federal and state Clean Air Acts and to reduce its dependence on petroleum.

(e) Current federal law requires regional transportation planning agencies to include a land use allocation in the regional transportation plan. Some regions have engaged in a regional "blueprint" process to prepare the land use allocation. This process has been open and transparent. The Legislature intends, by this act, to build upon that successful process by requiring metropolitan planning organizations to develop and incorporate a sustainable communities strategy which will be the land use allocation in the regional transportation plan.

(f) The California Environmental Quality Act (CEQA) is California's premier environmental statute. New provisions of CEQA should be enacted so that the statute encourages developers to submit applications and local governments to make land use decisions that will help the state achieve its climate goals under AB 32, assist in the achievement of state and federal air quality standards, and increase petroleum conservation.

(g) Current planning models and analytical techniques used for making transportation infrastructure decisions and for air quality planning should be able to assess the effects of policy choices, such as residential development patterns, expanded transit service and accessibility, the walkability of communities, and the use of economic incentives and disincentives.

(h) The California Transportation Commission has developed

guidelines for travel demand models used in the development of regional transportation plans. This act assures the commission's continued oversight of the guidelines, as the commission may update them as needed from time to time.

(i) California local governments need a sustainable source of funding to be able to accommodate patterns of growth consistent with the state's climate, air quality, and energy conservation goals.

SEC. 2. Section 14522.1 is added to the Government Code, to read:

14522.1. (a) (1) The commission, in consultation with the department and the State Air Resources Board, shall maintain guidelines for travel demand models used in the development of regional transportation plans by federally designated metropolitan planning organizations.

(2) Any revision of the guidelines shall include the formation of an advisory committee that shall include representatives of the metropolitan planning organizations, the department, organizations knowledgeable in the creation and use of travel demand models, local governments, and organizations concerned with the impacts of transportation investments on communities and the environment. Before amending the guidelines, the commission shall hold two workshops on the guidelines, one in northern California and one in southern California. The workshops shall be incorporated into regular commission meetings.

(b) The guidelines shall, at a minimum and to the extent practicable, taking into account such factors as the size and available resources of the metropolitan planning organization, account for all of the following:

(1) The relationship between land use density and household vehicle ownership and vehicle miles traveled in a way that is consistent with statistical research.

(2) The impact of enhanced transit service levels on household vehicle ownership and vehicle miles traveled.

(3) Changes in travel and land development likely to result from highway or passenger rail expansion.

(4) Mode splitting that allocates trips between automobile, transit, carpool, and bicycle and pedestrian trips. If a travel demand model is unable to forecast bicycle and pedestrian trips, another means may be used to estimate those trips.

(5) Speed and frequency, days, and hours of operation of transit service.

SEC. 3. Section 14522.2 is added to the Government Code, to read:

14522.2. (a) A metropolitan planning organization shall disseminate the methodology, results, and key assumptions of whichever travel demand models it uses in a way that would be useable and understandable to the public.

(b) Transportation planning agencies other than those identified in paragraph (1) of subdivision (a) of Section 14522.1, cities, and counties are encouraged, but not required, to utilize travel demand models that are consistent with the guidelines in the development of their regional transportation plans.

SEC. 4. Section 65080 of the Government Code is amended to read:

65080. (a) Each transportation planning agency designated under Section 29532 or 29532.1 shall prepare and adopt a regional transportation plan directed at achieving a coordinated and balanced regional transportation system, including, but not limited to, mass transportation, highway, railroad, maritime, bicycle, pedestrian, goods movement, and aviation facilities and services. The plan shall be action-oriented and pragmatic, considering both the short-term and long-term future, and shall present clear, concise policy guidance to local and state officials. The regional transportation plan shall

consider factors specified in Section 134 of Title 23 of the United States Code. Each transportation planning agency shall consider and incorporate, as appropriate, the transportation plans of cities, counties, districts, private organizations, and state and federal agencies.

(b) The regional transportation plan shall be an internally consistent document and shall include all of the following:

(1) A policy element that describes the transportation issues in the region, identifies and quantifies regional needs, and describes the desired short-range and long-range transportation goals, and pragmatic objective and policy statements. The objective and policy statements shall be consistent with the funding estimates of the financial element. The policy element of transportation planning agencies with populations that exceed 200,000 persons may quantify a set of indicators including, but not limited to, all of the following:

(A) Measures of mobility and traffic congestion, including, but not limited to, daily vehicle hours of delay per capita and vehicle miles traveled per capita.

(B) Measures of road and bridge maintenance and rehabilitation needs, including, but not limited to, roadway pavement and bridge conditions.

(C) Measures of means of travel, including, but not limited to, percentage share of all trips (work and nonwork) made by all of the following:

(i) Single occupant vehicle.

(ii) Multiple occupant vehicle or carpool.

(iii) Public transit including commuter rail and intercity rail.

(iv) Walking.

(v) Bicycling.

(D) Measures of safety and security, including, but not limited to, total injuries and fatalities assigned to each of the modes set forth in subparagraph (C).

(E) Measures of equity and accessibility, including, but not limited to, percentage of the population served by frequent and reliable public transit, with a breakdown by income bracket, and percentage of all jobs accessible by frequent and reliable public transit service, with a breakdown by income bracket.

(F) The requirements of this section may be met utilizing existing sources of information. No additional traffic counts, household surveys, or other sources of data shall be required.

(2) A sustainable communities strategy prepared by each metropolitan planning organization as follows:

(A) No later than September 30, 2010, the State Air Resources Board shall provide each affected region with greenhouse gas emission reduction targets for the automobile and light truck sector for 2020 and 2035, respectively.

(i) No later than January 31, 2009, the state board shall appoint a Regional Targets Advisory Committee to recommend factors to be considered and methodologies to be used for setting greenhouse gas emission reduction targets for the affected regions. The committee shall be composed of representatives of the metropolitan planning organizations, affected air districts, the League of California Cities, the California State Association of Counties, local transportation agencies, and members of the public, including homebuilders, environmental organizations, planning organizations, environmental justice organizations, affordable housing organizations, and others. The advisory committee shall transmit a report with its recommendations to the state board no later than September 30, 2009. In recommending factors to be considered and

methodologies to be used, the advisory committee may consider any relevant issues, including, but not limited to, data needs, modeling techniques, growth forecasts, the impacts of regional jobs-housing balance on interregional travel and greenhouse gas emissions, economic and demographic trends, the magnitude of greenhouse gas reduction benefits from a variety of land use and transportation strategies, and appropriate methods to describe regional targets and to monitor performance in attaining those targets. The state board shall consider the report prior to setting the targets.

(ii) Prior to setting the targets for a region, the state board shall exchange technical information with the metropolitan planning organization and the affected air district. The metropolitan planning organization may recommend a target for the region. The metropolitan planning organization shall hold at least one public workshop within the region after receipt of the report from the advisory committee. The state board shall release draft targets for each region no later than June 30, 2010.

(iii) In establishing these targets, the state board shall take into account greenhouse gas emission reductions that will be achieved by improved vehicle emission standards, changes in fuel composition, and other measures it has approved that will reduce greenhouse gas emissions in the affected regions, and prospective measures the state board plans to adopt to reduce greenhouse gas emissions from other greenhouse gas emission sources as that term is defined in subdivision (i) of Section 38505 of the Health and Safety Code and consistent with the regulations promulgated pursuant to the California Global Warming Solutions Act of 2006 (Division 12.5 (commencing with Section 38500) of the Health and Safety Code).

(iv) The state board shall update the regional greenhouse gas emission reduction targets every eight years consistent with each metropolitan planning organization's timeframe for updating its regional transportation plan under federal law until 2050. The state board may revise the targets every four years based on changes in the factors considered under clause (iii) above. The state board shall exchange technical information with the Department of Transportation, metropolitan planning organizations, local governments, and affected air districts and engage in a consultative process with public and private stakeholders prior to updating these targets.

(v) The greenhouse gas emission reduction targets may be expressed in gross tons, tons per capita, tons per household, or in any other metric deemed appropriate by the state board.

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region; (ii) identify areas within the region sufficient to house all the population of the region, including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth; (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584; (iv) identify a transportation network to service the transportation needs of the region; (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01; (vi) consider the state

housing goals specified in Sections 65580 and 65581; (vii) set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board; and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506). Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi), the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii).

(C) In the region served by the multicounty transportation planning agency described in Section 130004 of the Public Utilities Code, a subregional council of governments and the county transportation commission may work together to propose the sustainable communities strategy and an alternative planning strategy, if one is prepared pursuant to subparagraph (H), for that subregional area. The metropolitan planning organization may adopt a framework for a subregional sustainable communities strategy or a subregional alternative planning strategy to address the intraregional land use, transportation, economic, air quality, and climate policy relationships. The metropolitan planning organization shall include the subregional sustainable communities strategy for that subregion in the regional sustainable communities strategy to the extent consistent with this section and federal law and approve the subregional alternative planning strategy, if one is prepared pursuant to subparagraph (H), for that subregional area to the extent consistent with this section. The metropolitan planning organization shall develop overall guidelines, create public participation plans pursuant to subparagraph (E), ensure coordination, resolve conflicts, make sure that the overall plan complies with applicable legal requirements, and adopt the plan for the region.

(D) The metropolitan planning organization shall conduct at least two informational meetings in each county within the region for members of the board of supervisors and city councils on the sustainable communities strategy and alternative planning strategy, if any. The metropolitan planning organization may conduct only one informational meeting if it is attended by representatives of the county board of supervisors and city council members representing a majority of the cities representing a majority of the population in the incorporated areas of that county. Notice of the meeting shall be sent to the clerk of the board of supervisors and to each city clerk. The purpose of the meeting shall be to present a draft of the sustainable communities strategy to the members of the board of supervisors and the city council members in that county and to solicit and consider their input and recommendations.

(E) Each metropolitan planning organization shall adopt a public participation plan, for development of the sustainable communities strategy and an alternative planning strategy, if any, that includes all of the following:

(i) Outreach efforts to encourage the active participation of a broad range of stakeholder groups in the planning process, consistent with the agency's adopted Federal Public Participation Plan, including, but not limited to, affordable housing advocates, transportation advocates, neighborhood and community groups, environmental advocates, home builder representatives, broad-based

business organizations, landowners, commercial property interests, and homeowner associations.

(ii) Consultation with congestion management agencies, transportation agencies, and transportation commissions.

(iii) Workshops throughout the region to provide the public with the information and tools necessary to provide a clear understanding of the issues and policy choices. At least one workshop shall be held in each county in the region. For counties with a population greater than 500,000, at least three workshops shall be held. Each workshop, to the extent practicable, shall include urban simulation computer modeling to create visual representations of the sustainable communities strategy and the alternative planning strategy.

(iv) Preparation and circulation of a draft sustainable communities strategy and an alternative planning strategy, if one is prepared, not less than 55 days before adoption of a final regional transportation plan.

(v) At least three public hearings on the draft sustainable communities strategy in the regional transportation plan and alternative planning strategy, if one is prepared. If the metropolitan transportation organization consists of a single county, at least two public hearings shall be held. To the maximum extent feasible, the hearings shall be in different parts of the region to maximize the opportunity for participation by members of the public throughout the region.

(vi) A process for enabling members of the public to provide a single request to receive notices, information, and updates.

(F) In preparing a sustainable communities strategy, the metropolitan planning organization shall consider spheres of influence that have been adopted by the local agency formation commissions within its region.

(G) Prior to adopting a sustainable communities strategy, the metropolitan planning organization shall quantify the reduction in greenhouse gas emissions projected to be achieved by the sustainable communities strategy and set forth the difference, if any, between the amount of that reduction and the target for the region established by the state board.

(H) If the sustainable communities strategy, prepared in compliance with subparagraph (B) or (C), is unable to reduce greenhouse gas emissions to achieve the greenhouse gas emission reduction targets established by the state board, the metropolitan planning organization shall prepare an alternative planning strategy to the sustainable communities strategy showing how those greenhouse gas emission targets would be achieved through alternative development patterns, infrastructure, or additional transportation measures or policies. The alternative planning strategy shall be a separate document from the regional transportation plan, but it may be adopted concurrently with the regional transportation plan. In preparing the alternative planning strategy, the metropolitan planning organization:

(i) Shall identify the principal impediments to achieving the targets within the sustainable communities strategy.

(ii) May include an alternative development pattern for the region pursuant to subparagraphs (B) to (F), inclusive.

(iii) Shall describe how the greenhouse gas emission reduction targets would be achieved by the alternative planning strategy, and why the development pattern, measures, and policies in the alternative planning strategy are the most practicable choices for achievement of the greenhouse gas emission reduction targets.

(iv) An alternative development pattern set forth in the alternative planning strategy shall comply with Part 450 of Title 23

of, and Part 93 of Title 40 of, the Code of Federal Regulations, except to the extent that compliance will prevent achievement of the greenhouse gas emission reduction targets approved by the state board.

(v) For purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), an alternative planning strategy shall not constitute a land use plan, policy, or regulation, and the inconsistency of a project with an alternative planning strategy shall not be a consideration in determining whether a project may have an environmental effect.

(I) (i) Prior to starting the public participation process adopted pursuant to subparagraph (E) of paragraph (2) of subdivision (b) of Section 65080, the metropolitan planning organization shall submit a description to the state board of the technical methodology it intends to use to estimate the greenhouse gas emissions from its sustainable communities strategy and, if appropriate, its alternative planning strategy. The state board shall respond to the metropolitan planning organization in a timely manner with written comments about the technical methodology, including specifically describing any aspects of that methodology it concludes will not yield accurate estimates of greenhouse gas emissions, and suggested remedies. The metropolitan planning organization is encouraged to work with the state board until the state board concludes that the technical methodology operates accurately.

(ii) After adoption, a metropolitan planning organization shall submit a sustainable communities strategy or an alternative planning strategy, if one has been adopted, to the state board for review, including the quantification of the greenhouse gas emission reductions the strategy would achieve and a description of the technical methodology used to obtain that result. Review by the state board shall be limited to acceptance or rejection of the metropolitan planning organization's determination that the strategy submitted would, if implemented, achieve the greenhouse gas emission reduction targets established by the state board. The state board shall complete its review within 60 days.

(iii) If the state board determines that the strategy submitted would not, if implemented, achieve the greenhouse gas emission reduction targets, the metropolitan planning organization shall revise its strategy or adopt an alternative planning strategy, if not previously adopted, and submit the strategy for review pursuant to clause (ii). At a minimum, the metropolitan planning organization must obtain state board acceptance that an alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets established for that region by the state board.

(J) Neither a sustainable communities strategy nor an alternative planning strategy regulates the use of land, nor, except as provided by subparagraph (I), shall either one be subject to any state approval. Nothing in a sustainable communities strategy shall be interpreted as superseding the exercise of the land use authority of cities and counties within the region. Nothing in this section shall be interpreted to limit the state board's authority under any other provision of law. Nothing in this section shall be interpreted to authorize the abrogation of any vested right whether created by statute or by common law. Nothing in this section shall require a city's or county's land use policies and regulations, including its general plan, to be consistent with the regional transportation plan or an alternative planning strategy. Nothing in this section requires a metropolitan planning organization to approve a sustainable communities strategy that would be inconsistent with Part 450 of Title 23 of, or Part 93 of Title 40 of, the Code of Federal

Regulations and any administrative guidance under those regulations. Nothing in this section relieves a public or private entity or any person from compliance with any other local, state, or federal law.

(K) Nothing in this section requires projects programmed for funding on or before December 31, 2011, to be subject to the provisions of this paragraph if they (i) are contained in the 2007 or 2009 Federal Statewide Transportation Improvement Program, (ii) are funded pursuant to Chapter 12.49 (commencing with Section 8879.20) of Division 1 of Title 2, or (iii) were specifically listed in a ballot measure prior to December 31, 2008, approving a sales tax increase for transportation projects. Nothing in this section shall require a transportation sales tax authority to change the funding allocations approved by the voters for categories of transportation projects in a sales tax measure adopted prior to December 31, 2010. For purposes of this subparagraph, a transportation sales tax authority is a district, as defined in Section 7252 of the Revenue and Taxation Code, that is authorized to impose a sales tax for transportation purposes.

(L) A metropolitan planning organization, or a regional transportation planning agency not within a metropolitan planning organization, that is required to adopt a regional transportation plan not less than every five years, may elect to adopt the plan not less than every four years. This election shall be made by the board of directors of the metropolitan planning organization or regional transportation planning agency no later than June 1, 2009, or thereafter 54 months prior to the statutory deadline for the adoption of housing elements for the local jurisdictions within the region, after a public hearing at which comments are accepted from members of the public and representatives of cities and counties within the region covered by the metropolitan planning organization or regional transportation planning agency. Notice of the public hearing shall be given to the general public and by mail to cities and counties within the region no later than 30 days prior to the date of the public hearing. Notice of election shall be promptly given to the Department of Housing and Community Development. The metropolitan planning organization or the regional transportation planning agency shall complete its next regional transportation plan within three years of the notice of election.

(M) Two or more of the metropolitan planning organizations for Fresno County, Kern County, Kings County, Madera County, Merced County, San Joaquin County, Stanislaus County, and Tulare County may work together to develop and adopt multiregional goals and policies that may address interregional land use, transportation, economic, air quality, and climate relationships. The participating metropolitan planning organizations may also develop a multiregional sustainable communities strategy, to the extent consistent with federal law, or an alternative planning strategy for adoption by the metropolitan planning organizations. Each participating metropolitan planning organization shall consider any adopted multiregional goals and policies in the development of a sustainable communities strategy and, if applicable, an alternative planning strategy for its region.

(3) An action element that describes the programs and actions necessary to implement the plan and assigns implementation responsibilities. The action element may describe all transportation projects proposed for development during the 20-year or greater life of the plan. The action element shall consider congestion management programming activities carried out within the region.

(4) (A) A financial element that summarizes the cost of plan

implementation constrained by a realistic projection of available revenues. The financial element shall also contain recommendations for allocation of funds. A county transportation commission created pursuant to Section 130000 of the Public Utilities Code shall be responsible for recommending projects to be funded with regional improvement funds, if the project is consistent with the regional transportation plan. The first five years of the financial element shall be based on the five-year estimate of funds developed pursuant to Section 14524. The financial element may recommend the development of specified new sources of revenue, consistent with the policy element and action element.

(B) The financial element of transportation planning agencies with populations that exceed 200,000 persons may include a project cost breakdown for all projects proposed for development during the 20-year life of the plan that includes total expenditures and related percentages of total expenditures for all of the following:

- (i) State highway expansion.
- (ii) State highway rehabilitation, maintenance, and operations.
- (iii) Local road and street expansion.
- (iv) Local road and street rehabilitation, maintenance, and operation.
- (v) Mass transit, commuter rail, and intercity rail expansion.
- (vi) Mass transit, commuter rail, and intercity rail rehabilitation, maintenance, and operations.
- (vii) Pedestrian and bicycle facilities.
- (viii) Environmental enhancements and mitigation.
- (ix) Research and planning.
- (x) Other categories.

(C) The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall consider financial incentives for cities and counties that have resource areas or farmland, as defined in Section 65080.01, for the purposes of, for example, transportation investments for the preservation and safety of the city street or county road system and farm to market and interconnectivity transportation needs. The metropolitan planning organization or county transportation agency, whichever entity is appropriate, shall also consider financial assistance for counties to address countywide service responsibilities in counties that contribute towards the greenhouse gas emission reduction targets by implementing policies for growth to occur within their cities.

(c) Each transportation planning agency may also include other factors of local significance as an element of the regional transportation plan, including, but not limited to, issues of mobility for specific sectors of the community, including, but not limited to, senior citizens.

(d) Except as otherwise provided in this subdivision, each transportation planning agency shall adopt and submit, every four years, an updated regional transportation plan to the California Transportation Commission and the Department of Transportation. A transportation planning agency located in a federally designated air quality attainment area or that does not contain an urbanized area may at its option adopt and submit a regional transportation plan every five years. When applicable, the plan shall be consistent with federal planning and programming requirements and shall conform to the regional transportation plan guidelines adopted by the California Transportation Commission. Prior to adoption of the regional transportation plan, a public hearing shall be held after the giving of notice of the hearing by publication in the affected county or counties pursuant to Section 6061.

SEC. 5. Section 65080.01 is added to the Government Code, to read:

65080.01. The following definitions apply to terms used in Section 65080:

(a) "Resource areas" include (1) all publicly owned parks and open space; (2) open space or habitat areas protected by natural community conservation plans, habitat conservation plans, and other adopted natural resource protection plans; (3) habitat for species identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies or protected by the federal Endangered Species Act of 1973, the California Endangered Species Act, or the Native Plant Protection Act; (4) lands subject to conservation or agricultural easements for conservation or agricultural purposes by local governments, special districts, or nonprofit 501(c)(3) organizations, areas of the state designated by the State Mining and Geology Board as areas of statewide or regional significance pursuant to Section 2790 of the Public Resources Code, and lands under Williamson Act contracts; (5) areas designated for open-space or agricultural uses in adopted open-space elements or agricultural elements of the local general plan or by local ordinance; (6) areas containing biological resources as described in Appendix G of the CEQA Guidelines that may be significantly affected by the sustainable communities strategy or the alternative planning strategy; and (7) an area subject to flooding where a development project would not, at the time of development in the judgment of the agency, meet the requirements of the National Flood Insurance Program or where the area is subject to more protective provisions of state law or local ordinance.

(b) "Farmland" means farmland that is outside all existing city spheres of influence or city limits as of January 1, 2008, and is one of the following:

(1) Classified as prime or unique farmland or farmland of statewide importance.

(2) Farmland classified by a local agency in its general plan that meets or exceeds the standards for prime or unique farmland or farmland of statewide importance.

(c) "Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social, and technological factors.

(d) "Consistent" shall have the same meaning as that term is used in Section 134 of Title 23 of the United States Code.

(e) "Internally consistent" means that the contents of the elements of the regional transportation plan must be consistent with each other.

SEC. 6. Section 65400 of the Government Code is amended to read:

65400. (a) After the legislative body has adopted all or part of a general plan, the planning agency shall do both of the following:

(1) Investigate and make recommendations to the legislative body regarding reasonable and practical means for implementing the general plan or element of the general plan, so that it will serve as an effective guide for orderly growth and development, preservation and conservation of open-space land and natural resources, and the efficient expenditure of public funds relating to the subjects addressed in the general plan.

(2) Provide by April 1 of each year an annual report to the legislative body, the Office of Planning and Research, and the Department of Housing and Community Development that includes all of the following:

(A) The status of the plan and progress in its implementation.

(B) The progress in meeting its share of regional housing needs

determined pursuant to Section 65584 and local efforts to remove governmental constraints to the maintenance, improvement, and development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2). Prior to and after adoption of the forms, the housing element portion of the annual report shall include a section that describes the actions taken by the local government towards completion of the programs and status of the local government's compliance with the deadlines in its housing element. That report shall be considered at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments.

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first day of October following the adoption of forms and definitions by the Department of Housing and Community Development pursuant to paragraph (2) of subdivision (a), but no sooner than six months following that adoption.

SEC. 7. Section 65583 of the Government Code is amended to read:

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, financial resources, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, mobilehomes, and emergency shelters, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include all of the following:

(1) An analysis of population and employment trends and documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels, including extremely low income households, as defined in subdivision (b) of Section 50105 and Section 50106 of the Health and Safety Code. These existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584. Local

agencies shall calculate the subset of very low income households allotted under Section 65584 that qualify as extremely low income households. The local agency may either use available census data to calculate the percentage of very low income households that qualify as extremely low income households or presume that 50 percent of the very low income households qualify as extremely low income households. The number of extremely low income households and very low income households shall equal the jurisdiction's allocation of very low income households pursuant to Section 65584.

(2) An analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) (A) The identification of a zone or zones where emergency shelters are allowed as a permitted use without a conditional use or other discretionary permit. The identified zone or zones shall include sufficient capacity to accommodate the need for emergency shelter identified in paragraph (7), except that each local government shall identify a zone or zones that can accommodate at least one year-round emergency shelter. If the local government cannot identify a zone or zones with sufficient capacity, the local government shall include a program to amend its zoning ordinance to meet the requirements of this paragraph within one year of the adoption of the housing element. The local government may identify additional zones where emergency shelters are permitted with a conditional use permit. The local government shall also demonstrate that existing or proposed permit processing, development, and management standards are objective and encourage and facilitate the development of, or conversion to, emergency shelters. Emergency shelters may only be subject to those development and management standards that apply to residential or commercial development within the same zone except that a local government may apply written, objective standards that include all of the following:

(i) The maximum number of beds or persons permitted to be served nightly by the facility.

(ii) Off-street parking based upon demonstrated need, provided that the standards do not require more parking for emergency shelters than for other residential or commercial uses within the same zone.

(iii) The size and location of exterior and interior onsite waiting and client intake areas.

(iv) The provision of onsite management.

(v) The proximity to other emergency shelters, provided that emergency shelters are not required to be more than 300 feet apart.

(vi) The length of stay.

(vii) Lighting.

(viii) Security during hours that the emergency shelter is in operation.

(B) The permit processing, development, and management standards applied under this paragraph shall not be deemed to be discretionary acts within the meaning of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(C) A local government that can demonstrate to the satisfaction of the department the existence of one or more emergency shelters either within its jurisdiction or pursuant to a multijurisdictional agreement that can accommodate that jurisdiction's need for emergency

shelter identified in paragraph (7) may comply with the zoning requirements of subparagraph (A) by identifying a zone or zones where new emergency shelters are allowed with a conditional use permit.

(D) A local government with an existing ordinance or ordinances that comply with this paragraph shall not be required to take additional action to identify zones for emergency shelters. The housing element must only describe how existing ordinances, policies, and standards are consistent with the requirements of this paragraph.

(5) An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the types of housing identified in paragraph (1) of subdivision (c), and for persons with disabilities as identified in the analysis pursuant to paragraph (7), including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 and from meeting the need for housing for persons with disabilities, supportive housing, transitional housing, and emergency shelters identified pursuant to paragraph (7). Transitional housing and supportive housing shall be considered a residential use of property, and shall be subject only to those restrictions that apply to other residential dwellings of the same type in the same zone.

(6) An analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(7) An analysis of any special housing needs, such as those of the elderly, persons with disabilities, large families, farmworkers, families with female heads of households, and families and persons in need of emergency shelter. The need for emergency shelter shall be assessed based on annual and seasonal need. The need for emergency shelter may be reduced by the number of supportive housing units that are identified in an adopted 10-year plan to end chronic homelessness and that are either vacant or for which funding has been identified to allow construction during the planning period.

(8) An analysis of opportunities for energy conservation with respect to residential development.

(9) An analysis of existing assisted housing developments that are eligible to change from low-income housing uses during the next 10 years due to termination of subsidy contracts, mortgage prepayment, or expiration of restrictions on use. "Assisted housing developments," for the purpose of this section, shall mean multifamily rental housing that receives governmental assistance under federal programs listed in subdivision (a) of Section 65863.10, state and local multifamily revenue bond programs, local redevelopment programs, the federal Community Development Block Grant Program, or local in-lieu fees. "Assisted housing developments" shall also include multifamily rental units that were developed pursuant to a local inclusionary housing program or used to qualify for a density bonus pursuant to Section 65916.

(A) The analysis shall include a listing of each development by project name and address, the type of governmental assistance received, the earliest possible date of change from low-income use and the total number of elderly and nonelderly units that could be lost from the locality's low-income housing stock in each year during the 10-year period. For purposes of state and federally funded

projects, the analysis required by this subparagraph need only contain information available on a statewide basis.

(B) The analysis shall estimate the total cost of producing new rental housing that is comparable in size and rent levels, to replace the units that could change from low-income use, and an estimated cost of preserving the assisted housing developments. This cost analysis for replacement housing may be done aggregately for each five-year period and does not have to contain a project-by-project cost estimate.

(C) The analysis shall identify public and private nonprofit corporations known to the local government which have legal and managerial capacity to acquire and manage these housing developments.

(D) The analysis shall identify and consider the use of all federal, state, and local financing and subsidy programs which can be used to preserve, for lower income households, the assisted housing developments, identified in this paragraph, including, but not limited to, federal Community Development Block Grant Program funds, tax increment funds received by a redevelopment agency of the community, and administrative fees received by a housing authority operating within the community. In considering the use of these financing and subsidy programs, the analysis shall identify the amounts of funds under each available program which have not been legally obligated for other purposes and which could be available for use in preserving assisted housing developments.

(b) (1) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, preservation, improvement, and development of housing.

(2) It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the total housing needs. The quantified objectives shall establish the maximum number of housing units by income category, including extremely low income, that can be constructed, rehabilitated, and conserved over a five-year time period.

(c) A program which sets forth a schedule of actions during the planning period, each with a timeline for implementation, which may recognize that certain programs are ongoing, such that there will be beneficial impacts of the programs within the planning period, that the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, the provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available and the utilization of moneys in a low- and moderate-income housing fund of an agency if the locality has established a redevelopment project area pursuant to the Community Redevelopment Law (Division 24 (commencing with Section 33000) of the Health and Safety Code). In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify actions that will be taken to make sites available during the planning period of the general plan with appropriate zoning and development standards and with services and facilities to accommodate that portion of the city's or county's share of the regional housing need for each income level that could not be accommodated on sites identified in the inventory completed pursuant

to paragraph (3) of subdivision (a) without rezoning, and to comply with the requirements of Section 65584.09. Sites shall be identified as needed to facilitate and encourage the development of a variety of types of housing for all income levels, including multifamily rental housing, factory-built housing, mobilehomes, housing for agricultural employees, supportive housing, single-room occupancy units, emergency shelters, and transitional housing.

(A) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, rezoning of those sites, including adoption of minimum density and development standards, for jurisdictions with an eight-year housing element planning period pursuant to Section 65588, shall be completed no later than three years after either the date the housing element is adopted pursuant to subdivision (f) of Section 65585 or the date that is 90 days after receipt of comments from the department pursuant to subdivision (b) of Section 65585, whichever is earlier, unless the deadline is extended pursuant to subdivision (f). Notwithstanding the foregoing, for a local government that fails to adopt a housing element within 120 days of the statutory deadline in Section 65588 for adoption of the housing element, rezoning of those sites, including adoption of minimum density and development standards, shall be completed no later than three years and 120 days from the statutory deadline in Section 65588 for adoption of the housing element.

(B) Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall identify sites that can be developed for housing within the planning period pursuant to subdivision (h) of Section 65583.2. The identification of sites shall include all components specified in subdivision (b) of Section 65583.2.

(C) Where the inventory of sites pursuant to paragraph (3) of subdivision (a) does not identify adequate sites to accommodate the need for farmworker housing, the program shall provide for sufficient sites to meet the need with zoning that permits farmworker housing use by right, including density and development standards that could accommodate and facilitate the feasibility of the development of farmworker housing for low- and very low income households.

(2) Assist in the development of adequate housing to meet the needs of extremely low, very low, low-, and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities. The program shall remove constraints to, and provide reasonable accommodations for housing designed for, intended for occupancy by, or with supportive services for, persons with disabilities.

(4) Conserve and improve the condition of the existing affordable housing stock, which may include addressing ways to mitigate the loss of dwelling units demolished by public or private action.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability.

(6) Preserve for lower income households the assisted housing developments identified pursuant to paragraph (9) of subdivision (a). The program for preservation of the assisted housing developments shall utilize, to the extent necessary, all available federal, state, and local financing and subsidy programs identified in paragraph (9)

of subdivision (a), except where a community has other urgent needs for which alternative funding sources are not available. The program may include strategies that involve local regulation and technical assistance.

(7) The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

(d) (1) A local government may satisfy all or part of its requirement to identify a zone or zones suitable for the development of emergency shelters pursuant to paragraph (4) of subdivision (a) by adopting and implementing a multijurisdictional agreement, with a maximum of two other adjacent communities, that requires the participating jurisdictions to develop at least one year-round emergency shelter within two years of the beginning of the planning period.

(2) The agreement shall allocate a portion of the new shelter capacity to each jurisdiction as credit towards its emergency shelter need, and each jurisdiction shall describe how the capacity was allocated as part of its housing element.

(3) Each member jurisdiction of a multijurisdictional agreement shall describe in its housing element all of the following:

(A) How the joint facility will meet the jurisdiction's emergency shelter need.

(B) The jurisdiction's contribution to the facility for both the development and ongoing operation and management of the facility.

(C) The amount and source of the funding that the jurisdiction contributes to the facility.

(4) The aggregate capacity claimed by the participating jurisdictions in their housing elements shall not exceed the actual capacity of the shelter.

(e) Except as otherwise provided in this article, amendments to this article that alter the required content of a housing element shall apply to both of the following:

(1) A housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when a city, county, or city and county submits a draft to the department for review pursuant to Section 65585 more than 90 days after the effective date of the amendment to this section.

(2) Any housing element or housing element amendment prepared pursuant to subdivision (e) of Section 65588 or Section 65584.02, when the city, county, or city and county fails to submit the first draft to the department before the due date specified in Section 65588 or 65584.02.

(f) The deadline for completing required rezoning pursuant to subparagraph (A) of paragraph (1) of subdivision (c) shall be extended by one year if the local government has completed the rezoning at densities sufficient to accommodate at least 75 percent of the sites for low- and very low income households and if the legislative body at the conclusion of a public hearing determines, based upon substantial evidence, that any of the following circumstances exist:

(1) The local government has been unable to complete the rezoning because of the action or inaction beyond the control of the local government of any other state federal or local agency.

(2) The local government is unable to complete the rezoning because of infrastructure deficiencies due to fiscal or regulatory

constraints.

(3) The local government must undertake a major revision to its general plan in order to accommodate the housing related policies of a sustainable communities strategy or an alternative planning strategy adopted pursuant to Section 65080.

The resolution and the findings shall be transmitted to the department together with a detailed budget and schedule for preparation and adoption of the required rezonings, including plans for citizen participation and expected interim action. The schedule shall provide for adoption of the required rezoning within one year of the adoption of the resolution.

(g) (1) If a local government fails to complete the rezoning by the deadline provided in subparagraph (A) of paragraph (1) of subdivision (c), as it may be extended pursuant to subdivision (f), except as provided in paragraph (2), a local government may not disapprove a housing development project, nor require a conditional use permit, planned unit development permit, or other locally imposed discretionary permit, or impose a condition that would render the project infeasible, if the housing development project (A) is proposed to be located on a site required to be rezoned pursuant to the program action required by that subparagraph; and (B) complies with applicable, objective general plan and zoning standards and criteria, including design review standards, described in the program action required by that subparagraph. Any subdivision of sites shall be subject to the Subdivision Map Act. Design review shall not constitute a "project" for purposes of Division 13 (commencing with Section 21000) of the Public Resources Code.

(2) A local government may disapprove a housing development described in paragraph (1) if it makes written findings supported by substantial evidence on the record that both of the following conditions exist:

(A) The housing development project would have a specific, adverse impact upon the public health or safety unless the project is disapproved or approved upon the condition that the project be developed at a lower density. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete.

(B) There is no feasible method to satisfactorily mitigate or avoid the adverse impact identified pursuant to paragraph (1), other than the disapproval of the housing development project or the approval of the project upon the condition that it be developed at a lower density.

(3) The applicant or any interested person may bring an action to enforce this subdivision. If a court finds that the local agency disapproved a project or conditioned its approval in violation of this subdivision, the court shall issue an order or judgment compelling compliance within 60 days. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment has not been carried out within 60 days, the court may issue further orders to ensure that the purposes and policies of this subdivision are fulfilled. In any such action, the city, county, or city and county shall bear the burden of proof.

(4) For purposes of this subdivision, "housing development project" means a project to construct residential units for which the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of at least 49 percent of the housing units for very low, low-, and

moderate-income households with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing.

(h) An action to enforce the program actions of the housing element shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 8. Section 65584.01 of the Government Code is amended to read:

65584.01. (a) For the fourth and subsequent revision of the housing element pursuant to Section 65588, the department, in consultation with each council of governments, where applicable, shall determine the existing and projected need for housing for each region in the following manner:

(b) The department's determination shall be based upon population projections produced by the Department of Finance and regional population forecasts used in preparing regional transportation plans, in consultation with each council of governments. If the total regional population forecast for the planning period, developed by the council of governments and used for the preparation of the regional transportation plan, is within a range of 3 percent of the total regional population forecast for the planning period over the same time period by the Department of Finance, then the population forecast developed by the council of governments shall be the basis from which the department determines the existing and projected need for housing in the region. If the difference between the total population growth projected by the council of governments and the total population growth projected for the region by the Department of Finance is greater than 3 percent, then the department and the council of governments shall meet to discuss variances in methodology used for population projections and seek agreement on a population projection for the region to be used as a basis for determining the existing and projected housing need for the region. If no agreement is reached, then the population projection for the region shall be the population projection for the region prepared by the Department of Finance as may be modified by the department as a result of discussions with the council of governments.

(c) (1) At least 26 months prior to the scheduled revision pursuant to Section 65588 and prior to developing the existing and projected housing need for a region, the department shall meet and consult with the council of governments regarding the assumptions and methodology to be used by the department to determine the region's housing needs. The council of governments shall provide data assumptions from the council's projections, including, if available, the following data for the region:

(A) Anticipated household growth associated with projected population increases.

(B) Household size data and trends in household size.

(C) The rate of household formation, or headship rates, based on age, gender, ethnicity, or other established demographic measures.

(D) The vacancy rates in existing housing stock, and the vacancy rates for healthy housing market functioning and regional mobility, as well as housing replacement needs.

(E) Other characteristics of the composition of the projected population.

(F) The relationship between jobs and housing, including any imbalance between jobs and housing.

(2) The department may accept or reject the information provided by the council of governments or modify its own assumptions or methodology based on this information. After consultation with the

council of governments, the department shall make determinations in writing on the assumptions for each of the factors listed in subparagraphs (A) to (F), inclusive, of paragraph (1) and the methodology it shall use and shall provide these determinations to the council of governments.

(d) (1) After consultation with the council of governments, the department shall make a determination of the region's existing and projected housing need based upon the assumptions and methodology determined pursuant to subdivision (c). The region's existing and projected housing need shall reflect the achievement of a feasible balance between jobs and housing within the region using the regional employment projections in the applicable regional transportation plan. Within 30 days following notice of the determination from the department, the council of governments may file an objection to the department's determination of the region's existing and projected housing need with the department.

(2) The objection shall be based on and substantiate either of the following:

(A) The department failed to base its determination on the population projection for the region established pursuant to subdivision (b), and shall identify the population projection which the council of governments believes should instead be used for the determination and explain the basis for its rationale.

(B) The regional housing need determined by the department is not a reasonable application of the methodology and assumptions determined pursuant to subdivision (c). The objection shall include a proposed alternative determination of its regional housing need based upon the determinations made in subdivision (c), including analysis of why the proposed alternative would be a more reasonable application of the methodology and assumptions determined pursuant to subdivision (c).

(3) If a council of governments files an objection pursuant to this subdivision and includes with the objection a proposed alternative determination of its regional housing need, it shall also include documentation of its basis for the alternative determination. Within 45 days of receiving an objection filed pursuant to this section, the department shall consider the objection and make a final written determination of the region's existing and projected housing need that includes an explanation of the information upon which the determination was made.

SEC. 9. Section 65584.02 of the Government Code is amended to read:

65584.02. (a) For the fourth and subsequent revisions of the housing element pursuant to Section 65588, the existing and projected need for housing may be determined for each region by the department as follows, as an alternative to the process pursuant to Section 65584.01:

(1) In a region in which at least one subregion has accepted delegated authority pursuant to Section 65584.03, the region's housing need shall be determined at least 26 months prior to the housing element update deadline pursuant to Section 65588. In a region in which no subregion has accepted delegation pursuant to Section 65584.03, the region's housing need shall be determined at least 24 months prior to the housing element deadline.

(2) At least six months prior to the department's determination of regional housing need pursuant to paragraph (1), a council of governments may request the use of population and household forecast assumptions used in the regional transportation plan. This request shall include all of the following:

(A) Proposed data and assumptions for factors contributing to

housing need beyond household growth identified in the forecast. These factors shall include allowance for vacant or replacement units, and may include other adjustment factors.

(B) A proposed planning period that is not longer than the period of time covered by the regional transportation improvement plan or plans of the region pursuant to Section 14527, but a period not less than five years, and not longer than six years.

(C) A comparison between the population and household assumptions used for the Regional Transportation Plan with population and household estimates and projections of the Department of Finance.

(b) The department shall consult with the council of governments regarding requests submitted pursuant to paragraph (2) of subdivision (a). The department may seek advice and consult with the Demographic Research Unit of the Department of Finance, the State Department of Transportation, a representative of a contiguous council of governments, and any other party as deemed necessary. The department may request that the council of governments revise data, assumptions, or methodology to be used for the determination of regional housing need, or may reject the request submitted pursuant to paragraph (2) of subdivision (a). Subsequent to consultation with the council of governments, the department will respond in writing to requests submitted pursuant to paragraph (1) of subdivision (a).

(c) If the council of governments does not submit a request pursuant to subdivision (a), or if the department rejects the request of the council of governments, the determination for the region shall be made pursuant to Sections 65584 and 65584.01.

SEC. 10. Section 65584.04 of the Government Code is amended to read:

65584.04. (a) At least two years prior to a scheduled revision required by Section 65588, each council of governments, or delegate subregion as applicable, shall develop a proposed methodology for distributing the existing and projected regional housing need to cities, counties, and cities and counties within the region or within the subregion, where applicable pursuant to this section. The methodology shall be consistent with the objectives listed in subdivision (d) of Section 65584.

(b) (1) No more than six months prior to the development of a proposed methodology for distributing the existing and projected housing need, each council of governments shall survey each of its member jurisdictions to request, at a minimum, information regarding the factors listed in subdivision (d) that will allow the development of a methodology based upon the factors established in subdivision (d).

(2) The council of governments shall seek to obtain the information in a manner and format that is comparable throughout the region and utilize readily available data to the extent possible.

(3) The information provided by a local government pursuant to this section shall be used, to the extent possible, by the council of governments, or delegate subregion as applicable, as source information for the methodology developed pursuant to this section. The survey shall state that none of the information received may be used as a basis for reducing the total housing need established for the region pursuant to Section 65584.01.

(4) If the council of governments fails to conduct a survey pursuant to this subdivision, a city, county, or city and county may submit information related to the items listed in subdivision (d) prior to the public comment period provided for in subdivision (c).

(c) Public participation and access shall be required in the development of the methodology and in the process of drafting and adoption of the allocation of the regional housing needs.

Participation by organizations other than local jurisdictions and councils of governments shall be solicited in a diligent effort to achieve public participation of all economic segments of the community. The proposed methodology, along with any relevant underlying data and assumptions, and an explanation of how information about local government conditions gathered pursuant to subdivision (b) has been used to develop the proposed methodology, and how each of the factors listed in subdivision (d) is incorporated into the methodology, shall be distributed to all cities, counties, any subregions, and members of the public who have made a written request for the proposed methodology. The council of governments, or delegate subregion, as applicable, shall conduct at least one public hearing to receive oral and written comments on the proposed methodology.

(d) To the extent that sufficient data is available from local governments pursuant to subdivision (b) or other sources, each council of governments, or delegate subregion as applicable, shall include the following factors to develop the methodology that allocates regional housing needs:

(1) Each member jurisdiction's existing and projected jobs and housing relationship.

(2) The opportunities and constraints to development of additional housing in each member jurisdiction, including all of the following:

(A) Lack of capacity for sewer or water service due to federal or state laws, regulations or regulatory actions, or supply and distribution decisions made by a sewer or water service provider other than the local jurisdiction that preclude the jurisdiction from providing necessary infrastructure for additional development during the planning period.

(B) The availability of land suitable for urban development or for conversion to residential use, the availability of underutilized land, and opportunities for infill development and increased residential densities. The council of governments may not limit its consideration of suitable housing sites or land suitable for urban development to existing zoning ordinances and land use restrictions of a locality, but shall consider the potential for increased residential development under alternative zoning ordinances and land use restrictions. The determination of available land suitable for urban development may exclude lands where the Federal Emergency Management Agency (FEMA) or the Department of Water Resources has determined that the flood management infrastructure designed to protect that land is not adequate to avoid the risk of flooding.

(C) Lands preserved or protected from urban development under existing federal or state programs, or both, designed to protect open space, farmland, environmental habitats, and natural resources on a long-term basis.

(D) County policies to preserve prime agricultural land, as defined pursuant to Section 56064, within an unincorporated area.

(3) The distribution of household growth assumed for purposes of a comparable period of regional transportation plans and opportunities to maximize the use of public transportation and existing transportation infrastructure.

(4) The market demand for housing.

(5) Agreements between a county and cities in a county to direct growth toward incorporated areas of the county.

(6) The loss of units contained in assisted housing developments, as defined in paragraph (9) of subdivision (a) of Section 65583, that changed to non-low-income use through mortgage prepayment, subsidy contract expirations, or termination of use restrictions.

- (7) High-housing cost burdens.
- (8) The housing needs of farmworkers.
- (9) The housing needs generated by the presence of a private university or a campus of the California State University or the University of California within any member jurisdiction.
- (10) Any other factors adopted by the council of governments.
- (e) The council of governments, or delegate subregion, as applicable, shall explain in writing how each of the factors described in subdivision (d) was incorporated into the methodology and how the methodology is consistent with subdivision (d) of Section 65584. The methodology may include numerical weighting.
- (f) Any ordinance, policy, voter-approved measure, or standard of a city or county that directly or indirectly limits the number of residential building permits issued by a city or county shall not be a justification for a determination or a reduction in the share of a city or county of the regional housing need.
- (g) In addition to the factors identified pursuant to subdivision (d), the council of governments, or delegate subregion, as applicable, shall identify any existing local, regional, or state incentives, such as a priority for funding or other incentives available to those local governments that are willing to accept a higher share than proposed in the draft allocation to those local governments by the council of governments or delegate subregion pursuant to Section 65584.05.
- (h) Following the conclusion of the 60-day public comment period described in subdivision (c) on the proposed allocation methodology, and after making any revisions deemed appropriate by the council of governments, or delegate subregion, as applicable, as a result of comments received during the public comment period, each council of governments, or delegate subregion, as applicable, shall adopt a final regional, or subregional, housing need allocation methodology and provide notice of the adoption of the methodology to the jurisdictions within the region, or delegate subregion as applicable, and to the department.
- (i) (1) It is the intent of the Legislature that housing planning be coordinated and integrated with the regional transportation plan. To achieve this goal, the allocation plan shall allocate housing units within the region consistent with the development pattern included in the sustainable communities strategy.
- (2) The final allocation plan shall ensure that the total regional housing need, by income category, as determined under Section 65584, is maintained, and that each jurisdiction in the region receive an allocation of units for low- and very low income households.
- (3) The resolution approving the final housing need allocation plan shall demonstrate that the plan is consistent with the sustainable communities strategy in the regional transportation plan.

SEC. 11. Section 65587 of the Government Code is amended to read:

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981, and the deadlines set by Section 65588. Except as specifically provided in subdivision (b) of Section 65361, the Director of Planning and Research shall not grant an extension of time from these requirements.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to

whether the housing element or portion thereof or revision thereto substantially complies with the requirements of this article.

(c) If a court finds that an action of a city, county, or city and county, which is required to be consistent with its general plan, does not comply with its housing element, the city, county, or city and county shall bring its action into compliance within 60 days.

However, the court shall retain jurisdiction throughout the period for compliance to enforce its decision. Upon the court's determination that the 60-day period for compliance would place an undue hardship on the city, county, or city and county, the court may extend the time period for compliance by an additional 60 days.

(d) (1) If a court finds that a city, county, or city and county failed to complete the rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583, as that deadline may be modified by the extension provided for in subdivision (f) of that section, the court shall issue an order or judgment, after considering the equities of the circumstances presented by all parties, compelling the local government to complete the rezoning within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out, the court shall issue further orders to ensure that the purposes and policies of this article are fulfilled, including ordering, after considering the equities of the circumstances presented by all parties, that any rezoning required by subparagraph (A) of paragraph (1) of subdivision (c) of Section 65583 be completed within 60 days or the earliest time consistent with public hearing notice requirements in existence at the time the action was filed and may impose sanctions on the city, county, or city and county.

(2) Any interested person may bring an action to compel compliance with the deadlines and requirements of paragraphs (1), (2), and (3) of subdivision (c) of Section 65583. The action shall be brought pursuant to Section 1085 of the Code of Civil Procedure. An action may be brought pursuant to the notice and accrual provisions of subdivision (d) of Section 65009. In any such action, the city, county, or city and county shall bear the burden of proof.

SEC. 12. Section 65588 of the Government Code is amended to read:

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) Except as provided in paragraph (7) of subdivision (e), the housing element shall be revised as appropriate, but not less than every eight years, to reflect the results of this periodic review, by those local governments that are located within a region covered by (1) a metropolitan planning organization in a region classified as nonattainment for one or more pollutants regulated by the federal Clean Air Act or (2) a metropolitan planning organization or regional transportation planning agency that is required, or has elected pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080, to adopt a regional transportation plan not less than every four years, except that a local government that does not adopt

a housing element within 120 days of the statutory deadline for adoption of the housing element shall revise its housing element as appropriate, but not less than every four years. The housing element shall be revised, as appropriate, but not less than every five years by those local governments that are located within a region covered by a metropolitan planning organization or regional transportation planning agency that is required to adopt a regional transportation plan not less than every five years, to reflect the results of this periodic review. Nothing in this section shall be construed to excuse the obligations of the local government to adopt a revised housing element no later than the date specified in this section.

(c) The review and revision of housing elements required by this section shall take into account any low- or moderate-income housing provided or required pursuant to Section 65590.

(d) The review pursuant to subdivision (c) shall include, but need not be limited to, the following:

(1) The number of new housing units approved for construction within the coastal zone after January 1, 1982.

(2) The number of housing units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, required to be provided in new housing developments either within the coastal zone or within three miles of the coastal zone pursuant to Section 65590.

(3) The number of existing residential dwelling units occupied by persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been authorized to be demolished or converted since January 1, 1982, in the coastal zone.

(4) The number of residential dwelling units for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code, that have been required for replacement or authorized to be converted or demolished as identified in paragraph (3). The location of the replacement units, either onsite, elsewhere within the locality's jurisdiction within the coastal zone, or within three miles of the coastal zone within the locality's jurisdiction, shall be designated in the review.

(e) Notwithstanding subdivision (b) or the date of adoption of the housing elements previously in existence, each city, county, and city and county shall revise its housing element according to the following schedule:

(1) Local governments within the regional jurisdiction of the Southern California Association of Governments: June 30, 2006, for the fourth revision.

(2) Local governments within the regional jurisdiction of the Association of Bay Area Governments: June 30, 2007, for the fourth revision.

(3) Local governments within the regional jurisdiction of the Council of Fresno County Governments, the Kern County Council of Governments, and the Sacramento Area Council of Governments: June 30, 2002, for the third revision, and June 30, 2008, for the fourth revision.

(4) Local governments within the regional jurisdiction of the Association of Monterey Bay Area Governments: December 31, 2002, for the third revision, and June 30, 2009, for the fourth revision.

(5) Local governments within the regional jurisdiction of the San Diego Association of Governments: June 30, 2005, for the fourth revision.

(6) All other local governments: December 31, 2003, for the third revision, and June 30, 2009, for the fourth revision.

(7) (A) All local governments within a metropolitan planning organization in a region classified as nonattainment for one or more

pollutants regulated by the federal Clean Air Act (42 U.S.C. Sec. 7506), except those within the regional jurisdiction of the San Diego Association of Governments, shall adopt the fifth revision of the housing element no later than 18 months after adoption of the first regional transportation plan to be adopted after September 30, 2010.

(B) All local governments within the regional jurisdiction of the San Diego Association of Governments shall adopt their fifth revision no more than five years from the fourth revision and their sixth revision no later than 18 months after adoption of the first regional transportation plan to be adopted after the fifth revision due date.

(C) All local governments within the regional jurisdiction of a metropolitan planning organization or a regional transportation planning agency that has made an election pursuant to subparagraph (L) of paragraph (2) of subdivision (b) of Section 65080 shall be subject to the eight-year planning period pursuant to subdivision (b) of Section 65588 and shall adopt its next housing element 18 months after adoption of the first regional transportation plan following the election.

(f) For purposes of this article, "planning period" shall be the time period for periodic revision of the housing element pursuant to this section.

SEC. 13. Section 21061.3 of the Public Resources Code is amended to read:

21061.3. "Infill site" means a site in an urbanized area that meets either of the following criteria:

(a) The site has not been previously developed for urban uses and both of the following apply:

(1) The site is immediately adjacent to parcels that are developed with qualified urban uses, or at least 75 percent of the perimeter of the site adjoins parcels that are developed with qualified urban uses, and the remaining 25 percent of the site adjoins parcels that have previously been developed for qualified urban uses.

(2) No parcel within the site has been created within the past 10 years unless the parcel was created as a result of the plan of a redevelopment agency.

(b) The site has been previously developed for qualified urban uses.

SEC. 14. Chapter 4.2 (commencing with Section 21155) is added to Division 13 of the Public Resources Code, to read:

CHAPTER 4.2. IMPLEMENTATION OF THE SUSTAINABLE COMMUNITIES STRATEGY

21155. (a) This chapter applies only to a transit priority project that is consistent with the general use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board, pursuant to subparagraph (H) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, has accepted a metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets.

(b) For purposes of this chapter, a transit priority project shall (1) contain at least 50 percent residential use, based on total building square footage and, if the project contains between 26 percent and 50 percent nonresidential uses, a floor area ratio of not less than 0.75; (2) provide a minimum net density of at least 20

dwelling units per acre; and (3) be within one-half mile of a major transit stop or high-quality transit corridor included in a regional transportation plan. A major transit stop is as defined in Section 21064.3, except that, for purposes of this section, it also includes major transit stops that are included in the applicable regional transportation plan. For purposes of this section, a high-quality transit corridor means a corridor with fixed route bus service with service intervals no longer than 15 minutes during peak commute hours. A project shall be considered to be within one-half mile of a major transit stop or high-quality transit corridor if all parcels within the project have no more than 25 percent of their area farther than one-half mile from the stop or corridor and if not more than 10 percent of the residential units or 100 units, whichever is less, in the project are farther than one-half mile from the stop or corridor.

21155.1. If the legislative body finds, after conducting a public hearing, that a transit priority project meets all of the requirements of subdivisions (a) and (b) and one of the requirements of subdivision (c), the transit priority project is declared to be a sustainable communities project and shall be exempt from this division.

(a) The transit priority project complies with all of the following environmental criteria:

(1) The transit priority project and other projects approved prior to the approval of the transit priority project but not yet built can be adequately served by existing utilities, and the transit priority project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

(2) (A) The site of the transit priority project does not contain wetlands or riparian areas and does not have significant value as a wildlife habitat, and the transit priority project does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), or the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), and the project does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(B) For the purposes of this paragraph, "wetlands" has the same meaning as in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).

(C) For the purposes of this paragraph:

(i) "Riparian areas" means those areas transitional between terrestrial and aquatic ecosystems and that are distinguished by gradients in biophysical conditions, ecological processes, and biota. A riparian area is an area through which surface and subsurface hydrology connect waterbodies with their adjacent uplands. A riparian area includes those portions of terrestrial ecosystems that significantly influence exchanges of energy and matter with aquatic ecosystems. A riparian area is adjacent to perennial, intermittent, and ephemeral streams, lakes, and estuarine-marine shorelines.

(ii) "Wildlife habitat" means the ecological communities upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection.

(iii) Habitat of "significant value" includes wildlife habitat of national, statewide, regional, or local importance; habitat for species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531, et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish

and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code); habitat identified as candidate, fully protected, sensitive, or species of special status by local, state, or federal agencies; or habitat essential to the movement of resident or migratory wildlife.

(3) The site of the transit priority project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

(4) The site of the transit priority project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

(A) If a release of a hazardous substance is found to exist on the site, the release shall be removed or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(B) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(5) The transit priority project does not have a significant effect on historical resources pursuant to Section 21084.1.

(6) The transit priority project site is not subject to any of the following:

(A) A wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

(B) An unusually high risk of fire or explosion from materials stored or used on nearby properties.

(C) Risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(D) Seismic risk as a result of being within a delineated earthquake fault zone, as determined pursuant to Section 2622, or a seismic hazard zone, as determined pursuant to Section 2696, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake fault or seismic hazard zone.

(E) Landslide hazard, flood plain, flood way, or restriction zone, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

(7) The transit priority project site is not located on developed open space.

(A) For the purposes of this paragraph, "developed open space" means land that meets all of the following criteria:

(i) Is publicly owned, or financed in whole or in part by public funds.

(ii) Is generally open to, and available for use by, the public.

(iii) Is predominantly lacking in structural development other than structures associated with open spaces, including, but not limited to, playgrounds, swimming pools, ballfields, enclosed child play areas, and picnic facilities.

(B) For the purposes of this paragraph, "developed open space" includes land that has been designated for acquisition by a public agency for developed open space, but does not include lands acquired with public funds dedicated to the acquisition of land for housing purposes.

(8) The buildings in the transit priority project are 15 percent

more energy efficient than required by Chapter 6 of Title 24 of the California Code of Regulations and the buildings and landscaping are designed to achieve 25 percent less water usage than the average household use in the region.

(b) The transit priority project meets all of the following land use criteria:

(1) The site of the transit priority project is not more than eight acres in total area.

(2) The transit priority project does not contain more than 200 residential units.

(3) The transit priority project does not result in any net loss in the number of affordable housing units within the project area.

(4) The transit priority project does not include any single level building that exceeds 75,000 square feet.

(5) Any applicable mitigation measures or performance standards or criteria set forth in the prior environmental impact reports, and adopted in findings, have been or will be incorporated into the transit priority project.

(6) The transit priority project is determined not to conflict with nearby operating industrial uses.

(7) The transit priority project is located within one-half mile of a rail transit station or a ferry terminal included in a regional transportation plan or within one-quarter mile of a high-quality transit corridor included in a regional transportation plan.

(c) The transit priority project meets at least one of the following three criteria:

(1) The transit priority project meets both of the following:

(A) At least 20 percent of the housing will be sold to families of moderate income, or not less than 10 percent of the housing will be rented to families of low income, or not less than 5 percent of the housing is rented to families of very low income.

(B) The transit priority project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for very low, low-, and moderate-income households at monthly housing costs with an affordable housing cost or affordable rent, as defined in Section 50052.5 or 50053 of the Health and Safety Code, respectively, for the period required by the applicable financing. Rental units shall be affordable for at least 55 years. Ownership units shall be subject to resale restrictions or equity sharing requirements for at least 30 years.

(2) The transit priority project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to paragraph (1).

(3) The transit priority project provides public open space equal to or greater than five acres per 1,000 residents of the project.

21155.2. (a) A transit priority project that has incorporated all feasible mitigation measures, performance standards, or criteria set forth in the prior applicable environmental impact reports and adopted in findings made pursuant to Section 21081, shall be eligible for either the provisions of subdivision (b) or (c).

(b) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed through a sustainable communities environmental assessment as follows:

(1) An initial study shall be prepared to identify all significant or potentially significant impacts of the transit priority project, other than those which do not need to be reviewed pursuant to Section 21159.28 based on substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have

been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) The sustainable communities environmental assessment shall contain measures that either avoid or mitigate to a level of insignificance all potentially significant or significant effects of the project required to be identified in the initial study.

(3) A draft of the sustainable communities environmental assessment shall be circulated for public comment for a period of not less than 30 days. Notice shall be provided in the same manner as required for an environmental impact report pursuant to Section 21092.

(4) Prior to acting on the sustainable communities environmental assessment, the lead agency shall consider all comments received.

(5) A sustainable communities environmental assessment may be approved by the lead agency after conducting a public hearing, reviewing the comments received, and finding that:

(A) All potentially significant or significant effects required to be identified in the initial study have been identified and analyzed.

(B) With respect to each significant effect on the environment required to be identified in the initial study, either of the following apply:

(i) Changes or alterations have been required in or incorporated into the project that avoid or mitigate the significant effects to a level of insignificance.

(ii) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency.

(6) The legislative body of the lead agency shall conduct the public hearing or a planning commission may conduct the public hearing if local ordinances allow a direct appeal of approval of a document prepared pursuant to this division to the legislative body subject to a fee not to exceed five hundred dollars (\$500).

(7) The lead agency's decision to review and approve a transit priority project with a sustainable communities environmental assessment shall be reviewed under the substantial evidence standard.

(c) A transit priority project that satisfies the requirements of subdivision (a) may be reviewed by an environmental impact report that complies with all of the following:

(1) An initial study shall be prepared to identify all significant or potentially significant effects of the transit priority project other than those that do not need to be reviewed pursuant to Section 21159.28 based upon substantial evidence in light of the whole record. The initial study shall identify any cumulative effects that have been adequately addressed and mitigated pursuant to the requirements of this division in prior applicable certified environmental impact reports. Where the lead agency determines that a cumulative effect has been adequately addressed and mitigated, that cumulative effect shall not be treated as cumulatively considerable for the purposes of this subdivision.

(2) An environmental impact report prepared pursuant to this subdivision need only address the significant or potentially significant effects of the transit priority project on the environment identified pursuant to paragraph (1). It is not required to analyze off-site alternatives to the transit priority project. It

shall otherwise comply with the requirements of this division.

21155.3. (a) The legislative body of a local jurisdiction may adopt traffic mitigation measures that would apply to transit priority projects. These measures shall be adopted or amended after a public hearing and may include requirements for the installation of traffic control improvements, street or road improvements, and contributions to road improvement or transit funds, transit passes for future residents, or other measures that will avoid or mitigate the traffic impacts of those transit priority projects.

(b) (1) A transit priority project that is seeking a discretionary approval is not required to comply with any additional mitigation measures required by paragraph (1) or (2) of subdivision (a) of Section 21081, for the traffic impacts of that project on intersections, streets, highways, freeways, or mass transit, if the local jurisdiction issuing that discretionary approval has adopted traffic mitigation measures in accordance with this section.

(2) Paragraph (1) does not restrict the authority of a local jurisdiction to adopt feasible mitigation measures with respect to the effects of a project on public health or on pedestrian or bicycle safety.

(c) The legislative body shall review its traffic mitigation measures and update them as needed at least every five years.

SEC. 15. Section 21159.28 is added to the Public Resources Code, to read:

21159.28. (a) If a residential or mixed-use residential project is consistent with the use designation, density, building intensity, and applicable policies specified for the project area in either a sustainable communities strategy or an alternative planning strategy, for which the State Air Resources Board pursuant to subparagraph (I) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code has accepted the metropolitan planning organization's determination that the sustainable communities strategy or the alternative planning strategy would, if implemented, achieve the greenhouse gas emission reduction targets and if the project incorporates the mitigation measures required by an applicable prior environmental document, then any findings or other determinations for an exemption, a negative declaration,

a mitigated negative declaration, a sustainable communities environmental assessment, an environmental impact report, or addenda prepared or adopted for the project pursuant to this division shall not be required to reference, describe, or discuss (1) growth inducing impacts; or (2) any project specific or cumulative impacts from cars and light-duty truck trips generated by the project on global warming or the regional transportation network.

(b) Any environmental impact report prepared for a project described in subdivision (a) shall not be required to reference, describe, or discuss a reduced residential density alternative to address the effects of car and light-duty truck trips generated by the project.

(c) "Regional transportation network," for purposes of this section, means all existing and proposed transportation system improvements, including the state transportation system, that were included in the transportation and air quality conformity modeling, including congestion modeling, for the final regional transportation plan adopted by the metropolitan planning organization, but shall not include local streets and roads. Nothing in the foregoing relieves any project from a requirement to comply with any conditions, exactions, or fees for the mitigation of the project's impacts on the structure, safety, or operations of the regional transportation network or local streets and roads.

(d) A residential or mixed-use residential project is a project where at least 75 percent of the total building square footage of the project consists of residential use or a project that is a transit priority project as defined in Section 21155.

SEC. 16. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. G.***

DRAFT- FOR REVIEW ONLY

September 18, 2008

The Honorable Arnold Schwarzenegger
Governor of California
State Capitol Building
Sacramento, CA 95814

Re: Support for Joint-Use Regional Transportation Center

Dear Governor Schwarzenegger,

On behalf of the Council of Fresno County Governments (Fresno COG), the Regional Transportation Planning Agency for Fresno County, I am writing in support of the development of Kings Canyon Unified School District and City of Reedley's Joint-Use Regional Transportation Center. It is our understanding from the proposed budget trailer bill language for Proposition 1B's State and Local Partnership Program (SLPP) that this project will be ineligible to compete for funding under the program guidelines. In order to remedy this situation, Fresno COG respectfully requests that the following language be included in the budget trailer bill in order to allow the Joint-Use Regional Transportation Center to be eligible for SLPP funding:

- **"Except for joint-use partnerships that own and dedicate land for the purpose of a regional transportation maintenance project that services public agency vehicles, may be approved by an eligible applicant pursuant to Section 228.1 outside their regional transportation plan to assist communities with low median household income and high unemployment rates; these projects are eligible to use any source of matching funds."**

Our region has identified the SR 180 East highway extension project as our first priority for SLPP funding with the required local match identified in our local transportation sales tax measure expenditure plan. If our region is allocated funding in addition to what is necessary to complete the SR 180 East project then we would like the flexibility to consider the Joint-Use Regional Transportation Center project for SLPP funding.

This innovative Green project is located on approximately 40 acres in southeast Reedley adjacent to the City of Reedley's Industrial park. This facility will be a state-of-the-art High Performance LEED project that will include photovoltaic energy and is designed to be Green.

This Joint-Use Regional Transportation Center project is a partnership within the region that will serve and support the transportation needs of the community, city, county, school districts, governmental organizations, and private school partners in the region. These needs include, but are not limited to, providing alternative fuels such as bio diesel blend fuels, compressed natural gas and ethanol blend fuels. Other shared needs also include service and repair for clean air retrofit devices, hydrogen station for motor vehicle fuel, large vehicle wash service, preventative maintenance, secure and safe parking, safety inspections and training.

The City of Reedley and Kings Canyon Unified School District have already put up their own funds and have earmarked additional funds for the project. Additionally, they have secured a \$990,000 Congestion Mitigation and Air Quality (CMAQ) grant. This project uniquely combines shared resources from the Kings Canyon Unified School District and the City of Reedley to mitigate environmental problems and to address rising operational costs while taking seriously needed steps to attack the second dirtiest air quality in our nation.

This project will incorporate career technical opportunities and internships in the clean air vehicle technology and fuel arena for students and adults in one of the most impoverished regions in the nation. This Regional Transportation Center will help build a stable workforce by combining shared resources, enabling us to offer full time employment opportunities in the region.

Again, to reiterate, it is our understanding that the Kings Canyon Unified School District and City of Reedley's Joint-Use Regional Transportation Center will be ineligible to compete for SLPP funding in the program guidelines currently being proposed in the budget trailer bill. So we respectfully request your support for the proposed bill language in this letter to allow our region to consider innovative regional proposals, such as the Joint-Use Transportation Center, for SLPP funding with the understanding that the SR 180 East highway extension project has been identified as our first priority for funding under this program.

Thank you in advance for your consideration. If you have any questions or would like more information on this project, please do not hesitate to contact staff member Jennifer Dansby at (559) 233-4148.

Sincerely,

TRINIDAD M. RODRIGUEZ, Chairman
Council of Fresno County Governments
Mayor, City of Kerman

Cc: Assemblymember Karen Bass, 47th District; Senator Don Perata, 9th District; Assemblymember Juan Arambula, 31st District; Senator Dean Florez, 16th District; Senator Dave Cogdill, 14th District; Assemblymember Nicole Parra, 30th District; Assemblymember Mike Villines, 29th District; Secretary Dale Bonner, Business, Transportation, and Housing Agency; Deputy Legislative Secretary Curt Augustine, Office of the Governor; Vanessa Wiseman, Office of the Governor; Steve Samuelian, California Consulting, LLC.

Regional Transportation Center

The City of Reedley and Kings Canyon Unified have been working jointly for the past five (5) years to design a state of the art, High Performance LEED certified Green, solar powered Regional Transportation Center facility.

The Region has a great need for such an innovative project. Current state financial difficulties, unstable workforce, escalating fuel costs and aging fleet issues all contribute to our inability to keep pace with environmental issues and regulations. There is strong Valley support to cultivate partnerships from our surrounding communities and State agencies to pool our assets; thus gaining the most out of the resources that are available ... economy of scale. Collectively we can thrive and succeed ... individually we can not.

This unique and innovative project is a project that has been born from a great need in our Region. It has been a five (5) year master planning partnership that is not limited to the City of Reedley and Kings Canyon Unified but is more importantly a regional partnership with other cities, school districts, colleges, Valley Regional Occupational Program, and governmental agencies all of whom share the same vision and need.

This Regional Project will allow, promote, and invite participation from all of the agencies mentioned to utilize and maximize their limited resources to better serve their communities and to do our responsible part to clean the second dirtiest air in the nation by implementing cleaner burning alternative fuels such as:

- bio-diesel blend fuels
- low sulfur diesel
- compressed natural gas
- ethanol blend fuels
- hydrogen fuels

Additionally, the Regional Center will provide numerous other services to our partners such as:

- safe and secure vehicle parking
- multi agency vehicle maintenance to include preventative maintenance
- large vehicle wash station
- vehicle safety inspections
- service and repair for clean air retrofit devices
- stable workforce
- shared resources
- career technical education opportunities
- internships for clean air technologies
- joint-use facilities

The 40 acre Regional Transportation Center parcel of land is in a prime City of Reedley Industrial Park location that has been purchased, conceptual designs are drawn, the Reedley City Council and the Kings Canyon Unified Governing Board are on the same page, and seed finances have been committed. We have the will, drive, and commitment. We are ready to go as soon as additional resources are secured.

Proposition 1B's State-Local Partnership Program

Proposition 1B (2006) provides \$1 billion in State-Local Partnership grants to match local funds for eligible transportation projects, nominated by transportation agencies, subject to appropriation by the legislature over a five-year period. The bond measure does not specify the types of projects eligible for funding. A \$1 for \$1 local match is required.

Program Guidelines: Need to be established by Legislature. There have been a few bills in the current legislative session that seek to define the program but none have been adopted. Legislature needs to define sources of local match.

Administrating Agency: California Transportation Commission.

Governor's Proposed Budget: Would allocate \$200 million in FY 2008-09.

Currently being considered in the state legislature is a Budget Trailer Bill that we have been told mirrors Senate Bill 748 (Corbett), which stalled in Assembly Appropriations Committee in 2007.

Summary of Senate Bill 748 (Corbett)

1. Establishes criteria and procedures for the allocation of \$1 billion in bond proceeds from the State and Local Partnership Program (SLPP) as part of Proposition 1B (2006).
2. Defines eligible applicant to be a local or regional transportation agency responsible for funding, procuring, or constructing transportation improvements within a region that has received voter approval for the imposition of taxes, fees or uniform developer fees that are dedicated to transportation.
3. Defines eligible local match dollars to include local sales tax, property or parcel tax, bridge tolls, voter-approved transportation sales tax measures, and uniform developer fees.
4. Requires \$1 for \$1 match in local dollars compared to SLPP.
5. Eligible projects cost no less than \$5 million.
6. Projects to be consistent with Regional Transportation Plans.
7. Funds a variety of capital improvement projects for transportation improvements.
8. CTC will give priority to projects that provide public benefit as early as possible; leverage bond dollars; and, improve air quality.
9. Provide funds for projects typically funded in local voter-approved expenditure plans.
10. Other local, state, federal funds can be used to contribute to the project but cannot be used for the local match requirement.

Allocations currently being considered in Budget Trailer Bill language for FY 2008-09:

Monies to be distributed in 2 pots of funding:

- 1) **Larger Pot:** formula based allocation to entities responsible for voter approved taxes/tolls for transportation. Currently considering a "return to source" allocation and/or an allocation based on "population" of self-help counties. 19 eligible counties. Fresno County estimated to receive approximately \$16 - \$24 million depending on which type of allocation is used (return to source or population).
- 2) **Smaller Pot:** competitive based program providing grants to eligible entities that are responsible for uniform developer fees for transportation. 6 eligible agencies.

BEFORE THE
COUNCIL OF FRESNO COUNTY GOVERNMENTS
RESOLUTION NO. 2008-43

In the Matter of:)
)
SUPPORT FOR SR 180 EAST)
HIGHWAY EXTENSION PROJECT))
FOR STATE AND LOCAL)
PARTNERSHIP PROGRAM FUNDING)

RESOLUTION OF SUPPORT
FOR SR 180 EAST HIGHWAY
EXTENSION PROJECT AS
FIRST PRIORITY PROJECT
FOR FUNDING THROUGH THE
STATE AND LOCAL
PARTNERSHIP PROGRAM

_____)

WHEREAS, the Council of Fresno County Governments (Fresno COG) is the state designated Regional Transportation Planning Agency and the federally designated Metropolitan Planning Organization for the Fresno County region. Fresno COG, along with the city and county governments within the region, is a consensus builder developing programs and solutions to a variety of issues impacting Fresno County residents, and;

WHEREAS, in Fresno County, the State Route 180 East Highway Extension Project from Temperance to Academy Avenues has been identified in the Measure C Expenditure Plan as a top priority project for funding through the voter-approved local transportation sales tax measure and is considered a shelf-ready project, and;

WHEREAS, Proposition 1B enacted in 2006, will provide \$1 Billion in grants to self-help counties to leverage local funds derived from voter-approved local transportation sales tax measures to fund a variety of transportation capitol projects typically funded through local voter-approved expenditure plans, and;

WHEREAS, The Measure C Expenditure Plan has reserved approximately \$31 million in revenues for the purpose of providing the local match for the State Route 180 East Highway Extension Project from Temperance to Academy Avenues as required through the State and Local Partnership Program;

NOW, THEREFORE, BE IT RESOLVED, Fresno COG supports the SR 180 East Highway Extension Project from Temperance to Academy Avenues as the first priority project to be nominated for funding through the State and Local Partnership Program. If there were to be additional funds available through this program above and beyond what is necessary to complete the SR 180 East project, then other projects will be considered for funding;

THE FOREGOING RESOLUTION was passed and adopted by the Council of Fresno County Governments this 18st day of September, 2008.

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Signed: _____
Trinidad M. Rodriguez, Chairman

I hereby certify that the foregoing is a true copy of a resolution of the Council of Fresno County Governments duly adopted at a regular meeting thereof held on the 18th day of September, 2008.

Signed: _____
Tony Boren, Executive Director

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. H.***

1 **MEMORANDUM OF UNDERSTANDING BETWEEN**
2 **THE COUNTY OF FRESNO AND**
3 **THE COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG)**

4 THIS MEMORANDUM OF UNDERSTANDING (hereinafter "MOU") is made and
5 executed this _____ day of _____, 2008, by and between the COUNTY
6 OF FRESNO, a political subdivision of the State of California (hereinafter referred to as
7 "COUNTY"), and the COUNCIL OF FRESNO COUNTY GOVERNMENTS (COG), a
8 voluntary association of local governments in the County of Fresno (hereinafter referred
9 to as "COG").

10 W I T N E S S E T H

11 WHEREAS, COUNTY wishes to transfer staffing and administrative support
12 functions of the Fresno County Airport Land Use Commission (ALUC) from the
13 Department of Public Works and Planning to COG; and

14 WHEREAS, the ALUC serves the Fresno County region by assisting local
15 agencies in attempting to ensure, to the extent possible given the parameters of the
16 ALUC's jurisdiction as defined by statute, the compatibility of proposed land uses in the
17 vicinity of the nine public use airports located within Fresno County; and

18 WHEREAS, COG is a voluntary association of local governments, one of 25 in
19 California and 522 nationwide, whose responsibility is to foster intergovernmental
20 communication and coordination, undertakes comprehensive regional planning with an
21 emphasis on transportation, provides for citizen involvement in the planning process
22 and supplies technical services to its member governments; and

23 WHEREAS, in 2007, COUNTY and COG engaged in discussions to consider the
24 possibility of transferring staffing and administrative support functions of the ALUC to
25 COG and both staffs acknowledge that such a transfer is appropriate given COG's
26 established regional transportation emphasis; and

27 WHEREAS, COG Transportation Technical Committee, Policy Advisory
28 Committee, and Policy Board support the transfer of administrative/staffing

responsibilities for the ALUC from COUNTY Department of Public Works and Planning to COG and desire to conduct the transfer for an initial period of one (1) year as a trial, after which the arrangement may be continued by mutual consent; and

WHEREAS, at the present time, the following three California Council of Government Associations (COGs) provide staffing and/or administrative support functions to the Airport Land Use Commission in their respective areas: the Association of Monterey Bay Area Governments, the Sacramento Area Council of Governments and the Santa Barbara County Association of Governments; and

WHEREAS, it is mandated by controlling statutory provisions (specifically Public Utilities Code §21670, *et seq.*) that the membership of the ALUC shall be comprised of seven (7) commissioners consisting of two city representatives, appointed by a city selection committee, two County representatives, appointed by the Board of Supervisors, two aviation experts, appointed by a selection committee comprised of the managers of the public use airports, and one representative of the general public appointed by the other six members of the commission; and

WHEREAS, current ALUC membership would not change with the transfer of staffing and administrative support functions of the ALUC from the Department of Public Works and Planning to COG; and

WHEREAS, COG's assumption of the ALUC's staffing and administrative functions is both complementary to COG's current duties and consistent with the organization's broad purpose for regional transportation planning.

NOW, THEREFORE, COUNTY and COG do hereby agree as follows:

ARTICLE I

COG RESPONSIBILITIES

COG represents that it is qualified, willing and able to perform the following staffing and administrative duties in support of the ALUC for a period of one calendar year:

1.1 Coordinating with local agency staff to obtain information regarding

specific projects to be reviewed by the ALUC.

1.2 Providing general assistance to local agency staff regarding airport compatibility issues and determining if projects need to be reviewed by the ALUC.

1.3 Working with ALUC chairman regarding meeting schedules and agendas and polling commissioners for availability to meet as a quorum.

1.4 Preparing (and forwarding advance copies to Commission members and other interested persons as appropriate) and presenting at meetings of the ALUC, all of the following: staff reports, meeting calendars, resolutions, and meeting agendas.

1.5 Issuing and posting required public notices of pending commission actions; updating the rosters of the Commission and the list of other interested persons having requested special notice or meetings and/or agendas; and amending/updating the Commission's Rules of Order.

1.6 Scheduling and related arrangements for setting up hearings or specific agenda items, including reserving the Board of Supervisors' chambers for meetings; recording the minutes of meetings; and preparing action summaries as appropriate to document the action taken by the Commission upon conclusion of its hearing of a specific item.

1.7 Notifying local agencies of commission decisions on items submitted for review.

1.8 Issuing and collecting State Conflict of Interest Statements (Form 700), and submitting completed forms from ALUC commissioners and proxies to the Clerk to the Fresno County Board of Supervisors.

1.9 Preparing and submitting semi-annual ALUC reports to the Director of the Department of Public Works and Planning, as public documents, in accordance with the oversight responsibilities retained by the County pursuant to the governing provisions of the Public Utilities Code: (a) the dates of the meetings; (b) the dates and subjects of workshops/tours; (c) the categories of matters acted upon by the ALUC; (d) the voting record of the ALUC and its members on each agenda item considered; and (e)

1 upcoming issues of major importance.

2 ARTICLE II

3 COUNTY RESPONSIBILITIES

4 2.1 The COUNTY shall make arrangements with COG staff to provide
5 appropriate training and if requested by COG, County staff will also attend ALUC
6 hearings for a period of six (6) months, unless a longer period is deemed necessary by
7 mutual agreement between COG and COUNTY.

8 2.2 In the course of providing such training, COUNTY staff shall make
9 available to COG staff all documents, studies, and other information in its possession
10 determined by County staff to be relevant in facilitating an orderly and effective transfer
11 and assumption by COG staff of the administrative and staffing functions of the ALUC
12 enumerated in the preceding Article I.

13 2.3 COUNTY staff, whenever requested by COG at any time throughout the
14 initial one-year term of this MOU, shall review agendas, staff reports, hearing action
15 summaries, determinations of consistency, and any other ALUC related documents
16 prepared by COG, and shall provide comments as appropriate.,

17 2.4 The COUNTY shall make available to COG the Board of Supervisors'
18 Chambers, Hall of Records, Room 301, 2281 Tulare Street, Fresno, CA 93721, to hold
19 regularly scheduled ALUC hearings, on a bi-monthly basis, with scheduled dates and
20 times to be determined through coordination with the Clerk to the Board of Supervisors.
21 Special ALUC hearings shall be accommodated according to the availability of the
22 Board Chambers at the time of the request for reservation from COG through
23 coordination with the Clerk to the Board of Supervisors.

24 ARTICLE III

25 EXPENSES

26
27 It is understood and agreed between the parties that that there will be no
28 payments by COUNTY to COG for ALUC staffing and administrative expenses, incurred

1 by COG pursuant to the provisions of this MOU, which are hereby assumed by COG in
2 their entirety.

3 ARTICLE IV

4 NOTIFICATION

5 COUNTY shall notify California Department of Transportation's Division of
6 Aeronautics ("Caltrans Aeronautics") in writing of the transfer of ALUC administrative
7 support to COG upon execution of this Memorandum of Understanding (MOU) and
8 send a copy to the Chairman of the ALUC (Exhibit 2). The address for Caltrans
9 Aeronautics is listed below.

10 Department of Transportation
11 Division of Aeronautics, MS # 40
12 P. O. Box 942874
13 Sacramento, CA 94274-0001

14 ARTICLE V

15 GENERAL PROVISIONS

16 5.1 Term of MOU

17 The term of this MOU shall become effective as of the date of execution by
18 COUNTY, following execution hereof by COG, and shall remain in full force and effect
19 for a period of one (1) year subject to extension as provided hereinafter per provisions
20 of Subsection 5.1.1, unless terminated as provided for in Section 5.2 of this agreement.

21 In addition, should any portion of this MOU be declared invalid or inoperative by
22 a court of competent jurisdiction, this MOU shall be construed as not containing such
23 provision, and all other provisions which are otherwise lawful shall remain in full force
24 and effect, and to this end the provisions of this MOU are hereby declared to be
25 severable.

26 5.1.1 Extension

27 The one (1) year term may be extended by an affirmative action by the COG
28 Board prior to completion of the first year. Action by the COG Board to extend the

MOU will continue the terms of this MOU in full force and effect until terminated by either party as hereinafter provided.

5.2 Termination

This agreement may be terminated by either party upon appropriate written notice to the other party, which shall be a minimum of 60 days' notice if given during the initial one-year trial term, and a minimum of 120 days' notice if given at any time thereafter. If this agreement is terminated at any time after the three-year anniversary of its effective date, such that staffing and support functions of the ALUC revert back to the County, then COG shall provide reciprocal training and materials (consistent with the responsibilities detailed in Sections 2.1 and 2.2 above) to County staff, upon COUNTY's request.

5.2.1 Termination Due to Changes in Law

The purpose of this MOU is to transfer staffing and support functions of the ALUC, a net County cost activity, to the COG, which is responsible for fostering intergovernmental communication, coordination and regional transportation planning within Fresno County. Accordingly, it is mutually understood and agreed that this MOU may, by mutual agreement, be terminated should changes occur subsequent to the execution of this MOU in controlling statutory or decisional law, or in state administrative regulations, which negate the basic tenets underlying the parties' execution of this MOU.

5.3 Modification

This MOU and all of the covenants and conditions set forth herein may be modified or amended only by a writing executed by the duly authorized representatives of COUNTY and COG.

5.4 Enforcement

COUNTY and COG each acknowledge that this instrument cannot bind or limit either party in the exercise of its respective discretion and authority. However, each party hereby represents its intention to carry out the intent and purposes of this MOU to

the fullest extent consistent with such party's legal responsibilities and obligations.

5.5 Entire MOU

With respect to the subject matter hereof, this MOU supersedes any and all previous negotiations, proposals, commitments, writings, understandings and agreements of any nature whatsoever between COUNTY and COG except as otherwise expressly provided herein.

5.6 Notice

All notices, required to be provided by the parties to this MOU shall be in writing and shall be delivered by first class mail or an equal or better form of delivery to the respective parties at the following addresses:

COUNTY

Director
Department of Public Works and Planning
2220 Tulare Street, 6th Floor
Fresno, CA 93721

COG

Executive Director
Council of Fresno County
Governments
2035 Tulare Street
Suite 201
Fresno, CA 93721

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IN WITNESS WHEREOF, the parties hereto have executed this MOU in the County of Fresno, State of California, as of the day and year first above written.

COUNTY OF FRESNO, a Political

COUNCIL OF FRESNO COUNTY
GOVERNMENTS (COG), a Voluntary

1 Subdivision of the State of California
2 ("COUNTY")

Association of Local Governments
("COG")

3 By: _____
4 Henry R. Perea, Chairman,
Board of Supervisors

By: _____
Trinidad M. Rodriguez, Chairman
Policy Board
Council of Fresno County
Governments (COG)

5 ATTEST:
6 Bernice E. Seidel,
7 Clerk to the Board of Supervisors

APPROVED AS TO LEGAL FORM
Kevin Briggs, Contract Attorney:
Council of Fresno County
Governments (COG)

8 By: _____

9 REVIEWED AND RECOMMENDED
10 FOR APPROVAL
Bart Bohn, County Administrative Officer

By: _____

11 By: _____

ATTEST:
Tony Boren, Executive Director
Council of Fresno County
Governments (COG)

12 REVIEWED AND RECOMMENDED
13 FOR APPROVAL

By: _____

14 By: _____
15 Alan Weaver, Director
16 Department of Public Works and
17 Planning

18 APPROVED AS TO LEGAL FORM:
19 Janelle E. Kelley, Interim County Counsel

20 By: _____
21 Kevin Briggs, Chief Deputy Counsel

22 APPROVED AS TO ACCOUNTING FORM:
23 Auditor-Controller/Treasure-Tax Collector

24 By: _____
25 Vicki Crow, C.P.A.

G:\4360Devs&Pin\PLANNING\AVIATION\ALUC\Board Items\ALUC-COG\Draft MOU.doc

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. I.***

FRESNO COG'S STATE LOBBYIST
STEVE SAMUELIAN, CALIFORNIA CONSULTING, LLC

MONTHLY REPORT FOR AUGUST



**THE KINGS CANYON UNIFIED
SCHOOL DISTRICT
and
CALIFORNIA CONSULTING, LLC**

Would like to extend an invitation to attend a Roundtable
Luncheon Discussion, with Special Guest:

JACK O'CONNELL

California State Superintendent of Public Instruction

DATE: Tuesday, September 16, 2008

TIME: 12:00 – 1:30 p.m.

LOCATION: The Downtown Club
2120 Kern Street
Fresno, CA 93721

PLEASE RSVP TO: Elma Vela, KCUSD
(559) 305-7001
email to: vela-e@kcusd.com

RSVP DEADLINE: Tuesday, September 9, 2008

INVITATION ONLY



Date: Mon, 4 Aug 2008 11:30:31 -0700 (PDT)
 From: "steve samuelian" <ca-consulting@sbcglobal.net>
 Subject: High Speed Rail Update

High Speed Rail Update July 31, 2008

A conference call was held today with HSR Board Members, Executive Director, Legislators, Legislative Staff and a few invited lobbyists. The call was hosted by AB 3034 Author Assemblywoman Cathleen Galgiani (D-Merced). Steve Samuelian participated in the call on behalf of Fresno COG, et. al. Highlights of the call:

- The current bill needs more support, especially from Republican Senators.
- Senators Denham, Margett, Runner, Wyland, and Maldonado especially.
- Assem. Galgiani has accepted some Amendments from Senator Ashburn and others.
- Senate President Pro-Tem will determine when a vote will take place.
- The vote must take place before Aug. 11th.
- All amendments for the bill must be submitted by Monday, August 04, 2008.
- HSR Bond can still make the ballot but much needs to be accomplished in the next several days.
- Senator Yee made amendments to the bill. Those amendments may be altered. Discussions are taking place now between Assem. Galgiani and Senate President Pro-Tem's office to possibly assist S. D. area.
- Partnership delegation of Peter Weber, Katie Stevens, and Andy Chesley are going to Sacramento Monday to lobby on HSR issue and have meetings with Assem. Galgiani and Assem. Villines staff.
- California Consulting is making regular (previously scheduled) trip to Sacramento on Monday and has meetings with Members and/or staff of Assem. Villines, Sen. Cogdill, Sen. Florez, Assem. Arambula, CTC, Assem. Galgiani, Sen. Lowenthal, and Governor's office, Curt Augustine. List of several COG issues to discuss. COG members are invited to attend Monday, August 4th.

Steve Samuelian
 Manager
 California Consulting, LLC
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 Fresno, CA. 93710
 phone 559-244-0801
 fax 559-244-0804
Sacramento Office
 Wells Fargo Center
 400 Capitol Mall, Suite 1850
 Sacramento, CA 95814
 ca-consulting@sbcglobal.net

AT&T Yahoo! Mail - carrol.ca-consult@sbcglobal.net

Page 1 of 1

YAHOO! MAIL
Consolidated

Print - Close Window

Date: Thu, 7 Aug 2008 16:40:23 -0700 (PDT)
From: "steve samuelian" <ca-consulting@sbcglobal.net>
Subject: Great News on High Speed Rail

Today the State Senate approved AB 3034 by Merced Assemblywoman Cathleen Galgiani in support of the High Speed Rail. Many of you know, from our past reports we have been working closely with Ms. Galgiani and her Office on this issue since the bill was first introduced. She and her staff have done incredible work to get this bill through the State Senate.

AB 3034 now heads back to the State Assembly for "Concurrence" because amendments were adopted in the Senate. The bill passed the State Senate today by a vote of 27-10 with many Valley legislators supporting the bill.

AB 3034 if passed by the Assembly and signed by the Governor will replace the current bond language and go on the November ballot as Proposition 1A.

Most of the Senate amendments were boilerplate in nature from the Secretary of State to remove Prop. 1 from the ballot and replace it with Prop. 1A, etc. etc.

Assemblywoman Galgiani's Office told me earlier today that they anticipate a vote in the Assembly on AB 3034 on August 11.

Please fax letters and call your Assemblymembers and ask them to vote for AB 3034 on Aug. 11.

Also, please fax and call the Governor's Office and ask him to sign AB 3034 when it reaches his desk.

Thank You.

Steve Samuelian
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California Consulting, LLC
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Fresno, CA. 93710
phone 559-244-0801
fax 559-244-0804
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ca-consulting@sbcglobal.net

From: california consulting [mailto:ca-consulting@sbcglobal.net]
Sent: Thursday, August 14, 2008 8:17 AM
To: Jennifer Dansby
Cc: Katie Stevens; Tony Boren; Barbara Steck; Peter Weber; Seyed Sadredin; Tom Jordan
Subject: Re: SB 974 - Recent Developments

Yes, I met with Curt augustine last week from the govs office in sac. And he said he would propose the amendments. The same day I met with lowenthals office and they said they would oppose the amendments. We have tried to compromise with lowenthals office and tried to re work language for almost 2 years. The gov. Has indicated he will veto the bill as is and lowenthal does not seem to mind. Katie and Pete met with Curt a few weeks before I did. I believe they received the same message I did. Govs office has stood strong and worked well with the valley on this issue from day one and continues to do so. Steve.

From: "Jennifer Dansby" <jenniferd@fresnocog.org>
Date: Thu, 14 Aug 2008 08:09:56 -0700
To: <ca-consulting@sbcglobal.net>
CC: Katie Stevens<kstevens@csufresno.edu>; Tony Boren<tboren@fresnocog.org>; Barbara Steck<bjsteck@fresnocog.org>
Subject: SB 974 - Recent Developments

Steve,

Just read the article below regarding SB 974. Looks like the Governor's office is proposing amendments that favor the Valley but that Lowenthal will fight the amendments even if it means a veto. This is a nice surprise as I thought the Governor's office had left us out of the negotiations towards the end.

Have you heard any more on this? Katie? The two sides are meeting today the article states.

Thanks,

Jennifer

Sent: Monday, June 09, 2008 10:14 AM

Subject: State and Local Partnership Update

Many of you know (and I have sent updates on this issue in the past) that the Legislature was unable to reach agreement last year on distribution of the State and Local Partnership monies from the Transportation Bond Prop. 1B. These monies are particularly important to valley counties, especially Fresno County which has Measure C. The two competing school of thoughts last year in the Legislature posed an Assembly Bill AB 1351 that sought to limit what could be counted as a match to only locally voter approved sales taxes dedicated to transportation needs vs. A Senate Bill SB 748 which sought to broaden the definition of local match to include all voter approved taxes, and fees, bridge tolls, uniform developer fees, etc. After not reaching agreement both the Assembly and Senate leadership put this issue on hold last year.

Our office has continued to track this issue and the latest update as of late last week is as follows:

SENATE: THE SENATE NOW WANTS TO ADDRESS THE STATE AND LOCAL PARTNERSHIP ISSUE THROUGH A TRAILER BILL AND TIE IT TO THE APPROPRIATION OF THE MONEY. All Prop. 1B money still needs to be appropriated by the Legislature. Just because the voters approved it, all monies must be appropriated by the Legislature before they can be spent. In the Senate's version there would be TWO pots of money. The main pot of money would specify that the eligible local match would be limited to local sales tax \$. The second smaller pot would be for any voter-approved fund.

ASSEMBLY: The Assembly wants to handle this issue in a policy bill and not go through the budget process. The Assembly's goal is remains to limit the local eligible match to local sales tax money only.

There is also a growing debate in the Legislature between whether or not this money should be distributed on a formula basis or on a grant based allocation basis.

Our office will continue to be very involved in this important issue and will continually send updates.

Please let me know if you have any questions.

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Port funds could be diverted

Cargo container fees intended to clean up local pollution could be shared with the Central Valley and other areas under a proposal by the Schwarzenegger administration.

By Patrick McGreevy, Los Angeles Times Staff Writer
August 14, 2008

SACRAMENTO -- Money collected in Los Angeles County to clean up its polluted ports would be shared with the Central Valley under a proposal by the Schwarzenegger administration that is drawing opposition from Southern California leaders.

Sponsors of legislation that would charge shippers about \$60 a container in the ports of Los Angeles, Long Beach and Oakland had intended to use the money in areas close to those cities' ports to reduce traffic congestion and air pollution.

But after the bill passed both legislative houses, aides to Gov. Arnold Schwarzenegger proposed last-minute changes that would funnel some of the money to a statewide transportation fund and the California Air Resources Board, which could use it in areas such as the Central Valley, which suffers poor air quality from traffic, agriculture and other sources.

"Do we believe the Central Valley has huge problems that need help? Yes," said state Sen. Alan Lowenthal (D-Long Beach), author of SB 974. "Do we believe that emasculating this bill to meet those needs will meet anyone's needs? No."

Lowenthal said he hoped for a compromise, but vowed to fight the changes even if it meant risking a veto by putting the bill, as passed, on the governor's desk.

"Their amendments go further than we are willing to go," he said. "It puts the bill in jeopardy."

Fresno Mayor Alan Autry said he had been pushing the governor to make sure the fees helped the whole state.

"Pollution doesn't stop at the port," Autry said. "Most of those trucks will be loaded and drive right through the San Joaquin Valley."

L.A. Mayor Antonio Villaraigosa wants the money to stay where it is generated, said Matt Szabo, a spokesman.

"Any amendments to the legislation must preserve local control over container fees and ensure that the revenue is dedicated to the region where it is collected," Szabo said.

A Schwarzenegger spokeswoman declined to discuss specific proposals. "It is not a practice of ours to negotiate legislation in the media," said Rachel Cameron. "However, I want to stress that our office has been working with the senator for nearly a year."

"It's very troubling," Tim Carmichael, senior policy director for the Coalition for Clean Air, said of the proposed amendments.

The two sides are scheduled to meet today.

Jennifer Dansby ☺

Planner III

Council of Fresno County Governments

2035 Tulare Street, Suite 201

Fresno, California 93721

CalGrip Funding - 'AT&T Yahoo! Mail'



CalGrip Funding

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Wednesday, August 20, 2008 11:04 PM

Share with your police chiefs please.

This is great information from the budget conference committee meetings I will be sending CalGrip application information for next year out later today. As you might know we wrote a successful application earlier this year for several of our Eastern Fresno County clients (Selma, Sanger, Fowler, Reedley, Parlier, and Orange Cove) and hope to do a similar regional approach for next year. Fresno County was helpful with this successful application and our clients the Fresno EOC also received two CalGrip awards.

Once you receive the application update I am sending out, let us know if you are interested in applying for this round.

Steve Samuelian
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Page	Issue	Dollars, in millions.	Pre-Gov Bud 2007-08	FY 2008-09 Proposed Governor Senate Assembly	Conference Actual	Action to Restore to Gov.	Action to Restore 2007-08
40	304 Gang Suppression Enforcement Teams (GSET)		5.3	5.3		5.3	5.3
42	312 California Methamphetamine Strategy (CALMS)		4.8	14.9	10.1	14.6	4.6
41	309 Incarcerated Gang Members Services				(32.6)		32.0
423	201 Citizens' Option for Public Safety (COPS)		119.0	107.1		107.1	19.0
423	201 Juvenile Justice Crime Prevention Act (JJCPA)		119.0	107.1		107.1	19.0
29, 30	322a, b, c California Multi-Jurisdictional Meth Enforcement Teams (Cal-MMET)		29.4	26.5	9.5	9.8	19.9
425	203 Gang Suppression Teams		18.3	16.7			18.5
424	202 Local Detention Facility Subventions (Booking Fees)		35.0	31.5			35.0
328	001, 202 Mandatory Criminal Reparations (MRCR)		45.0	46.1			45.0
328	001, 201 Juvenile Probation and Camps Funding		201.4	181.3	181.3		20.1
Total			587.2	530.2	(12.4)	430.2	161.3
					368.9		218.3

- a. Item 9210—Local Government Financing
b. Reduced to \$1,000 to send the issue to Conference

2008-09 Cal GRIP Funding

Description of Proposal	2007-08 Budget Act	2008-09 Budget	2008-09 Conference Budget	Fund Source/Type	Comments
DES Office of Gang and Youth Violence Policy	This Office will be responsible for identifying and evaluating state, local, and federal gang and youth violence suppression, intervention, and prevention programs, as well as strategies and funding sources. This funding is in addition to the resources provided for the California Gang Reduction, Intervention and Prevention Program included in the 2007 Budget Act, and will be used to reduce gang and youth violence in the state of California, thereby increasing public safety. The Office of Gang and Youth Violence Policy was authorized per Chapter 459, Statutes of 2007 (AB 1381).	\$446,000	\$1,818,000	\$446,000	GF 2008-09 Budget reflects an increase due to the passage of AB 1381 and the additional duties of the Office. Conference Budget reflects denial of Jan 10 BCP and April 1 FL.
Anti-Gang Grants Federal Fund	Funding for two federal programs, the 2006 Anti-gang Initiative and the 2006 Six City Comprehensive Anti-gang Project.	\$4,900,000	\$4,900,000	\$4,900,000	FF
Anti-Gang Grants Restitution Fund	Funding for local anti-gang programs. This grant program will be administered by the State Anti-Gang Coordinator and funds will be allocated to eligible local governments on a competitive basis.	\$9,500,000	\$9,500,000	\$9,500,000	Restitution Fund
CDCR Project Incarcerated Men Putting Away Childish Things (IMPACT)	Expand CDCR's IMPACT to additional juvenile justice facilities and to create two 10-bed transitional homes in Northern and Southern California communities. Adult gang members developed Project IMPACT to free younger gang members from the violent cycle of crime and incarceration.	\$820,000	\$820,000	\$820,000	GF
Juvenile Accountability Block Grant	Funding with local match to fund a broad range of juvenile justice programs. This is administered through the Corrections Standards Authority	\$1,100,000	\$0	\$0	FF According to CSA, these were one-time funds.
DOJ Witness Protection Program	Increase support for the California Witness Protection Program. This adjustment will allow the Department of Justice to better support district attorneys in their effort to protect witnesses and their families who are endangered because of ongoing or expected testimony.	\$3,000,000	\$3,000,000	\$1,500,000	OF Conference reduced the 2007-08 augmentation by \$1.5m.
EDD Workforce Investment Act Funding	Additional Workforce Investment Act Funds for job training for gang members, at-risk and gang involved youth (\$3 million for Growth Industries, \$3 million for Industries w/Statewide Need, \$4 million for Removing Barriers for Special Needs Populations).	\$7,500,000	\$10,000,000	\$10,000,000	FF
CHP Project Impact	Increases support for police and sheriffs for Project IMPACT, which provides 90 day deployments of California Highway Patrol officers that rotate through selected counties. Beginning in 2007-08, CHP's budget was increased \$7 million MVA to support these activities.	\$7,000,000	\$7,000,000	\$7,000,000	MVA

OPR

2008-09 Cal GRIP Funding

Comments

Description of Proposal

Funds to support 34 full-time AmeriCorps Restoring Youth and Communities positions to mentor former gang members paroled from DJJ. Americorps passes through \$533,000 Federal Funding to CDCR DJJ and DJJ provides the rest via state match.

AmeriCorps

2007-08 Budget Act	2008-09 Budget	2008-09 Conference Budget	Fund Source/Type
\$1,288,000	\$1,288,000	\$1,288,000	FF/OF

<u>\$35,554,000</u>	<u>\$38,328,000</u>	<u>\$35,454,000</u>
---------------------	---------------------	---------------------

Total

Prop 1C - 'AT&T Yahoo! Mail'



Friday, August 22, 2008 11:46 PM

Prop 1C

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Subject: Prop 1C Bond Legislative Update

Many of you have asked about Prop. 1C Housing money. After extensive discussions with Committee Staff in Sacramento following is a summary of the Prop. 1C legislative efforts.

The two key bills related to Prop. 1C are SB 86 (a combination of the former AB 1053 and SB 46) and SB 586 (Dutton). Summaries of both bills and how they impact 1C funding are as follows:

SB 86 created the framework for the Infill Infrastructure Grant Program, whereby HCD will award grants for infrastructure that is necessary to support infill housing. The infrastructure can be related to a single housing development or cover a larger area, but if an area is involved, there has to be at least one actual housing development in the works. Under either scenario, 15% of the housing units must be affordable. HCD is right now finalizing the guidelines for this program and will make applications available in a week or two. You can see the latest draft of the guidelines and get more info at www.hcd.ca.gov/fa/iig. There is \$240 million available this year, and a like amount will be available for each of the next two years as well. In general, eligible projects must be 75% surrounded by parcels that have been previously developed (see section 303(a)(6) of the draft guidelines). Projects must meet a threshold density of 30 units per acre for jurisdictions in metropolitan counties, 20 units per acre in "suburban" jurisdictions, 15 units per acre in cities in non-metropolitan counties, and 10 units per acre in rural areas (see section 303(a)(4) of the draft guidelines and Table A on page 6 of the document at <http://www.hcd.ca.gov/hpd/hrc/plan/he/ab2348stat04ch724.pdf>).

SB 86 also included language for the brownfield cleanup program.

SB 586 allocated the \$100 in the Affordable Housing Innovation Fund as follows: 1) \$50 million for land acquisition for affordable housing. Most affordable housing programs require the developer to have ownership or control of the property already. Many affordable housing developers have few resources to make this happen. This program will provide short-term revolving loans to help developers acquire the properties and hold them until they secure permanent financing. 2) \$35 million for the Local Housing Trust Fund Matching Grant Program. This is an existing program that matches local contributions to affordable housing. 3) \$10 million for an innovative homeownership program to be created and administered by

Prop 1C - 'AT&T Yahoo! Mail'

HCD. This will involve housing for teachers and other school employees on school properties. 4) \$5 million for a construction quality control program. HCD will give grants to the developers of attached, affordable, ownership housing to videotape and inspect construction in order to reduce construction defect liability insurance rates.

With the exception of the existing Local Housing Trust Fund Matching Grant Program, HCD still needs to develop guidelines for all the SB 586 programs. These guidelines should be out in summer or fall.

Neither AB 1053 (Speaker Nunez) nor SB 46 (President Pro-Tem Perata) passed in their original forms. The conflicts were resolved and placed into SB 86 instead.

Please let me know if you have any questions.

Warm Regards,

Steve Samuelian
Manager
California Consulting, LLC

Steve Samuelian
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AB 8 (2nd Extraordinary Session) - 'AT&T Yahoo! Mail'



Monday, August 25, 2008 6:25 PM

AB 8 (2nd Extraordinary Session)

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Many of you may know, on Friday Assemblymember Huffman introduced AB 8 (2nd Extraordinary Session) a \$9.8 billion water bond proposal. The bill is co-authored by Assemblymembers Juan Arambula, Lois Wolk, and Anna Caballero.

This proposal is in some ways similar to the \$9.3 billion bond proposal recently introduced by Governor Schwarzenegger and U.S. Senator Dianne Feinstein as both include \$3 billion for storage (which could mean dams?), money for conservation, recycling and ecosystem improvements in the Sacramento - San Joaquin Delta, etc.

A key difference between the two proposals is that AB 8xx seeks to have the legislature oversee water storage spending yearly while the Feinstein/Governor plan has a continuous appropriation for water storage.

An informational hearing is scheduled in the Legislature for today for this bill. To see the full proposal you can go directly to the attached link:
<http://www.assembly.ca.gov/acs/acsframeset2text.htm>

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Date: Mon, 18 Aug 2008 10:35:02 -0700 (PDT)
From: 'steve samuelian' <ca-consulting@sbcglobal.net>
Subject: SLPP Update

The following information was obtained with the assistance of Senator Florez and Assemblyman Arambula and pertains to Measure C and our local "match" in Fresno County via the Prop. 1B state and local partnership issue. As you might know, this is an issue that our office has worked on via our representation of Fresno COG. The trailer bill language is in the process of finalization for passage during the budget process. See information below:

The Proposition 1B trailer bill includes language to implement the State Local Partnership Program. The program is designed to reward localities that have sought and received voter approval for local taxes and fees dedicated to transportation improvements. Currently, voter-approved taxes and fees for transportation improvements include local sales taxes, property taxes, parcel taxes, and voter-approved bridge tolls (i.e., \$2 of the \$4 bridge tolls in the bay area were voter approved). Because the formula to distribute the funds is based on total revenues, all of Northern California benefits from tolls being eligible. It increases the percentage of funds available to all Northern California counties, including Fresno.

Steve Samuelian
Manager
California Consulting, LLC



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Date: Fri, 15 Aug 2008 16:32:56 -0700 (PDT)

Subject: SB 974 Recent Developments

See below an article from Aug. 14th Sacramento Bee regarding SB 974, the bill Fresno COG made its number 1 priority legislation to get amended this year or to oppose unless amended. The partnership, Pete Weber and Katie Stevens and California Consulting have worked closely on this legislation for almost two years and we still have work left to do.

I met with Curt Augustine last week from the Governor's office in Sacramento and he said he would propose the amendments. The same day I met with Lowenthals office and they said they would oppose the amendments. We have tried to compromise with Lowenthals office and tried to re work language for almost 2 years. Katie and Pete met with Curt a few weeks before I did. I believe they received the same message I did. Govs office has stood strong and worked well with the valley on this issue from day one and continues to do so. Steve.

Port funds could be diverted

Cargo container fees intended to clean up local pollution could be shared with the Central Valley and other areas under a proposal by the Schwarzenegger administration.

By Patrick McGreevy, Los Angeles Times Staff Writer
August 14, 2008

SACRAMENTO -- Money collected in Los Angeles County to clean up its polluted ports would be shared with the Central Valley under a proposal by the Schwarzenegger administration that is drawing opposition from Southern California leaders.

Sponsors of legislation that would charge shippers about \$60 a container in the ports of Los Angeles, Long Beach and Oakland had intended to use the money in areas close to those cities' ports to reduce traffic congestion and air pollution.

But after the bill passed both legislative houses, aides to Gov. Arnold Schwarzenegger proposed last-minute changes that would funnel some of the money to a statewide transportation fund and the California Air Resources Board, which could use it in areas such as the Central Valley, which suffers poor air quality from traffic, agriculture and other sources.

"Do we believe the Central Valley has huge problems that need help? Yes," said state Sen. Alan Lowenthal (D-Long Beach), author of SB 974. "Do we believe that emasculating this bill to meet those needs will meet anyone's needs? No."

Lowenthal said he hoped for a compromise, but vowed to fight the changes even if it meant risking a veto by putting the bill, as passed, on the governor's desk.

"Their amendments go further than we are willing to go," he said. "It puts the bill in jeopardy."

Fresno Mayor Alan Autry said he had been pushing the governor to make sure the fees helped the whole state.

"Pollution doesn't stop at the port," Autry said. "Most of those trucks will be loaded and drive right through the San Joaquin Valley."

L.A. Mayor Antonio Villaraigosa wants the money to stay where it is generated, said Matt Szabo, a spokesman.

"Any amendments to the legislation must preserve local control over container fees and ensure that the revenue is dedicated to the region where it is collected," Szabo said.

A Schwarzenegger spokeswoman declined to discuss specific proposals. "It is not a practice of ours to negotiate legislation in the media," said Rachel Cameron. "However, I want to stress that our office has been working with the senator for nearly a year."

"It's very troubling," Tim Carmichael, senior policy director for the Coalition for Clean Air, said of the proposed amendments.

The two sides are scheduled to meet today.

Jennifer Dansby

Planner III

Council of Fresno County Governments

2035 Tulare Street, Suite 201

Fresno, California 93721

(559) 233-4148 * FAX (559) 233-9645

Email: jenniferd@fresnocog.org

Website Address: www.fresnocog.org

Carrol Terrazas
Administrative Assistant
California Consulting, LLC
Central Valley Office

Date: Sun, 17 Aug 2008 11:20:18 -0700 (PDT)

From: "steve samuelian" <ca-consulting@sbcglobal.net>

Subject: Fwd: CALGRIP Funding 2008-09 Post Conference.xls

Share with your police chiefs please.

This is great information from the budget conference committee meetings I will be sending CalGrip application information for next year out later today. As you might know we wrote a successful application earlier this year for several of our Eastern Fresno County clients (Selma, Sanger, Fowler, Reedley, Parlier, and Orange Cove) and hope to do a similar regional approach for next year. Fresno County was helpful with this successful application and our clients the Fresno EOC also received two CalGrip awards.

Once you receive the application update I am sending out, let us know if you are interested in applying for this round. Steve

Note: forwarded message attached.

Steve Samuelian
Manager
California Consulting, LLC
Central Valley Office
1530 E. Shaw Avenue, Suite 114

Attachments

Files:

 Local_Law_Enforcement_House_Comparision.xls (23k)	✓
 CALGRIP_Funding_2008_09_Post_Conference.xls (18k)	✓

Page	Issue	Dollars, in millions.	Pre-Gov Bid 2007-08	FY 2008-09 Proposed		Conference Actual	Action to		Action to
				Governor	Senate		Assembly	Restore to Gov.	
40	304	Caltrans	119.0	107.1	-	107.1	100.0	7.1	18.0
42	312	Caltrans	119.0	107.1	-	107.1	100.0	7.1	19.0
41	309	Caltrans	29.4	26.5	9.5	9.8	9.5	17.0	19.9
423	201	Citizens' Option for Public Safety (COPS)							
423	201	Juvenile Justice Crime Prevention Act (JJCPA)							
29, 30	322a, b, c	California Multi-Jurisdictional Meth Enforcement Teams (Cal-MMET)							
425	203	Smallporters	18.5	18.5	-	18.5	18.5	-	18.5
424	202	Smallporters	20.1	20.1	-	20.1	20.1	-	20.1
328	001, 202	Smallporters	201.4	181.3	-	181.3	181.3	-	20.1
328	001, 201	Juvenile Probation and Camps Funding							
			587.2	530.2	(12.4)	430.2	368.9	161.3	218.3

- a. Item 9210-Local Government Financing
- b. Reduced to \$1,000 to send the issue to Conference

2008-09 Cal GRIP Funding

Description of Proposal	2007-08 Budget Act	2008-09 Budget	2008-09 Conference Budget	Fund Source/Type	Comments
OES Office of Gang and Youth Violence Policy		\$446,000	\$1,818,000	GF	2008-09 Budget reflects an increase due to the passage of AB 1381 and the additional duties of the Office.
	This Office will be responsible for identifying and evaluating state, local, and federal gang and youth violence suppression, intervention, and prevention programs, as well as strategies and funding sources. This funding is in addition to the resources provided for the California Gang Reduction, Intervention and Prevention Program included in the 2007 Budget Act, and will be used to reduce gang and youth violence in the state of California, thereby increasing public safety.				
	The Office of Gang and Youth Violence Policy was authorized per Chapter 459, Statutes of 2007 (AB 1381).	\$4,900,000	\$4,900,000	FF	Conference Budget reflects denial c Jan 10 BCP and April 1 FL.
Anti-Gang Grants Federal Fund	Funding for two federal programs, the 2006 Anti-gang Initiative and the 2006 Six City Comprehensive Anti-gang Project.	\$9,500,000	\$9,500,000	Restitution Fund	
Anti-Gang Grants Restitution Fund	Funding for local anti-gang programs. This grant program will be administered by the State Anti-Gang Coordinator and funds will be allocated to eligible local governments on a competitive basis.	\$820,000	\$820,000	GF	
CDCR Project Incarcerated Men Putting Away Childish Things (IMPACT)	Expand CDCR's IMPACT to additional juvenile justice facilities and to create two 10-bed transitional homes in Northern and Southern California communities. Adult gang members developed Project IMPACT to free younger gang members from the violent cycle of crime and incarceration.	\$1,100,000	\$0	FF	According to CSA, these were one-time funds.
Juvenile Accountability Block Grant	Funding with local match to fund a broad range of juvenile justice programs. This is administered through the Corrections Standards Authority	\$3,000,000	\$3,000,000	OF	Conference reduced the 2007-08 augmentation by \$1.5m.
DOJ Witness Protection Program	Increase support for the California Witness Protection Program. This adjustment will allow the Department of Justice to better support district attorneys in their effort to protect witnesses and their families who are endangered because of ongoing or expected testimony.	\$7,500,000	\$10,000,000	FF	
EDD Workforce Investment Act Funding	Additional Workforce Investment Act Funds for job training for gang members, at-risk and gang involved youth (\$3 million for Growth Industries, \$3 million for Industries w/Statewide Need, \$4 million for Removing Barriers for Special Needs Populations).	\$7,000,000	\$7,000,000	MVA	
CHP Project Impact	Increases support for police and sheriffs for Project IMPACT, which provides 90 day deployments of California Highway Patrol officers that rotate through selected counties. Beginning in 2007-08, CHP's budget was increased \$7 million MVA to support these activities.				

OPR

2008-09 Cal GRIP Funding

Comments

Description of Proposal

Funds to support 34 full-time AmeriCorps Restoring Youth and Communities positions to mentor former gang members paroled from D.J.J. AmeriCorps passes through \$533,000 Federal Funding to CDCR DJJ and DJJ provides the rest via state match.

AmeriCorps

Total

2007-08 Budget Act	2008-09 Budget	2008-09 Conference Budget	Fund Source/Type
\$1,288,000	\$1,288,000	\$1,288,000	FF/OF
	\$35,554,000	\$38,326,000	
		\$35,454,000	

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. J.***

**COUNCIL OF FRESNO COUNTY GOVERNMENTS
AGREEMENT FOR CONTRACTOR SERVICES**

This AGREEMENT, made and entered into this _____ day of _____, 2008 by and between the COUNCIL OF FRESNO COUNTY GOVERNMENTS, 2035 Tulare St., Suite 201, Fresno, California 93721, a joint powers Public Agency (hereafter referred to as "FRESNO COG"), and Barbara Goodwin (hereafter referred to as "CONTRACTOR").

WITNESSETH:

WHEREAS, it is necessary and desirable that FRESNO COG on behalf of the eight San Joaquin Valley Council of Governments retain a contracting firm to provide Valleywide Coordinating Services (hereafter referred to as "PROJECT"); and

WHEREAS, CONTRACTOR represents it is qualified to perform the services required for the PROJECT and is willing to perform such services pursuant to the terms and conditions stated in this Agreement; and

NOW, THEREFORE, it is agreed by FRESNO COG and CONTRACTOR as follows:

I. CONTRACTOR'S OBLIGATIONS

A. The CONTRACTOR shall perform all work necessary to complete the PROJECT. CONTRACTOR shall perform those services as described in: Exhibit A attached hereto. CONTRACTOR shall perform those tasks and services in accordance with the instructions set forth in Exhibit A.

B. CONTRACTOR shall perform the task and services contemplated by this Agreement substantially according to the Proposed Work Schedule as set forth in Exhibit A and Exhibit B (CONTRACTOR's Proposal)

C. CONTRACTOR shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which CONTRACTOR is engaged in the geographical area in which CONTRACTOR practices his profession. All products of whatsoever nature which CONTRACTOR delivers to FRESNO COG pursuant to this Agreement shall be prepared in a substantial, first class manner and conform to the standards of CONTRACTOR's profession.

II. FRESNO COG'S OBLIGATIONS

A. FRESNO COG on behalf of the eight San Joaquin Valley Council of Governments shall compensate CONTRACTOR as provided in section III of this Agreement.

B. FRESNO COG will make available to the CONTRACTOR any document, studies, or other information in its possession related to the PROJECT.

III. COMPENSATION

A. Total Compensation.

Notwithstanding any other provision in this Agreement, the basic fee for the services required shall be computed at the hourly and cost rates as set forth in section _____, page _____ in Exhibit B (CONTRACTOR's Proposal), and shall be limited by an amount not to exceed the sum of \$ 50,000 annually.

B. Progress Payments.

FRESNO COG shall make progress payments to CONTRACTOR upon receipt and approval by FRESNO COG of CONTRACTOR's monthly invoices, based upon completion of the task and services as set forth in section _____, page _____ in Exhibit B (CONTRACTOR's Proposal). Payment of said progress payments to consultant shall be based upon FRESNO COG's evaluation of the completion of each respective component.

C. Invoices.

CONTRACTOR shall submit two copies of each invoice with adequate supporting documentation of work billed and costs charged by Task as defined in Exhibit B, to FRESNO COG, specifying those services which CONTRACTOR believes have been completed. The invoice shall specify: (1) hours worked multiplied times the billing rates authorized in Exhibit B, (2) an itemization of Other direct cost and/or subcontractor fees as agreed to in Exhibit B; (3) the total amount billed for the current period, (4) the total amount billed to-date for the project. The invoice shall include a written progress report adequately describing the services billed and provided, and summarizing the status of the PROJECT in regard to task completion, timelines, and budget.

D. Payment.

Within 30 days of receipt of a proper invoice, FRESNO COG shall determine whether CONTRACTOR has adequately performed to the satisfaction of FRESNO COG the item(s) for which CONTRACTOR seeks payment, and shall remit payment thereof to CONTRACTOR.

E. Disputes.

If FRESNO COG determines that CONTRACTOR has not adequately performed any such task or services, FRESNO COG shall inform CONTRACTOR of those acts in writing which are necessary for satisfactory completion of the item(s). CONTRACTOR shall undertake any and all work to satisfactorily complete the item(s) at no additional charge to FRESNO COG.

In the event there is a dispute over an alleged error or omission by CONTRACTOR, FRESNO COG shall have the right to withhold payment of CONTRACTOR's fees in the disputed amount.

FRESNO COG and CONTRACTOR shall endeavor to resolve any dispute informally between them. In the event the dispute cannot be thus resolved, either party may request the parties engage in arbitration or mediation (hereafter referred to as "arbitration") of the dispute before an independent arbitrator. In the case the parties mutually agree to arbitrate the dispute, they shall mutually select an independent arbitrator or panel for arbitrators from Judicial Arbitration and Mediation Services, Inc. ("JAMS"), or another entity mutually agreed to. In the event a panel of arbitrators is selected, each party shall select one member, and shall mutually agree on a third member of the panel. Any arbitration shall occur in Fresno County, California.

IV. TERMINATION

A. Termination Without Cause.

This Agreement may be terminated without cause at any time by FRESNO COG or the CONTRACTOR upon thirty (30) calendar days written notice. If FRESNO COG terminates this Agreement, CONTRACTOR shall be compensated for services satisfactorily completed to the date of termination based upon the compensation rates and subject to the maximum amounts payable agreed to in Section III.

B. Breach of Contract.

FRESNO COG may immediately suspend or terminate this Agreement in whole or in part, where in the determination of FRESNO COG there is:

1. an illegal or improper use of funds;
2. a failure to comply with any term of this Agreement;
3. a substantially incorrect or incomplete report, study, or other documents or documentation submitted to FRESNO COG;
4. improperly performed services under this Agreement.

In no event shall any payment by FRESNO COG constitute a waiver by FRESNO COG of any breach of this Agreement or any default which may then exist on the part of the CONTRACTOR. Neither shall such payment impair or prejudice any remedy available to FRESNO COG with respect to the breach or default.

C. Non-Allocation of Funds.

The terms of this Agreement, and the services to be provided hereunder, are contingent on the approval of funds by the appropriating government agency. CONTRACTOR services and reimbursements beyond June 30, 2009, are subject to the inclusion and funding agency approval of this project in the FRESNO COG FY 2009-10 Overall Work Program. Should sufficient funds not be allocated, the services to be provided hereunder may be modified, or this Agreement terminated at any time by FRESNO COG's giving the CONTRACTOR thirty (30) days advance written notice.

D. In the event of any termination of this Agreement, all finished and unfinished work materials, including, without limitation, notes, minutes, research, documents, maps, graphs, and studies, shall be FRESNO COG's property, and at FRESNO COG's sole option, shall be delivered by CONTRACTOR to FRESNO COG.

V. RIGHT TO PUBLISH/OWNERSHIP OF MATERIALS

FRESNO COG shall be the owner of all materials produced pursuant to this Agreement upon completion and full performance of this Agreement by CONTRACTOR and shall have the right to publish, disclose, distribute, and otherwise use, in whole or in part, any reports, data, or other materials prepared by CONTRACTOR under this Agreement. CONTRACTOR shall not be liable for misuse or modification beyond their control by FRESNO COG of materials produced pursuant to this agreement.

VI. INDEPENDENT CONTRACTOR

In performance of the work, duties, and obligations assumed by CONTRACTOR to be provided under this Agreement, it is mutually expressly understood and agreed that CONTRACTOR, including any and all of CONTRACTOR's officers, agents, and employees will at all times be acting and performing as an independent

contracting firm, and shall act in an independent capacity and not as an officer, agent, servant, employee, joint venture, partner, or associate of FRESNO COG. Furthermore, FRESNO COG shall have no right to control or supervise or direct the manner or method by which CONTRACTOR shall perform its work and function. However, FRESNO COG shall retain the right to administer this Agreement so as to verify that CONTRACTOR is performing its obligations in accordance with the terms and conditions thereof. CONTRACTOR and FRESNO COG shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

Because of its status as an independent contracting firm, CONTRACTOR shall have absolutely no right to employment rights and benefits available to FRESNO COG employees. CONTRACTOR shall be solely liable and responsible for providing to, or on behalf of, its employees all legally-required employee benefits. In addition, CONTRACTOR shall be solely responsible and save FRESNO COG harmless from all matters relating to payment of CONTRACTOR's employees, including compliance with Social Security, withholding, and all other regulations governing such matters. It is acknowledged that during the term of this Agreement, CONTRACTOR may be providing services to others unrelated to FRESNO COG or to this Agreement.

VII. ASSIGNMENT

CONTRACTOR shall not assign or subcontract its duties under this Agreement without the prior express written consent of the FRESNO COG. No such consent shall be construed as making the FRESNO COG a party to such subcontract, or subjecting the FRESNO COG to liability of any kind to any subconsultant.

No subcontract whether existing or later entered into as set forth herein, under any circumstances shall relieve the CONTRACTOR of his liability and obligation under this contract, and all transactions with the FRESNO COG must be through the CONTRACTOR. Subcontractors may not be changed by CONTRACTOR without the prior express written approval of FRESNO COG.

CONTRACTOR has submitted a Proposal (Exhibit B). CONTRACTOR represents and covenants by entering into this Agreement that it is the prime contractor in this Agreement, and that it is responsible for all acts or omissions of its said subcontractors.

VIII. BINDING NATURE OF AGREEMENT; MODIFICATION

The parties agree that all of the terms of this Agreement and its Exhibits shall be binding upon them and that together these terms constitute the entire Agreement of the parties with respect to the subject matter hereof. No variation or modification of this Agreement and no waiver of any of its provisions or conditions shall be valid unless in writing and signed by duly authorized representatives of the parties. This Agreement shall be binding upon FRESNO COG, the CONTRACTOR, and their successors in interest, legal representatives, executors, administrators, and assigns with respect to all covenants as set forth herein.

IX. INDEMNITY

CONTRACTOR agrees to indemnify, save, hold harmless, and at FRESNO COG's request, defend the FRESNO COG, its boards, committees, representatives, officers,

agents, and employees from and against any and all costs and expenses (including reasonable attorneys fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death, and property damage) occurring or resulting to FRESNO COG which arise from any negligent or wrongful acts or omissions of CONTRACTOR, its officers, agents, subcontractors, or employees in their performance of this Agreement, and from any and all costs and expenses (including reasonable attorneys fees and litigation costs), damages, liabilities, claims, and losses (whether in contract, tort, or strict liability, including, but not limited to, personal injury, death and property damage), occurring or resulting to any person, firm, corporation, or entity who may be injured or damaged when such injury or damage arises from any negligent or wrongful acts, or omissions of CONTRACTOR, its officers, agents, subcontractors, or employees in their performance of this Agreement.

X. MAINTENANCE OF DBE PERCENTAGES

The CONTRACTOR agrees to maintain the DBE requirements as set forth in Exhibit B. CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONTRACTOR shall carry out all applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract and such other remedy as the recipient deems appropriate.

XI. INSURANCE

Without limiting FRESNO COG's right to obtain indemnification from CONTRACTOR or any third parties, CONTRACTOR, at its sole expense, shall maintain in full force and effect the following insurance policies throughout the term of this Agreement:

A. Comprehensive general liability insurance with coverage of not less than \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

Comprehensive general liability insurance policies shall name the FRESNO COG, its officers, agents, and employees, individually and collectively, as additional insured, but only insofar as the operations under this Agreement are concerned.

Such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by FRESNO COG, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the CONTRACTOR'S policies herein.

B. Comprehensive automobile liability insurance with limits for bodily injury of not less than \$25,000 per person, \$250,000 per accident and for property damages of not less than \$50,000, or such coverage with a combined single limit of \$250,000.

C. Workers compensation insurance as required by law.

This insurance shall not be canceled or changed without a minimum of thirty (30) days advance, written notice given to FRESNO COG.

CONTRACTOR shall provide certification of said insurance to FRESNO COG within twenty-one (21) days of the date of the execution of this Agreement.

Such certification shall show to FRESNO COG's sole satisfaction that such insurance coverages have been obtained and are in full force; that FRESNO COG, its

officers, agents, and employees will not be responsible for any premiums on the policies; that as and if required such insurance names FRESNO COG, its officers, agents, and employees, individually and collectively, as additional insured (comprehensive general liability only), but only insofar as the operations under this Agreement are concerned; that such coverage for additional insured shall apply as primary insurance and any other insurance, or self-insurance, maintained by FRESNO COG, its officers, agents, and employees, shall be excess only and not contributing with insurance provided under the CONTRACTOR's policies herein; and that this insurance shall not be canceled or changed without a minimum of thirty (30) days advance, written notice given to FRESNO COG.

In the event CONTRACTOR fails to keep in effect at all times insurance coverage as herein provided, FRESNO COG may, in addition to other remedies it may have, suspend or terminate this Agreement upon the occurrence of such event.

XII. CONFLICT OF INTEREST

CONTRACTOR covenants that it has no interest, and will not have any interest, direct or indirect, which would conflict in any manner with the performances of the services required hereunder.

XIII. EFFECTIVE DATE, TERM

This Agreement shall become effective as of the date of its execution by the parties hereto and shall remain in full force and effect through June 30, 2008, unless sooner terminated or unless its term is extended. Upon the mutual written Agreement of the parties hereto, this Agreement may be extended beyond that date.

XIV. NOTICES

Any and all notices between FRESNO COG and the CONTRACTOR provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served when personally delivered to one of the parties, or in lieu of such personal service, when deposited in the United States Mail, postage prepaid, addressed to such party, at such addresses set forth below:

FRESNO COG

Council of Fresno County Governments
2035 Tulare, Suite 201
Fresno, CA 93721

CONTRACTOR

Barbara Goodwin
1121 E. Kelso Ave.
Fresno, CA 93720

XV. PROJECT MANAGER

The CONTRACTOR's project manager shall be Barbara Goodwin. CONTRACTOR may not change its project manager without obtaining prior express written approval by FRESNO COG. It is understood by the parties hereto that in entering into an agreement of this type with CONTRACTOR, FRESNO COG has evaluated CONTRACTOR's Proposal (Exhibit B) and taken into consideration the project team designated therein for this PROJECT, including but not limited to CONTRACTOR's designation of Barbara Goodwin as the project manager for said PROJECT.

XVI. VENUE; GOVERNING LAW

Venue for any claim or action arising under this Agreement shall only be in Fresno County, California. This Agreement shall be governed in all respects by the laws of the State of California.

XVII. COMPLIANCE WITH LAWS

CONTRACTOR shall comply with all current Federal, State, and local laws, ordinances, and regulations applicable in carrying out its obligations under this Agreement.

CONTRACTOR agrees that Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et. seq., shall be used to determine the allowability of individual items of cost.

CONTRACTOR also agrees to comply with applicable federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable, and other matters connected with the performance of the contract pursuant to Government Code 8546.7, the CONTRACTOR, contractor's subcontractors, and the FRESNO COG shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the cost of administering the contract. All parties shall make such material available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. Any duly authorized representative of the FRESNO COG, the state, or federal government shall have access to any books, records, and documents that are pertinent to the contract for audits examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

Any costs for which payment has been made to CONTRACTOR that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., or 49 CFR, Part 18 Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by CONTRACTOR to FRESNO COG.

Any subcontract entered into by CONTRACTOR as a result of this contract, shall contain all of the provisions of this article.

XVIII. CONTRACTOR'S LEGAL AUTHORITY

Each individual executing or attesting this Agreement on behalf of CONTRACTOR hereby covenants, warrants, and represents: (1) that he or she is duly authorized to execute or attest and deliver this Agreement on behalf of such corporation in accordance with a duly adopted resolution of the corporation's board of directors and in accordance with such corporation's article of incorporation or charter and bylaws; (2) that this Agreement is binding upon such corporation; and (3) that CONTRACTOR is a duly organized and legally existing corporation in good standing in the State of California.

XIX. DRUG FREE WORK PLACE

CONTRACTOR shall certify compliance with Government Code Section 8355 pertaining to providing a drug-free workplace per Exhibit C - "Drug Free Workplace Certification".

XX. FEDERAL FUNDS

CONTRACTOR shall acknowledge the participation of federal funds in this PROJECT by causing to have printed on the cover page of any final document provided subsequent to this Agreement, "The preparation of this report has been financed in part through grants from the United States Department of Transportation".

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date and year first above written.

COUNCIL OF FRESNO COUNTY GOVERNMENTS

By _____
TONY BOREN, Executive Director

CONTRACTOR,

By _____

APPROVED AS TO LEGAL FORM:
JANELLE E. KELLEY, Interim County Counsel

By _____
KEVIN BRIGGS, Chief Deputy Counsel

EXHIBIT A

SCOPE OF SERVICES- SAN JOAQUIN VALLEY COUNCIL OF GOVERNMENTS' Valleywide Coordinator Position

San Joaquin Valley Coordinator Position Responsibilities

- Staffing of SJV Policy Council meetings
 - Coordinating the agendas, working with the various agencies assembling the work products for package enclosure, ensuring the meeting host agency has taken care of all set-up items, including the provision of clerical support for the purpose of taking minutes.
 - Follow-up with the Directors' Chair to ensure new assignments or tasks are clear, have been assigned and are being undertaken.
- Staffing of SJV COG Directors meetings.
 - Coordinating the agendas, working with the various agencies assembling the work products for package enclosure, ensuring the meeting host agency has taken care of all set-up items, including the provision of clerical support for the purpose of taking minutes.
 - Follow-up with the Policy Council Chair and Directors' Chair to ensure new assignments or tasks are clear, have been assigned and are being undertaken.
- Centralized recordkeeping using file transfer protocol hosted at one of the agencies, where all eight agencies have immediate internet access. This would include agendas, minutes, reports, legislative positions, etc. saved in a directory format. Each agency could print all items to hard copy if desired.
- Valley Voice trip to Sacramento
 - Coordinate and Attend trip
 - Work with Legislative consultant(s) to develop schedule (assist only)
 - Produce Follow up report
- Other duties deemed appropriate.
- Coordinating other Valley regional agency sponsored meetings, whether it be working groups involving staff, or higher level workshops including elected officials and the public. The degree of coordination needs to be determined (one example: work with Policy Council and Directors on overall design, budget and coordination of event , but with existing agency staff providing support for material production such as nametags, registration, soliciting sponsors, obtaining collateral items, etc.)
- Aid the "Valley Voices" effort, at the Federal level, as needed, if directed.
- Develop a Valley Voices format that could be included in each agency's website.

- Attending, if needed, any statewide meetings as a resource and/or representative (most likely only if none of the Directors are able to attend)

BUDGET:

Not to exceed \$50,000 annually.

San Joaquin Valley Contribution Summary									
County	Fresno	Kern	Kings	Madera	Merced	San Joaquin	Stanislaus	Tulare	Totals
Population as of Jan. 1, 2007	931,098	817,517	154,434	150,887	255,250	685,660	525,903	435,254	3,956,003
%	23.54%	20.67%	3.90%	3.81%	6.45%	17.33%	13.29%	11.00%	100.00%
Budget levels:									
\$ 40,000	9,414.53	8,266.09	1,561.52	1,525.65	2,580.89	6,932.86	5,317.52	4,400.95	40,000.00
\$ 50,000	11,768.17	10,332.61	1,951.89	1,907.06	3,226.11	8,666.07	6,646.90	5,501.18	50,000.00
\$ 75,000	17,652.25	15,498.92	2,927.84	2,860.60	4,839.16	12,999.11	9,970.35	8,251.78	75,000.00
\$ 100,000	23,536.33	20,665.23	3,903.79	3,814.13	6,452.22	17,332.14	13,293.80	11,002.37	100,000.00
Valley Staffing requirements									
hourly fee:	\$ 160.00								
Task			Hours per month	Cost per month	Annual Costs				
Core Tasks									
- Valley COG Director meetings (assume monthly meeting)			10	\$ 1,600.00	\$ 19,200.00				
- Valley Policy Board meetings (assume 4 a year)			3.5	\$ 560.00	\$ 6,720.00				
- Sacramento Trip (assume 40 hours a year)			n/a	n/a	\$ 6,400.00				

- record keeping activities			4	\$ 640.00	\$ 7,680.00				
- Misc			4	\$ 640.00	\$ 7,680.00				
Monthly Hr. Subtotal:			21.5	\$ 3,440	\$ 41,280.00				
Adjusted Subtotal with Sacramento Hrs. (Year)			40	\$ 6,400	\$ 47,680.00				
Additional Activities									
- further coordination			10	\$ 1,600.00	\$ 19,200.00				
- DC trip			n/a	n/a	\$ 9,600.00				
- Misc			5	\$ 800.00	\$ 9,600.00				
Total with additional tasks					\$ 86,080.00				

EXHIBIT B
PROPOSAL
SAN JOAQUIN VALLEY COUNCIL OF GOVERNMENTS'
Valleywide Coordinator Position

Submitted by: **Barbara Goodwin**
1121 E. Kelso Avenue
Fresno, CA 93720
559-435-7661
559-287-9005 (cell)
bagoodwin@att.net

Per Exhibit A (Prepared by the Valley COGs) the following fees are proposed:

Hourly Rate: \$160.00

75% salary/wage (\$120)

25% indirect rate / overhead (\$40)

^(a)Office space, utilities, equipment, maintenance/repair, postage,
basic supplies

Insurance (medical, dental, vision, life, injury)

Automobile (insurance, taxes, license, gas) – *excludes specific
mileage*

All applicable state, federal and local taxes

Legal and accounting expenses

^(a)Exhibit A calls for centralized recordkeeping to be hosted at one of the Valley COGs. This equipment and the file transfer protocol would be developed and maintained by the host COG. The design and assistance in setting up and subsequent assurance that current materials are posted would be the responsibility of the Valleywide Coordinator.

Other Direct Expenses To Be Paid by Valley COGs (Were not itemized in Exhibit A Budget)

Travel Expenses:

- Automobile Mileage: Valleywide Coordinator will exclude travel to and from Fresno COG office, but all other mileage to other COG offices, other meeting places or conferences would be itemized. Travel to be pre-authorized by current Valley COG Directors' Chairman, preferably in writing – if authorized by phone call, an e-mail confirmation by Coordinator would be sent immediately to Chairman, pre-

travel, so that any misunderstanding could be corrected prior to said travel. Mileage to be reimbursed at federal rate current at time of travel (example: 7/1/2008 federal rate is 58.5 cents/mile)

- Other Travel Mode: Travel will normally be by automobile, but depending on circumstances could include other modes (train, air, local bus, trolley, etc). These expenses would be directly and fully reimbursed. In the specific case of train or air fares, these would also be pre-authorized by the COG Directors' Chairman. Coordinator's preference would be that this type of travel be arranged by one of the COGs (assuming that this level of travel most likely involves other Valley COG personnel or Policy Council member also making the same trip).
- Meals: Meals would be directly reimbursed, with presentation of receipt, if meal occurs during the course of a meeting or other authorized event, and the meal is not provided within the event. Maximum costs are:

Breakfast (\$12)

Lunch (\$16)

Dinner (\$32)

Special Production Costs: Although not currently anticipated, any requests by the COG Directors' Chairman, with formal concurrence of other Directors, for Coordinator to be responsible for special production costs of materials would be fully reimbursed.

Understanding of Exhibit A Responsibilities

First, the Coordinator will work closest with the current Valley COG Directors' Chairman for all assignments. The signing of the contract is an agreement to work for the Valley COGs as a whole, not any one COG in particular. This is clearly understood, although the contract itself may be executed by one Valley COG on behalf of the eight, a common contracting practice within the Valley COGs current activities. Exhibit A outlines in general the expectations of the Coordinator's position, but is non-specific in some aspects, to be expected in a new and potentially evolving position.

Coordinator wishes to emphasize that Exhibit A does not currently show the incidental costs that may be incurred and are clearly identified in the Exhibit B proposal.

Based on the initial hours identified there appears to be no "original writing" of materials, that being the general responsibility of a current COG employee having been assigned a task.

"Other duties deemed appropriate" is the area where Coordinator will assure that prior approval of any additional work activities not currently specified in Exhibit A is provided

by the Chairman. This is also where any “original writing” or substantive editing of materials may occur if it is desired by the Valley COGs.

As this is the first year for this position, the Coordinator understands also that it is crucial to monitor time and activities not only for contractual billing purposes, but so that the Valley COGs may fairly evaluate their longer-term needs. The Coordinator desires to provide the highest level of service, and this will require ensuring that the Chairman and other Directors are able to fairly evaluate the time required to complete some of the activities, not only by the Coordinator, but perhaps by the individual COG staff assigned to tasks that are Valleywide in nature.

***TRANSPORTATION TECHNICAL
COMMITTEE/
POLICY ADVISORY COMMITTEE
ACTION/DISCUSSION ITEM III. L.***

**FRESNO COUNTY ABANDONED VEHICLE ABATEMENT SERVICE AUTHORITY
ABANDONED VEHICLE ABATEMENT PROGRAM
STATUS REPORT FOR FOURTH QUARTER FY 2007-08**

FINANCIAL OPERATIONS																		
	Clovis	Coalinga	Firebaugh	Fowler	Fresno City	Huron	Kerman	Kingsburg	Mendota	Orange Cove	Parlier	Reedley	Sanger	San Joaquin	Selma	Fresno County	Admini- stration	Total
YTD REVENUES																		
Registration Fees																		\$696,695.10
Interest																		\$18,882.89
Other																		
TOTAL REVENUES																		\$716,577.99
COSTS (3rd QUARTER)																		
Personnel	16,368.00	8,928.00	992.00	2,108.00	96,050.00		3,224.00	1,240.00				6,820.00	4,080.00		7,440.00	30,884.40	2,375.00	180,509.40
Services and Supplies			70.00					100.00					84.38		65.00			578.13
Major Purchases (\$2,500+)																		0.00
TOTAL COSTS	16,368.00	8,928.00	1,062.00	2,108.00	96,050.00		3,224.00	1,340.00				7,078.75	4,164.38		7,505.00	30,884.40	2,375.00	181,087.53
YTD COSTS	51,124.00	19,900.00	7,602.00	9,060.00	428,910.00		6,486.89	4,535.58				28,789.00	18,983.61	1,450.50	21,600.00	93,816.78	9,500.00	703,771.36
UNEXPENDED REVENUES																		\$11,626.63
VEHICLES ABATED																		
VOLUNTARY ABATEMENTS																		
PUBLIC	38	66		17														121
PRIVATE	56		4		551		26	6				55	29		58	202		986
TOWS (ABATEMENTS)																		
PUBLIC	6	3																9
PRIVATE	13		2		7			2					1		1	14		40
TOTAL ABATEMENTS																		
PUBLIC	44	69		17											0	0		130
PRIVATE	69		6		559		26	8				55	29		59	216		1,026
GRAND TOTAL ABATEMENTS	113	69	6	17	568		26	8				55	29		59	216		1,166

Code Enforcement Division
2600 Fresno Street Third Floor
Fresno, California 93721-3605
(559) 621-8400 FAX (559) 498-1078
www.fresno.gov

Barbara Miller
Housing Program Supervisor
Code Enforcement Division
Planning and Development Department

August 21, 2008

An annual revision of the Master Fee Schedule for the City of Fresno was completed and approved for the 2008-2009 fiscal year. The minimum one hour inspection rate for a Public Nuisance enforcement action was increased to \$100.00 from \$85.00 per hour. The increase became effective July 1, 2008. The increase was needed to cover the costs of the investigation and enforcement of Public Nuisance violations, per the Fresno City Municipal Code, including abandoned and/or illegally stored inoperable vehicles.

Sincerely,



Barbara Miller
(559) 621-8423
Barbara.Miller@fresno.gov

Attached:
Master Fee Schedule-Planning and Development Fees
MFS Resolution No. 80-420
Report to City Council

RESOLUTION NO. 2008-82



A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO ADOPTING
THE 464th AMENDMENT TO THE MASTER FEE SCHEDULE RESOLUTION
NO. 80-420 TO ADD, REVISE, OR DELETE VARIOUS FEES

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FRESNO:

THAT the Master Fee Schedule Resolution No. 80-420 be and is hereby amended to add, revise, or delete various fees. The revised pages of the Master Fee Schedule are attached as Exhibit "A" and are hereby incorporated by reference and made a part of this Resolution.

THAT fees shall become effective upon final passage or on July 1, 2008 whichever is later unless otherwise noted on the revised pages of the Master Fee Schedule.

CLERK'S CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF FRESNO)ss.
CITY OF FRESNO)

I, REBECCA E. KLISCH, City Clerk of the City of Fresno, certify that the foregoing Resolution was adopted by the Council of the City of Fresno, California, at a regular meeting thereof, held on the day of April 15, 2008.

AYES: Calhoun, Sterling, Westerlund, Xiong
NOES: Dages, Duncan, Perea
ABSENT: None
ABSTAIN: None

Mayor Approval: April 24, 2008
Mayor Approval/No Return: N/A, 2008
Mayor Veto: N/A, 2008
Council Override Veto: N/A, 2008

REBECCA E. KLISCH
City Clerk

Rebecca E. Klisch

APPROVED AS TO FORM
CITY ATTORNEY'S OFFICE

BY: [Signature]
Deputy City Attorney

Adopted 4/15/08
Approved 4/24/08
Effective 4/24/08

**CITY OF FRESNO
MASTER FEE SCHEDULE**

PLANNING & DEVELOPMENT FEES

CODE ENFORCEMENT FEES

<u>Fee Description & Unit/Time</u>	<u>Current</u>	<u>Amnd</u>
Mobilehome Rent Review		
Commission Appeal Hearing	200.00	
Plus fee per space	+16.00	
Notice and Order		464
1-2 units, plus 100.00 per each unit over two units	447.00	
Public Nuisance Enforcement		464
Hour, 1-hour minimum	100.00	
Shopping Cart Containment Plan Review Fee		445
Annual Business Plan Review	50.00	
Sign Storage Fee		415
0 to 4 square feet / per sign	5.00	
4 to 16 square feet / per sign	20.00	
Over 16 square feet / per sign	50.00	
Solid Waste Recyclers Certification Process	1,000.00	
Tire Disposal Service		
(Tires with wheels will be charged triple the amount)	1.00	
Automobile/light pickup truck tires	5.00	
Large truck tires	8.00	
Tractor tires		
Vacant Building Plan - Review Fee		464
Hour, 1-hour minimum	100.00	
Weed Abatement Enforcement Penalty		
Actual cost plus enforcement penalty per abatement (penalty to be determined by department director within specified range)	100% + 500.00 with maximum of 1,500.00	
Zoning Code Enforcement		464
Hour, 1-hour minimum	100.00	

